

2006

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Supreme Court (Judges Pensions) Amendment Bill 2006

A Bill for

An Act to amend the *Supreme Court Act 1933*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

J2005-717

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

1 **1 Name of Act**

2 This Act is the *Supreme Court (Judges Pensions) Amendment*
3 *Act 2006.*

4 **2 Commencement**

5 This Act commences on the day after its notification day.

6 *Note* The naming and commencement provisions automatically commence on
7 the notification day (see Legislation Act, s 75 (1)).

8 **3 Legislation amended**

9 This Act amends the *Supreme Court Act 1933*.

10 **4 Section 37U**

11 *substitute*

12 **37U Resident judges**

- 13 (1) This section applies to a person (other than a person to whom the
14 *A.C.T. Self-Government (Consequential Provisions) Act 1988*
15 (Cwlth), section 29A (2) applies) who is appointed as a resident
16 judge.
- 17 (2) A person to whom this section applies is entitled to the same
18 remuneration, allowances and entitlements as a judge of the Federal
19 Court is entitled to from time to time.
- 20 (3) However, subsection (2) is subject to the following provisions:
- 21 (a) subsections (4) to (6);
- 22 (b) section 37UA (Indemnity for superannuation surcharge levy);
- 23 (c) section 37UB (Salary of former President).

- 1 (4) For subsection (2), the *Judges' Pensions Act 1968* (Cwlth) and the
2 *Judges (Long Leave Payments) Act 1979* (Cwlth) apply in relation
3 to a person to whom this section applies, to the extent to which they
4 are capable of being applied, as if—
- 5 (a) those Acts were territory laws; and
- 6 (b) the person had been a judge of the Federal Court immediately
7 before the person died or retired, had been appointed to that
8 court when appointed as a resident judge and had served as a
9 judge of that court for a period equal to the period of the
10 person's service as a resident judge; and
- 11 (c) the *Judges' Pensions Act 1968* (Cwlth), section 6A applied to
12 the person, and section 6B did not apply to the person, whether
13 or not the person's surcharge debt account (if any) is in debit
14 when a pension becomes payable to the person; and
- 15 (d) a reference to the Attorney-General of the Commonwealth
16 were a reference to the Attorney-General; and
- 17 (e) a reference to the Governor-General of the Commonwealth
18 were a reference to the Executive; and
- 19 (f) a reference to the Constitution, section 72 were a reference to
20 the *Judicial Commissions Act 1994*, section 5; and
- 21 (g) a reference to the Consolidated Revenue Fund were a reference
22 to the public money of the Territory; and
- 23 (h) a reference to the administrative appeals tribunal of the
24 Commonwealth were a reference to the administrative appeals
25 tribunal; and
- 26 (i) a reference in the *Judges' Pensions Act 1968* (Cwlth) to a
27 ***marital relationship*** included a reference to a relationship
28 between 2 people of the same sex, subject otherwise to that
29 Act, section 4AB (Marital relationship); and

- 1 (j) a reference in the *Judges (Long Leave Payments) Act 1979*
2 (Cwlth) to a **widow or widower** of a judge who has died
3 included a reference to anyone else who was the domestic
4 partner of the judge when the judge died; and
- 5 (k) all other necessary changes, and any changes prescribed by
6 regulation, were made.
- 7 *Note 1* A reference to a Cwlth Act includes a reference to the Act as originally
8 made and as amended (see Legislation Act, s 102).
- 9 *Note 2* For the meaning of **domestic partner**, see the Legislation Act, s 169.
- 10 (5) To remove any doubt, for the application of the *Judges' Pensions*
11 *Act 1968* (Cwlth) to a person to whom this section applies, a
12 reference in that Act to the **appropriate current judicial salary** in
13 relation to the person is—
- 14 (a) for a person who was Chief Justice—a reference to salary at
15 the rate that would be payable to the person as Chief Justice if
16 the person had not died or retired; and
- 17 (b) for a person who was President—a reference to salary at the
18 rate that would be payable to the person as President if the
19 person had not died or retired.
- 20 (6) For subsection (5), **salary** includes salary (however described)
21 payable under a determination of the remuneration tribunal.

22 **37UA Indemnity for superannuation surcharge levy**

- 23 (1) This section applies if—
- 24 (a) a judge or other person is entitled to be paid a pension under
25 this Act; and
- 26 (b) the commissioner of taxation has notified the judge or other
27 person that the judge or other person is liable to pay the
28 amount of superannuation contributions surcharge stated in the
29 notice; and

- 1 (c) the superannuation contributions surcharge relates to
2 surchargeable contributions made in relation to the judge.
- 3 (2) The Territory must indemnify the judge or other person against the
4 liability to pay the amount stated in the notice.
- 5 (3) The public money of the Territory is appropriated to the extent
6 necessary for payment of the amount indemnified.
- 7 (4) A term used in this section that is defined in the *Superannuation*
8 *Contributions Tax (Assessment and Collection) Act 1997* (Cwlth)
9 has the same meaning in this section.

10 **37UB Salary of former President**

- 11 (1) This section applies if—
- 12 (a) either—
- 13 (i) there is no President; or
- 14 (ii) the President is the Chief Justice; and
- 15 (b) a relevant tribunal determination has not been made for at least
16 1 year.
- 17 (2) For the application of the *Judges' Pensions Act 1968* (Cwlth) in
18 relation to a person to whom section 37U applies who was
19 President, the reference in that Act to the ***appropriate current***
20 ***judicial salary*** in relation to the person is a reference to the amount
21 worked out as follows:

22
$$\text{RJCS} \times \frac{\text{SP}}{\text{SRJ}}$$

- 1 (3) In this section:
- 2 *relevant tribunal determination* means a determination of the
- 3 remuneration tribunal under the *Remuneration Tribunal Act 1995* of
- 4 the additional remuneration, allowances and other entitlements of a
- 5 person who holds the position of President and does not hold the
- 6 position of Chief Justice.
- 7 *resident judge* means a resident judge who is not the Chief Justice
- 8 or President.
- 9 *RJCS* means a resident judge's current salary.
- 10 *SP* is the salary of the President taking into account the latest
- 11 relevant tribunal determination.
- 12 *SRJ* is the salary of a resident judge when the latest relevant tribunal
- 13 determination commenced.

Endnotes

- 1 Presentation speech**
Presentation speech made in the Legislative Assembly on 2006.
- 2 Notification**
Notified under the Legislation Act on 2006.
- 3 Republications of amended laws**
For the latest republication of amended laws, see www.legislation.act.gov.au.
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