

LEGISLATIVE ASSEMBLY

Read 1° 25 February 1987

(Brought in by Mr Mathews and Mr Fordham)

A BILL

to make provision for determining judicial salaries, to amend the *Constitution Act 1975* and the *County Court Act 1958* and for other purposes.

Judicial Salaries Act 1987

The Parliament of Victoria enacts as follows:

Purpose.

1. The purpose of this Act is to make provision for adjustment of salaries and allowances of judges.

5 Commencement.

2. This Act comes into operation on a day to be proclaimed.

Amendment of Constitution Act.

3. (1) Section 82 of the *Constitution Act 1975* is amended as follows:

(a) In sub-section (1)—

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- (i) for “\$86 000” substitute “\$101 732”; and
- (ii) after “sub-section (3)” insert “or (6)”; and
- (iii) for “\$3750” substitute “\$6080”; and
- (iv) for “sub-section (5)” substitute “sub-section (3) or (6)”; and

(b) In sub-section (2)—

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- (i) for “\$76 450” substitute “\$90 433”; and
- (ii) after “sub-section (3)” insert “or (6)”; and

1—[23]—850/3.3.1987—2333/85—(Revision No. 2) (921)

No 8750.
Reprinted to
No 10146 and
amended by
Nos. 10244, 1/
1986, 16/1986
and 61/1986.

- (iii) for “\$3000” substitute “\$4863”; and
- (iv) for “sub-section (5)” substitute “sub-section (3) or (6)”;
- (c) For sub-sections (3), (4), (4A), (5) and (6) substitute—
- “(3) Whenever there is an increase in the rate per annum of the salary or expenses of office allowance applicable to the holders of judicial or other offices specified in column 1 of the Schedule to the *Judicial and Statutory Officers (Remuneration and Allowances) Act 1984* of the Commonwealth as amended and in force for the time being—
- (a) if the increase is in the rate per annum of the salary, the Attorney-General must, not later than two months after the increase has taken effect, determine, in accordance with sub-section (4)—
- (i) the amount by which the rate per annum of the salary of the Chief Justice is to be increased; and
- (ii) the amount by which the rate per annum of the salary of each puisne judge is to be increased—
- and issue a certificate that the rate per annum of the salaries of the Chief Justice and the puisne judges be increased accordingly; and
- (b) if the increase is in the rate per annum of the expenses of office allowance, the Attorney-General must, not later than two months after the increase has taken effect, determine, in accordance with sub-section (4)—
- (i) the amount by which the rate per annum of the allowance of the Chief Justice is to be increased; and
- (ii) the amount by which the rate per annum of the allowance of each puisne judge is to be increased—
- and issue a certificate that the allowances of the Chief Justice and puisne judges be increased accordingly.
- (4) In determining the amount by which the rate per annum of the salary or allowance of the Chief Justice or each puisne judge is to be increased, the Attorney-General must have regard to—
- (a) the latest increase in the rate per annum of the salary or expenses of office allowance, as the case may be, applicable to the holders of judicial or other offices referred to in sub-section (3); and

(b) the latest decisions of the Australian Conciliation and Arbitration Commission that are or may be relevant to an increase referred to in paragraph (a); and

5 (c) the latest report of the Remuneration Tribunal under section 6 of the *Remuneration Tribunal Act 1973* of the Commonwealth as amended and in force for the time being on the question whether any alterations are desirable in the remuneration payable to Justices or Judges of federal courts; and

10 (d) any other report, whether published before or after the commencement of the *Judicial Salaries Act 1987*, prepared for the purpose of recommending or determining whether salaries or allowances, as the case may be, of judges should be altered—

15 and, if the latest increase in the rate per annum of the salary or expenses of office allowance, as the case may be, of the holders of judicial or other offices referred to in paragraph (a) is made in consequence of and in accordance with a decision of the Australian Conciliation and Arbitration Commission in a National Wage Case, the Attorney-General must determine the amount of the increase in the rate per annum of the salary or expense of office allowance of the Chief Justice and each puisne judge as an amount that is at least the average of the increase in the rate per annum of the salary or expenses of office allowance of holders of such judicial or other offices.

20 (5) If the Attorney-General issues a certificate under sub-section (3), the salaries or allowances of the Chief Justice and the puisne judges for all purposes under this Act shall be the salaries or allowances as increased in accordance with the certificate from the day on which the increase in the salaries or allowances of the holders of the judicial or other offices referred to in sub-section (3) are effective.

30 (6) The Attorney-General may, at any time, having regard to any of the matters referred to in sub-section (4) or any other matters, issue a certificate that the salaries or allowances of the Chief Justice and each puisne judge shall be increased, from a date set out in the notice, by any amount or rate set out in the notice and, if the Attorney-General issues such a certificate, the salaries or allowances of the Chief Justice and each puisne judge are, from that date, the salaries or allowances as so increased.

35 (6A) The Attorney-General shall, at least once in each period of five years after the commencement of section 3 (1) of the *Judicial Salaries Act 1987*, cause the remuneration of the Chief Justice and puisne judges to be reviewed in accordance with the current wage fixing principles by a

person who, in the opinion of the Attorney-General, is a person suitably qualified to carry out such a review.

(6B) Nothing in this section authorises the salaries payable to the Chief Justice and the puisne judges to be reduced.”. 5

(2) In section 80A (5) (b) of the *Constitution Act 1975*, after “puisne judge” insert “and an amount at the rate per annum of the annual allowance for the time being payable to a puisne judge”.

Amendment of County Court Act.

4. (1) Section 10 of the *County Court Act 1958* is amended as follows: 10

- (a) In sub-section (1)—
- (i) for “\$75 850” substitute “\$89 725”; and
 - (ii) after “sub-section (3)” insert “or (6)”; and
 - (iii) for “\$3500” substitute “\$5676”; and 15
 - (iv) for “sub-section (5)” substitute “sub-section (3) or (6)”; 15

- (b) In sub-section (2)—
- (i) for “\$64 500” substitute “\$76 298”; and
 - (ii) after “sub-section (3)” insert “or (6)”; and
 - (iii) for “\$2800” substitute “\$4539”; and 20
 - (iv) for “sub-section (5)” substitute “sub-section (3) or (6)”; 20

- (c) For sub-sections (3), (4), (4A), (5) and (6) substitute—
- “(3) Whenever there is an increase in the rate per annum of the salary or expenses of office allowance applicable to the holders of judicial or other offices specified in column 1 of the Schedule to the *Judicial and Statutory Officers (Remuneration and Allowances) Act 1984* of the Commonwealth as amended and in force for the time being— 25

- (a) if the increase is in the rate per annum of the salary, the Attorney-General must, not later than two months after the increase has taken effect, determine, in accordance with sub-section (4)— 30

- (i) the amount by which the rate per annum of the salary of the Chief Judge is to be increased; 35
- and

- (ii) the amount by which the rate per annum of the salary of each other judge is to be increased—

and issue a certificate that the rate per annum of the salaries of the Chief Judge and the other judges be increased accordingly; and 40

- (b) if the increase is in the rate per annum of the expenses of office allowance, the Attorney-General

must, not later than two months after the increase has taken effect, determine, in accordance with sub-section (4)—

5 (i) the amount by which the rate per annum of the allowance of the Chief Judge is to be increased; and

(ii) the amount by which the rate per annum of the allowance of each other judge is to be increased—

10 and issue a certificate that the allowances of the Chief Judge and other judges be increased accordingly.

15 (4) In determining the amount by which the rate per annum of the salary or allowance of the Chief Judge or each other judge is to be increased, the Attorney-General must have regard to—

20 (a) the latest increase in the rate per annum of the salary or expenses of office allowance, as the case may be, applicable to the holders of judicial or other offices referred to in sub-section (3); and

(b) the latest decisions of the Australian Conciliation and Arbitration Commission that are or may be relevant to an increase referred to in paragraph (a); and

25 (c) the latest report of the Remuneration Tribunal under section 6 of the *Remuneration Tribunal Act 1973* of the Commonwealth as amended and in force for the time being on the question whether any alterations are desirable in the remuneration payable to Justices or Judges of federal courts; and

30 (d) any other report, whether published before or after the commencement of the *Judicial Salaries Act 1987*, prepared for the purpose of recommending or determining whether salaries or allowances, as the case may be, of judges should be altered—

35 and, if the latest increase in the rate per annum of the salary or expenses of office allowance, as the case may be, of the holders of judicial or other offices referred to in paragraph (a) is made in consequence of and in accordance with a decision of the Australian Conciliation and Arbitration Commission in a National Wage Case, the Attorney-General must determine the amount of the increase in the rate per annum of the salary or expense of office allowance of the Chief Judge and each other judge as an amount that is at least the average of the increase in the rate per annum of the salary or expenses of office allowance of holders of such judicial or other offices.

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(5) If the Attorney-General issues a certificate under sub-section (3), the salaries or allowances of the Chief Judge and the other judges for all purposes under this Act shall be the salaries or allowances as increased in accordance with the certificate from the day on which the increase in the salaries or allowances of the holders of the judicial or other offices referred to in sub-section (3) are effective.

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(6) The Attorney-General may, at any time, having regard to any of the matters referred to in sub-section (4) or any other matters, issue a certificate that the salaries or allowances of the Chief Judge and each other judge shall be increased, from a date set out in the notice, by any amount or rate set out in the notice and, if the Attorney-General issues such a certificate, the salaries or allowances of the Chief Judge and each other judge are, from that date, the salaries or allowances as so increased.

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(6A) The Attorney-General shall, at least once in each period of five years after the commencement of section 3 (1) of the *Judicial Salaries Act* 1987, cause the remuneration of the Chief Judge and other judges to be reviewed in accordance with the current wage fixing principles by a person who, in the opinion of the Attorney-General, is a person suitably qualified to carry out such a review.

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(6B) Nothing in this section authorises the salaries payable to the Chief Judge and the other judges to be reduced.”.

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(2) In section 13A (5) (b) of the *County Court Act* 1958, after “Chief Judge” insert “and an amount at the rate per annum of the annual allowance for the time being payable to such a judge”.

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