New South Wales

Judges' Pensions Amendment Act 1998 No 42

Contents

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Act No 42, 1998

An Act to amend the *Judges' Pensions Act 1953* to provide for the commutation of pensions under that Act for the purposes of payment of superannuation contributions surcharge and the consequent adjustment of pensions; and for other purposes. [Assented to 26 June 1998]

The Legislature of New South Wales enacts:

1   Name of Act

This Act is the *Judges' Pensions Amendment Act 1998.*

2   Commencement

This Act commences on a day or days to be appointed by proclamation.

3   Amendment of Judges' Pensions Act 1953 No 41

The *Judges' Pensions Act 1953* is amended as set out in Schedule 1.

Schedule 1   Amendments

(Section 3)

[1]   Section 2 Definitions

Insert in alphabetical order in section 2 (1):

Superannuation contributions surcharge means the superannuation contributions surcharge imposed by the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Imposition Act 1997* of the Commonwealth.

[2]   Section 10 Payment of pensions and lump sums

Insert at the end of section 10:

(2)   A lump sum payable under section 12 is charged on and payable out of the Consolidated Fund.

[3]   Sections 12, 12A and 12B

Insert after section 11A:

12 Commutation of pensions for payment of superannuation contributions surcharge

(1)   A retired judge who is entitled to a pension under this Act may elect to have part of the pension commuted to a lump sum for the purposes of payment of a liability for superannuation contributions surcharge arising because of that entitlement.

(2)   A person (other than a retired judge) who is entitled to a pension under this Act may elect to have part of the pension commuted to a lump sum for the purposes of payment of a liability for superannuation contributions surcharge arising in relation to:

(a)   a judge who has died, or

(b)   a retired judge who died without making an election under subsection (1) and before the period applicable to the retired judge for making such an election ended.

(3)   An election:

(a)   may relate to the whole or part of an outstanding liability for superannuation contributions surcharge, and

(b)   must be made in writing to the Minister not later than 2 months after the liability to pay the amount of the superannuation contributions surcharge arises, or within such further period as the Minister may allow.

(4)   If an election is made by a retired judge, the Minister is to cause the amount of the lump sum to be paid to the retired judge.

(5)   If an election is made by a person other than a retired judge, the Minister may cause the amount of the lump sum to be paid to the person, but only if satisfied that the lump sum is to be applied towards payment of the superannuation contributions surcharge.

(6)   On payment of a lump sum, the pension otherwise payable from time to time under this Act to the person is to be reduced.

(7)   The amount of the reduced pension is to be calculated in accordance with the regulations.

(8)   A pension may be commuted only to the extent necessary to meet the liability for superannuation contributions surcharge.

(9)   The Minister may, by signed instrument, delegate to a person prescribed by the regulations any of the Minister's functions under subsection (3) or (4).

12A Reduction of reversionary pensions

(1)   If part of a pension is commuted under section 12, any subsequent reversionary pension payable from time to time under this Act is to be reduced.

(2)   The amount of the reduced reversionary pension is to be calculated in accordance with the regulations.

(3)   In this section:

       reversionary pension means a pension paid under this
       Act to a person as a result of a pension being previously
       paid to another person under this Act (for example, a
       pension paid to a widow or widower of a retired judge).

12B Regulations

(1)   The Governor may make regulations, not inconsistent
       with this Act, for or with respect to any matter that by
       this Act is required or permitted to be prescribed or that
       is necessary or convenient to be prescribed for carrying
       out or giving effect to this Act.

(2)   A regulation may be made for the purposes of section 12
       (7) or 12A (2) only if the Minister has certified in writing
       that actuarial advice was obtained in relation to the
       subject-matter of the regulation.

[Minister's second reading speech made in—
    Legislative Assembly on 20 May 1998
    Legislative Council on 2 June 1998]