Date Introduced: 17 September 1981
House: House of Representatives

Short Digest of Bill

Purpose

To make the salary of Judges of the Federal Court of Australia the basis for calculation of pensions formerly based on Australian Industrial Court and Federal Court of Bankruptcy salaries. Secondly, to convert the pension payable in respect of eligible children of a deceased Judge from a fixed sum to a percentage of the pension that would have been payable to the deceased Judge. Thirdly to provide for a pro rata pension for Judges who are required to retire after more than 7 but less than 10 years service.

Background

A number of former Judges and dependants of former Judges are currently in receipt of pensions based on salaries payable to Judges of the Australian Industrial Court. With the transfer of jurisdiction from the Australian Industrial Court to the Federal Court of Australia, the Industrial Court has become defunct. As the Federal Court has taken over the functions of the Industrial Court, as well as the Federal Court of Bankruptcy, the Bill provides that pensions previously calculated on the basis of salaries payable to Judges of those Courts should now be based on salaries payable to Judges of the Federal Court.

Pensions in respect of children of deceased Judges are currently based on fixed amounts set in 1968 and unaltered since then. These can be as low as $208 per annum and are unrealistic in the present economic situation. The Bill therefore provides for increased pensions for children of a deceased Judge based on a percentage of the pension that would have been payable to the Judge.

Until now the Judges' Pension Act 1968 has provided for a 10 year qualifying period for entitlement to pension. Since the 1977 Constitution alteration in respect of
retirement of Judges the retiring age for Judges of the Family Court has been fixed at 65 years and for other Federal Judges at 70 years. The Bill provides that Judges who have served at least 7 years and are forced to retire because of a compulsory retiring age requirement should receive a pension entitlement on a pro rata basis.

Main Provisions

Clause 3(1) amends the interpretation provisions contained in Section 4 of the Judges' Pension Act 1968 to update the references to judicial officers in New Guinea, incumbents of these offices appointed prior to 1 December 1973 being entitled to a pension under the Act.

By Clause 3(2) Section 4 is further amended to substitute Federal Court of Australia judicial salaries for Commonwealth Industrial Court salaries in the definition of "appropriate current judicial salary."

Amendments contained in Clause 4(a) alter Section 6 of the Act to provide that, where the Attorney-General so certifies, a Judge whose early retirement is due to permanent disability or infirmity may receive a full pension. Where the Attorney-General refuses his certificate under the new Section 17A, inserted by Clause 13, application for review of this decision may be made to the Administrative Appeals Tribunal. Clause 4(b) further amends Section 6 to provide that a Judge who reaches his compulsory retiring age after more than 7 years but less than 10 years will be entitled to a pro rata pension of 0.5 per cent of the appropriate current judicial salary for each completed month of service as a Judge.

Clauses 5, 8, and 10 amend Sections 7, 10 and 12 respectively to put the widow and children of a Judge who dies after retirement on the same footing as the widow and children of a Judge who dies in office. Clauses 7 and 12 amend Sections 9 and 11 to provide that pensions in respect of children of deceased Judges are to be calculated as a percentage of the pension that would have been payable to the deceased Judge, in lieu of the present provisions for a fixed amount of pension.

New provisions in respect of payment of orphan's and other children's pensions at the direction of the Attorney-General are contained in clauses 11 and 12 which replace the existing Sections 13 and 15 of the Act. As with
the new Section 6 (2AA) the Attorney-General's decision in these matters is subject to review by the Administrative Appeals Tribunal.

For further information, if required, contact:

Law & Government Group
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