



ANNO OCTAVO

**GEORGI VI REGIS.**

A.D. 1944.

\*\*\*\*\*

**No. 38 of 1944.**

An Act to amend the Supreme Court Act, 1935-1936,  
so as to prescribe a retiring age and provide for  
pensions for judges of the Supreme Court.

[Assented to 14th December, 1944.]

BE IT ENACTED by the Governor of the State of South  
Australia, with the advice and consent of the Parliament  
thereof, as follows :

Short titles.

1. (1) This Act may be cited as the "Supreme Court Act  
Amendment Act, 1944".

(2) The Supreme Court Act, 1935-1936, as amended by this  
Act, may be cited as the "Supreme Court Act, 1935-1944".

(3) The Supreme Court Act, 1935-1936, is hereinafter called  
"the principal Act".

Incorporation.

2. This Act is incorporated with the principal Act, and that  
Act and this Act shall be read as one Act.

Amendment of  
s. 9 of  
principal Act—  
Consequential  
amendment.

3. Section 9 of the principal Act is amended by adding  
at the end thereof the following proviso :—

Provided that a judge appointed after the passing of  
the Supreme Court Act Amendment Act, 1944, shall hold  
his office subject to the provisions of this Act as to  
retirement.

Enactment of  
ss. 13a-13h of  
principal Act—

4. The following sections are enacted and inserted in the  
principal Act after section 13 :—

13a. (1) Every judge appointed after the passing of the Supreme Court Act Amendment Act, 1944, and every judge who holds office at the time of the passing of the Supreme Court Act Amendment Act, 1944, and elects to contribute for pension under this Act, shall retire on reaching the age of seventy years: Provided that a judge who ceases to hold office under this section on reaching the age of seventy years, may nevertheless, after reaching that age, complete the hearing and determination of any proceedings part heard by him before reaching that age, and for the purpose of such hearing and determination he shall be deemed to continue to be a judge.

Retiring age  
for judges.

(2) Section 74 of the Constitution Act, 1934, shall be read subject to this section.

13b. A judge who holds office at the time of the passing of the Supreme Court Act Amendment Act, 1944, and has at that time reached the age of seventy years, shall be entitled upon his retirement within twelve months after that time to an annual pension for life at the rate of one-half of his salary.

Pensions for  
present judges  
over seventy.

13c. (1) Any judge who holds office at the time of the passing of the Supreme Court Act Amendment Act, 1944, but has not at that time reached the age of seventy years, and any judge appointed after that time, may elect to contribute for pension under this Act

Right of  
judges to  
contribute for  
pension.

(2) Every such election shall be made within the following times:—

(a) by a judge who holds office at the time of the passing of the Supreme Court Act Amendment Act, 1944, within three months after that time;

(b) by a judge appointed after that time, within three months after his appointment.

(3) The Treasurer may accept an election made after the time prescribed by the preceding subsection. If he does so, contributions shall be payable as if the election had been made on the last day on which it could have been made under that subsection, and the contributions for the period prior to the acceptance of the election shall be payable to the Treasurer forthwith or in such instalments as he approves.

13d. (1) Every judge who elects to contribute for a pension shall pay a contribution to the Treasurer in aid of the general revenue of the State at the rate of eighty pounds a year.

Contribution  
by judges.

(2) Contributions shall be paid in twelve equal monthly instalments in each year and shall be deducted from the salary of the judge.

(3) Contributions shall be payable in respect of the period commencing on the first day of the month in which the election is made and ending on the last day of the month preceding the month in which the judge reaches the age of seventy years.

Benefits to contributors.

13e. A judge who has elected to contribute for a pension or his personal representatives, shall be entitled to the following benefits :—

- (a) Where the judge, being disabled by permanent invalidity or infirmity from the performance of the duties of his office, or having reached the age of seventy years, retires after fifteen complete years' service, he shall be entitled to an annual pension for life at the rate of one-half of his salary ;
- (b) Where the judge, being disabled by permanent invalidity or infirmity from the performance of the duties of his office, or having reached the age of seventy years, retires with less than fifteen but not less than five complete years' service, he shall be entitled to an annual pension for life at the rate of three-tenths of his salary with an additional one-fiftieth of his salary for each complete year of service in excess of five ;
- (c) Where the judge retires in any circumstances other than those mentioned in paragraphs (a) and (b) of this section, he shall be entitled to a refund of the contributions paid by him ;
- (d) Where the judge dies before retirement, his personal representatives shall be entitled to a refund of the contributions paid by him.

Payment of pensions out of the general revenue.

13f. (1) Pensions and other sums payable under section 13e of this Act shall be paid by the Treasurer out of the general revenue of the State on the warrant of the Governor, which warrant the Governor is hereby authorized and required to issue from time to time.

(2) Pensions shall accrue due from day to day and be paid monthly.

13g. In computing service as a judge for the purpose of pension, service both before and after the passing of the Supreme Court Act Amendment Act, 1944, and service as an acting judge shall be taken into account. Service to be taken into account.

13h. The rate of pension payable to a judge shall be based on the rate of his salary at the time of his retirement. Basis of amount of pension.

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

J. M. NAPIER, Lieutenant-Governor.