



**JUDGES' PENSIONS (PRESERVED PENSIONS) AMENDMENT ACT
1998**

No. 69 of 1998

SUMMARY OF PROVISIONS

1. Short title
2. Amendment of s. 4—Interpretation
3. Insertion of s. 6A
 - 6A. Preservation of pensions on resignation before 60



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ELIZABETHAE II REGINAE

A.D. 1998

No. 69 of 1998

An Act to amend the Judges' Pensions Act 1971.

[Assented to 13 November 1998]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Judges' Pensions (Preserved Pensions) Amendment Act 1998*.

(2) The *Judges' Pensions Act 1971* is referred to in this Act as "the principal Act".

Amendment of s. 4—Interpretation

2. Section 4 of the principal Act is amended—

(a) by inserting the following definition after the definition of "age of retirement":

"the Consumer Price Index" means the Consumer Price Index (All groups index for Adelaide);;

(b) by striking out the definition of "former Judge" and substituting the following definition:

"former Judge" means a person who has been a Judge and—

(a) who is or was entitled to a preserved pension under section 6A; or

(b) who is or has been in receipt of a pension under this Act not being a pension referred to in section 12;;

(c) by striking out paragraph (b) of the definition of "notional pension" and substituting the following paragraph:

(b) in relation to a deceased former Judge means—

- (i) in the case of a former Judge whose pension was preserved under section 6A and who was not in receipt of the pension immediately before his or her death—a pension that is equivalent to 60 per cent of the salary payable to the former Judge immediately before he or she resigned adjusted to reflect changes in the Consumer Price Index between the date of resignation and the day on which the spouse pension or child benefit in relation to which the term is used first becomes payable and that in relation to a child benefit is subject to adjustment under section 14A as though the former Judge had survived and been in receipt of the pension;
 - (ii) in any other case—the pension that would have been payable to the deceased former Judge if he or she had been in receipt of a pension on the day on which the spouse pension or child benefit in relation to which the term is used first becomes payable;;
- (d) by inserting after its present contents as amended by this section (now to be designated as subsection (1)) the following subsection:

(2) Where a Judge was on leave without pay immediately before he or she retired, resigned or died, the salary payable to the Judge immediately before he or she retired, resigned or died will be taken for the purposes of this Act to be the salary that would have been payable to the Judge if he or she had not been on leave without pay at that time.

Insertion of s. 6A

3. The following section is inserted after section 6 of the principal Act:

Preservation of pensions on resignation before 60

6A. (1) A Judge whose judicial service is 15 years or more and who resigns before reaching the age of 60 years is not entitled to a pension immediately but becomes entitled to a pension—

- (a) when the former Judge reaches the age of 60 years; or
- (b) when the former Judge satisfies the Minister that because of invalidity his or her incapacity for all kinds of work is 60 per cent or more of total incapacity and is likely to be permanent.

(2) The pension to which a former Judge is entitled under subsection (1) is 60 per cent of his or her salary.

(3) The spouse and the eligible child or children (if any) of a former Judge referred to in subsection (1) who has died are entitled to a pension or a child benefit (as the case requires) in accordance with the relevant provisions of this Act.

(4) In this section—

"salary" means the salary payable to the former Judge immediately before he or she resigned adjusted to reflect changes in the Consumer Price Index between the date of resignation and the date on which the pension first becomes payable.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

E. J. NEAL Governor