

A BILL

*i n t i t u l e d*

An Act to amend the Judges' Remuneration Act 1971.

[ ]

**ENACTED** by the Parliament of Malaysia as follows:

**Short title and commencement**

**1.** (1) This Act may be cited as the Judges' Remuneration (Amendment) Act 2013.

(2) Sections 2, 4, 5 and 6 come into operation on 1 January 2014.

(3) Section 3 is deemed to have come into operation on 1 July 2013.

**Amendment of section 1A**

**2.** The Judges' Remuneration Act 1971 [*Act 45*], which is referred to as "the principal Act" in this Act, is amended in section 1A by deleting the definition of "corresponding last drawn salary".

**Amendment of section 8**

3. The principal Act is amended in section 8 by substituting for paragraph (c) the following paragraph:

“(c) resigns from the office of a Judge before attaining the age of sixty years but has held the office of a Judge for a continuous period in the aggregate of not less than five years from the effective date of his appointment as a Judge; or”.

**Substitution of section 15B**

4. The principal Act is amended by substituting for section 15B the following section:

**“Adjustment of pensions and other benefits of Judges and dependants**

**15B.** (1) Subject to Part III and this Part, pensions and other benefits granted to Judges and their dependants under this Act shall be adjusted annually by an increment of two percent in accordance with the provisions of this Act and shall be paid or be payable with effect from January of each year.

(2) Notwithstanding subsection (1), where the application of the specified rate of increment would result in a situation that is less favourable to a Judge appointed before the coming into operation of this section, the Yang di-Pertuan Agong may, by order in the *Gazette*, prescribe an appropriate higher percentage to be applied in such case.

(3) For the purpose of an order under subsection (2), the Yang di-Pertuan Agong may prescribe—

- (a) different percentages of increment for different categories of recipients; and
- (b) that the higher percentage of increment shall only apply for a specified year or any part thereof, and in such case, the date on which the adjustment shall be payable.

(4) Any derivative pension granted under Part III shall be adjusted in accordance with subsection (1).

(5) Any disability pension or dependant's pension granted under Part III shall be adjusted in accordance with subsection (1) but the factor applicable shall be the factor applicable under that Part.

(6) Where the factor referred to in subsection (5) changes according to the eligibility of the dependant as specified under that Part, the dependant's pension shall be adjusted based on the notional salary as determined under subsection (7) using the new factor applicable under that Part.

(7) The notional salary—

(a) in the case of a dependant who received the dependant's pension before or on 1 January 2014, shall be the amount of the corresponding last drawn salary received by a Judge on 1 January 2014 which has been calculated with an increment of two percent annually up to the year when the factor changes; or

(b) in the case of a dependant who received the dependant's pension on or after 2 January 2014, shall be the amount of the last drawn salary received by a Judge on the date of his death which has been calculated with an increment of two percent annually up to the year when the factor changes.

(8) Where a higher percentage of increment has been prescribed under subsection (2), the increment specified under subsections (3), (4) and (5) shall be calculated using that prescribed higher percentage.

(9) The amount of dependant's pension adjusted under subsection (6) shall be used as the basis for adjustments under subsection (5) in subsequent years.

(10) For the purpose of this section, "corresponding last drawn salary" means the corresponding last drawn salary which had been adjusted on 1 January 2014 pursuant to this Act before the coming into operation of this section."

**Deletion of Third and Fourth Schedules**

**5.** The principal Act is amended by deleting the Third and Fourth Schedules.

**Saving and transitional**

**6.** (1) Where any Judge or his dependant is eligible for the adjustment of pension or other benefits under the principal Act before 1 January 2014 but the adjustment has not been made before that date, such pension or other benefits shall firstly be adjusted in accordance with the provisions of the principal Act until 31 December 2013 as if the principal Act had not been amended by this Act.

(2) Pensions and other benefits of Judges and their dependants shall, from 1 January 2014, be calculated based on section 15B as amended by this Act and shall be payable from that date.

(3) For any Judge or his dependant whose pension or other benefits have been adjusted in accordance with the principal Act immediately before 1 January 2014, the pension or other benefits shall, from 1 January 2014, be calculated based on section 15B as amended by this Act and shall be payable from that date.

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**EXPLANATORY STATEMENT**

This Bill seeks to amend the Judges' Remuneration Act 1971 ("Act 45").

2. *Clause 1* contains the short title and the commencement date of the proposed Act.

3. *Clause 2* seeks to amend section 1A of Act 45 to delete the definition of "corresponding last drawn salary".

4. *Clause 3* seeks to amend paragraph 8(c) of Act 45 to enable a Judge who resigns from his office before attaining the age of sixty years to receive a pension and a gratuity provided that he has held the office of a Judge for a continuous period in the aggregate of not less than five years from the effective date of his appointment as a Judge.

ILLUSTRATIONS

(a) A is appointed as a Judge of the High Court. After three years, A is then appointed as a Judge of the Court of Appeal. A subsequently resigns after holding the office of a Judge of the Court of Appeal for two years. A is entitled to receive a pension and a gratuity.

(b) A is directly appointed as a Judge of the Court of Appeal. After three years, A is then appointed as a Judge of the Federal Court. A subsequently resigns after holding the office of a Judge of the Federal Court for two years. A is entitled to receive a pension and a gratuity.

(c) A is appointed as a Judge of the High Court. After two years, A is then appointed as a Judge of the Court of Appeal. A year later, A is appointed as a Judge of the Federal Court. A subsequently resigns after holding the office of a Judge of the Federal Court for two years. A is entitled to receive a pension and a gratuity.

(d) A is appointed as a Judge of the High Court. A subsequently resigns after holding the office of a Judge of the High Court for three years. A is not entitled to receive a pension and a gratuity.

(e) A is appointed as a Judge of the High Court. After two years, A is then appointed as a Judge of the Court of Appeal. A subsequently resigns after holding the office of a Judge of the Court of Appeal for a year. A is not entitled to receive a pension and a gratuity.

5. Clause 4 seeks to substitute section 15B of Act 45 to provide that pensions and other benefits granted to Judges and their dependants under Act 45 shall be adjusted annually by an increment of two percent and shall be paid or be payable with effect from January of each year and to provide safeguards for Judges appointed before the commencement of the proposed Act. It also seeks to clarify the procedure for the adjustment of derivative pensions, disability pensions and dependant's pensions.

6. Clause 6 seeks to provide saving and transitional provisions.

7. Other amendments not specifically dealt with in this Statement are minor or consequential in nature.

FINANCIAL IMPLICATIONS

This Bill will involve the Government in extra financial expenditure the amount of which cannot at present be ascertained.

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