



# JUDGES' PENSION SCHEME

Western Australia

Member's Guide

2019



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## Introduction

The Judges' Pension Scheme (the 'scheme') is a defined benefit, non-contributory pension scheme established by the *Judges' Salaries and Pensions Act 1950*.

The scheme currently provides for pension benefits to persons who have served as a Judge of a Western Australian court or a Master of the Supreme Court (collectively referred to as members of the scheme). The scheme also provides death benefits to surviving spouses and eligible children.

## Membership of the Judges' Pension Scheme

Membership is automatic upon appointment as a Judge or a Master of the Supreme Court.

## Qualifying for a pension on retirement

A member of the scheme will qualify for a judicial pension provided that at the date of their retirement:

- they have attained at least 55 years of age; and
- they have held office for at least 10 years.

Following amendments to the *Judges' Salaries and Pensions Act 1950* in 2007, a member of the scheme attaining the age of 70 years with service of less than 10 years is entitled to a pro-rata pension according to the ratio of their actual service to the 10 year minimum service period.

A member of the scheme who is removed from office for misconduct is not entitled to a pension, regardless of whether they have met the above pension qualification requirements.

## Amount of retirement pension payable

The rate of judicial pension payable, expressed as a percentage of salary of the office held at retirement, ranges from a minimum of 50% at age 55 to a maximum of 60% for retirement at or after age 60. The minimum 10 years' service co-requirement applies in all cases except for members who compulsorily retire at age 70 with less than 10 years' service (see previous section).

A table of the applicable pension rates from age 55 is provided below:

RETIREMENT PENSION Ready Reckoner	
Age at retirement (completed years)	Pension entitlement (% of current salary)
55	50
56	52
57	54
58	56
59	58
60 and above	60

### Ill health retirement

Where the Minister has certified that a member of the scheme has retired due to permanent disability or infirmity, a pension is payable in accordance with the following:

ILL HEALTH RETIREMENT PENSION Ready Reckoner	
Length of service at retirement (completed years)	Pension entitlement (% of current salary)
Less than 6	50
6	52
7	54
8	56
9	58
10 or more	60

### Benefit if no pension payable

A member of the scheme who ceases to hold office (other than as a result of death) but does not become entitled to a pension under the rules of the scheme will be entitled to a lump sum benefit. The lump sum benefit payable in these circumstances is subject to the following requirements under the scheme rules –

- The benefit will be determined by the Minister on the advice of an actuary;
- The benefit payable will be equivalent to the minimum benefit required under the Commonwealth's Superannuation Guarantee legislation **less** the employer sponsored portion of any benefit the member of the scheme becomes entitled to from another superannuation scheme to which the State has contributed while they held that office; and

- The benefit as determined above is subject to the preservation requirements under the Commonwealth's *Superannuation Industry (Supervision) Act 1993* in relation to any member of the scheme aged less than the preservation age upon ceasing office (the preservation age is between and including the ages of 55 and 60, depending on date of birth).

A member of the scheme who ceases to hold office to take up a judicial appointment either Federally or in another State, may be eligible to have their Western Australian judicial service counted for benefit purposes in that jurisdiction's judicial pension scheme. In that instance, there is no lump sum benefit entitlement under the scheme in respect of that same period of service.

## Death benefit (where there is a surviving spouse)

### In relation to deaths on or after 1 December 1987

On the death of a member of the scheme, a reversionary pension is payable to the surviving spouse (married or de facto partner).

Where the member dies while in office, the annual spouse pension is equivalent to 37.5% of the current annual salary of the office held at the date of death.

Where the member of the scheme dies after retirement, the amount of the spouse pension is 5/8ths of the pension which the former Judge or Master of the Supreme Court was receiving (in most cases the annual spouse pension in these circumstances is equivalent to 37.5% of current salary of the office held at retirement).

An additional allowance is also payable to the surviving spouse in respect of any eligible child under the age of 16 years or any full-time student under the age of 25 years who is wholly or substantially dependent on the surviving spouse. The allowance payable is based on the number of eligible children and is determined as a percentage of the 'relevant pension' as defined in the *Judges' Salaries and Pensions Act 1950*.

The '**relevant pension**' for the purposes of determining child benefits is either:

- 60% of the current judicial salary of the office held at the time of death by a serving Judge or Master of the Supreme Court; or
- In the case of a retired Judge or Master of the Supreme Court, the pension that would have been payable had they not died.

The following is a table of child allowance entitlements based on number of eligible children.

<b>CHILD ALLOWANCE Ready Reckoner</b>	
<b>Number of eligible children</b>	<b>Child allowance (expressed as % of 'relevant pension' under the <i>Judges' Salaries and Pensions Act 1950</i>)</b>
1	12.5
2	25.0
3 or more	37.5

## Death benefit (for children with no surviving parents)

### In relation to deaths on or after 1 December 1987

Where a spouse in receipt of a reversionary pension from the scheme dies, or a serving or former Judge or Master of the Supreme Court dies without a surviving spouse, a pension is payable in respect of any eligible children under the age of 16 years or any full-time student under the age of 25 years who is wholly or substantially dependent on the person having care of the child. The benefit payable is based on the number of eligible children and is determined as a percentage of the 'relevant pension' (see meaning of 'relevant pension' in the previous section).

A table of child pension entitlements based on number of eligible children is provided below.

<b>CHILD PENSION Ready Reckoner</b>	
<b>Number of eligible children</b>	<b>Child pension payable (expressed as % of 'relevant pension' under the <i>Judges' Salaries and Pensions Act 1950</i>)</b>
1	25
2	50
3	75
4 or more	100

## Post retirement pension and allowance increases

All pensions and child allowances paid from the scheme in relation to the retirement or death of a serving or former Judge or Master of the Supreme Court Judge on or after 1 December 1987 are adjusted according to increases in the salary of the office to which the pensions or allowances are linked. In this regard, rates of pensions and allowances are maintained at the relevant percentage of the current salary of the former office held.

Judicial salary levels are determined by the Salaries and Allowances Tribunal (the Tribunal), which is required to review judicial remuneration at least annually. The Tribunal normally conducts its review of judicial remuneration in June each year, with any salary increases effective from the first day of July following the Tribunal's determination.

## Reduction of pension in certain cases

The judicial pension of a former Judge or Master of the Supreme Court will be reduced if:

- they commence to hold any judicial office under the Crown in right of Western Australia, of the Commonwealth, or of another State or Territory for which they are remunerated out of moneys of the Crown; or
- they are also in receipt of another employer funded pension in respect of the same period of service; or
- they are also in receipt of any pension under the *State Superannuation Act 2000*.

## Pension not payable if a barrister, solicitor or proctor

Special provisions apply under *Judges' Salaries and Pension Act 1950* which cease entitlement to a pension under this Act in the case of any Judge or Master of the Supreme Court who practices as a barrister, solicitor or proctor. These provisions apply if such practice is engaged in Western Australia, or 'in any other part of Her Majesty's Dominions'.

The provisions also provide for the Governor to exempt Judges or Masters of the Supreme Court who practice as a barrister, solicitor or proctor from forfeiture or cessation of their judicial pension where this exemption is sought.

## Further information

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