

JUDGES' PENSIONS (AMENDMENT) ACT 1994 No. 11

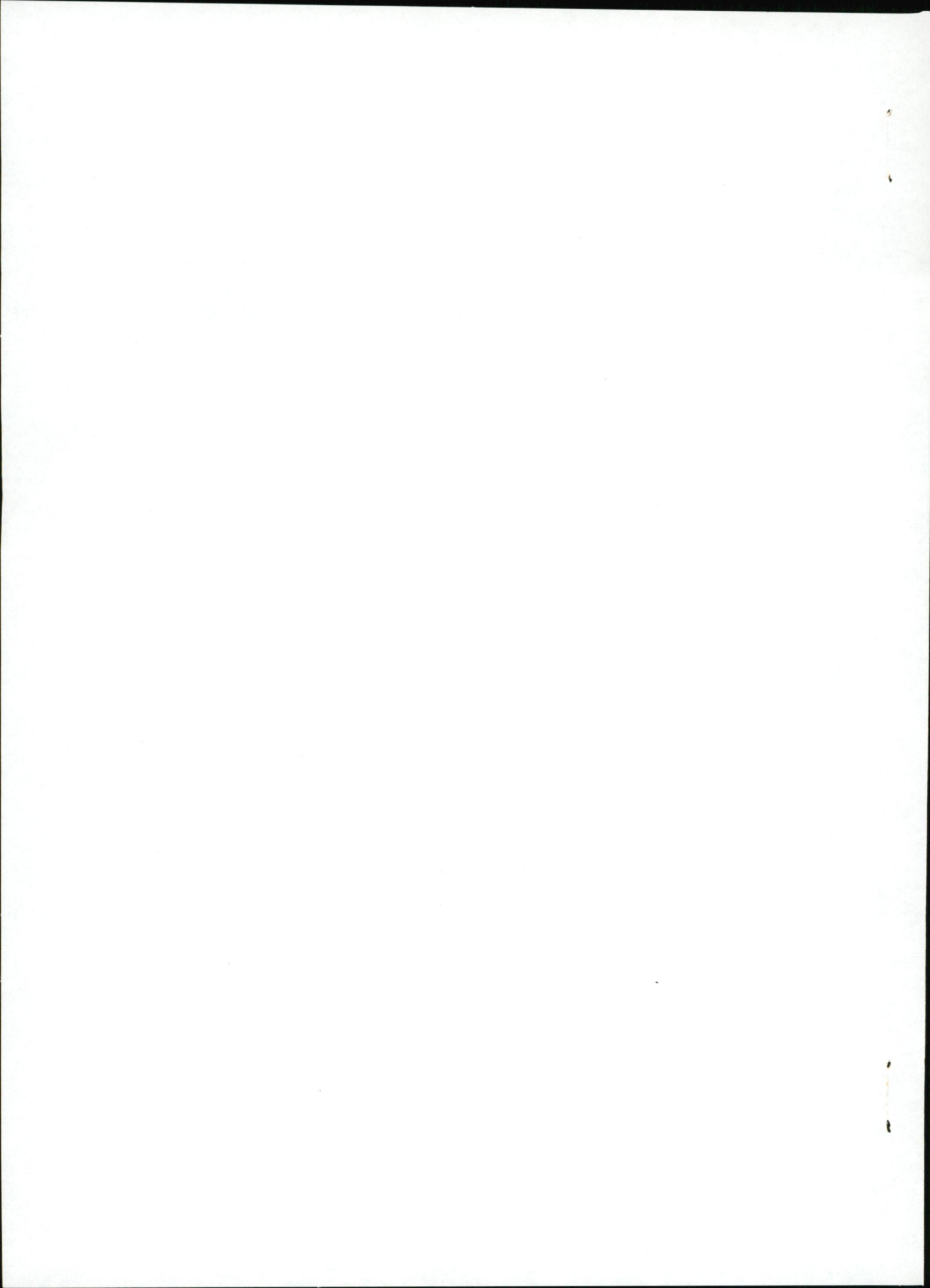
NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Judges' Pensions Act 1953 No. 41

SCHEDULE 1—AMENDMENTS



JUDGES' PENSIONS (AMENDMENT) ACT 1994 No. 11

NEW SOUTH WALES



Act No. 11, 1994

An Act to amend the Judges' Pensions Act 1953 in relation to the continuance of the pension payable to the widow or widower of a judge or former judge. [Assented to 10 May 1994]

Judges' Pensions (Amendment) Act 1994 No. 11

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Judges' Pensions (Amendment) Act 1994.

Commencement

2. This Act commences on the date of assent.

Amendment of Judges' Pensions Act 1953 No. 41

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

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 6 (**Pension for widow or widower of judge or retired judge**):

- (a) From section 6 (1), omit "or remarriage" wherever occurring.
- (b) After section 6 (5), insert:

(6) The amendment made by the Judges' Pensions (Amendment) Act 1994 to subsection (1) extends to a person who is lawfully entitled to a pension under this section at the commencement of that Act. Accordingly, the person does not cease to be entitled to it because the person remarries afterwards.

(7) The amendment made by the Judges' Pensions (Amendment) Act 1994 to subsection (1) does not apply to a person whose pension ceased to be payable because the person remarried before the commencement of that Act, but the person can apply for the pension to be restored under section 7.

SCHEDULE 1—AMENDMENTS—*continued*

(2) Section 7:

After section 6, insert:

Restoration of widow's or widower's pension if lost due to remarriage

7. (1) If a person's pension under section 6 ceased to be payable before the commencement day because the person remarried, the person may apply to the Attorney General for the pension to be restored.

(2) If the Attorney General is satisfied that:

(a) the person is in need; or

(b) the restoration of the person's pension is otherwise justified,

the Attorney General may direct in writing that the person's pension is to be restored.

(3) The Attorney General may direct that the person's pension is to be restored from a day before the application day if satisfied that there are special circumstances that justify restoration of the pension from that earlier day.

(4) The Attorney General must not specify a day under subsection (3) that is before the commencement day.

(5) If the Attorney General gives a direction under subsection (2), the person's pension is restored:

(a) from and including the day specified in the direction; or

(b) if no day is specified in the direction, from and including the application day.

(6) If the Attorney General decides not to restore a person's pension under this section, the Attorney General must give the person written notice of that decision. The notice must include reasons for the decision.

Judges' Pensions (Amendment) Act 1994 No. 11

SCHEDULE 1—AMENDMENTS—*continued*

(7) In this section:

“application day” means the day on which the application under subsection (1) was made;

“commencement day” means the day on which the Judges' Pensions (Amendment) Act 1994 commences.

[*Minister's second reading speech made in—
Legislative Assembly on 17 March 1994
Legislative Council on 20 April 1994*]

FIRST PRINT

JUDGES' PENSIONS (AMENDMENT) BILL 1994

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to provide that a pension paid to the widow or widower of a judge or former judge does not cease on remarriage.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the proposed Act to commence on the day on which it receives assent.

Clause 3 is a formal provision giving effect to the Schedule of amendments.

SCHEDULE 1—AMENDMENTS

Remarriage not to affect pension of widow or widower

Schedule 1 (1) (a) removes references to remarriage, the result being that a pension payable to a widow or widower of a judge or former judge will continue until death.

Schedule 1 (1) (b) contains two transitional provisions. The first makes it clear that the amendments extend to pensions currently in payment. The second provides that the amendments do not apply to pensions that have ceased to be payable because of remarriage (but the widow or widower can apply for the pension to be restored).

Restoration of widow's or widower's pension if lost due to remarriage

Schedule 1 (2) inserts a new section that enables the widow or widower of a judge or former judge to apply to the Attorney General for the restoration of a pension lost because of remarriage. The Attorney General can direct restoration of the pension if satisfied that the applicant is in need or that restoration is otherwise justified. Restoration can take effect from the date the application is made, or from an earlier day if there are special circumstances, but not before the commencement of the proposed Act.

Judges' Pensions (Amendment) 1994

The new section closely follows section 8A of the Judges' Pensions Act 1968 of the Commonwealth, as inserted by the Law and Justice Legislation Amendment Act (No. 2) 1992 No. 23 of the Commonwealth.

FIRST PRINT

JUDGES' PENSIONS (AMENDMENT) BILL 1994

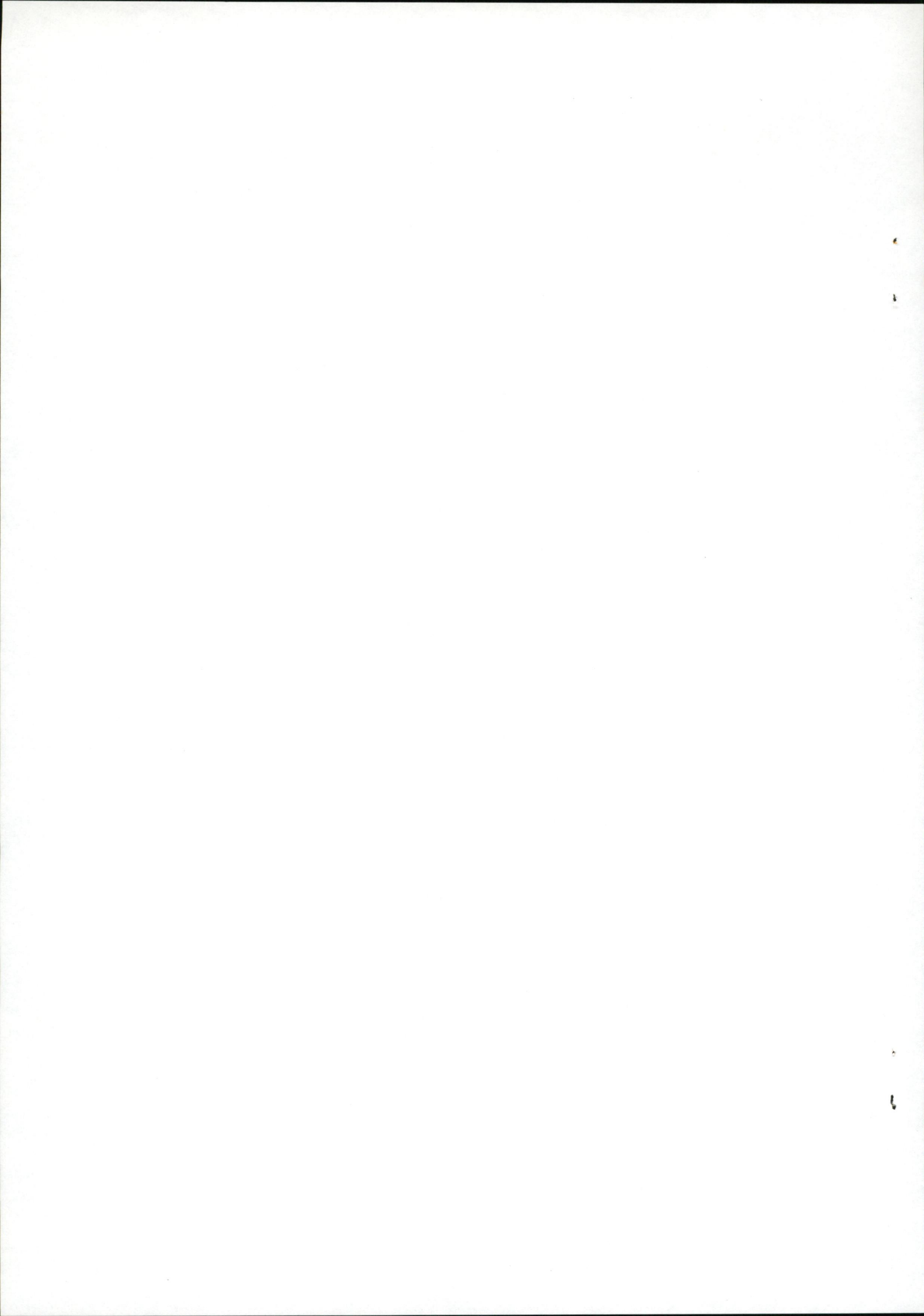
NEW SOUTH WALES



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2. Commencement
3. Amendment of Judges' Pensions Act 1953 No. 41

SCHEDULE 1—AMENDMENTS



JUDGES' PENSIONS (AMENDMENT) BILL 1994

NEW SOUTH WALES



No. , 1994

A BILL FOR

An Act to amend the Judges' Pensions Act 1953 in relation to the continuance of the pension payable to the widow or widower of a judge or former judge.

Judges' Pensions (Amendment) 1994

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Judges' Pensions (Amendment) Act 1994.

5 Commencement

2. This Act commences on the date of assent.

Amendment of Judges' Pensions Act 1953 No. 41

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

SCHEDULE 1—AMENDMENTS

10

(Sec. 3)

(1) Section 6 (**Pension for widow or widower of judge or retired judge**):

(a) From section 6 (1), omit "or remarriage" wherever occurring.

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(b) After section 6 (5), insert:

(6) The amendment made by the Judges' Pensions (Amendment) Act 1994 to subsection (1) extends to a person who is lawfully entitled to a pension under this section at the commencement of that Act. Accordingly, the person does not cease to be entitled to it because the person remarries afterwards.

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(7) The amendment made by the Judges' Pensions (Amendment) Act 1994 to subsection (1) does not apply to a person whose pension ceased to be payable because the person remarried before the commencement of that Act, but the person can apply for the pension to be restored under section 7.

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Judges' Pensions (Amendment) 1994

SCHEDULE 1—AMENDMENTS—*continued*

(2) Section 7:

After section 6, insert:

Restoration of widow's or widower's pension if lost due to remarriage 5

7. (1) If a person's pension under section 6 ceased to be payable before the commencement day because the person remarried, the person may apply to the Attorney General for the pension to be restored.

(2) If the Attorney General is satisfied that: 10

(a) the person is in need; or

(b) the restoration of the person's pension is otherwise justified,

the Attorney General may direct in writing that the person's pension is to be restored. 15

(3) The Attorney General may direct that the person's pension is to be restored from a day before the application day if satisfied that there are special circumstances that justify restoration of the pension from that earlier day.

(4) The Attorney General must not specify a day under subsection (3) that is before the commencement day. 20

(5) If the Attorney General gives a direction under subsection (2), the person's pension is restored:

(a) from and including the day specified in the direction; 25
or

(b) if no day is specified in the direction, from and including the application day.

(6) If the Attorney General decides not to restore a person's pension under this section, the Attorney General must give the person written notice of that decision. The notice must include reasons for the decision. 30

(7) In this section:

"application day" means the day on which the application under subsection (1) was made;

"commencement day" means the day on which the Judges' Pensions (Amendment) Act 1994 commences. 35
