

JUDGES PENSIONS' SCHEME

Issue

Will the Government close the Judges' Pensions Scheme to new federal Judges?

Headline Response

The Government is managing a range of Budget pressures. **We inherited a budget with a trillion dollars of debt.**

It is noted that there were no changes made to the Judges' Pensions Scheme by previous Governments.

The Government will keep an open mind to all Budget pressures, including those related to the Judges Pension Scheme.

Talking Points

- Not all federal Judges receive a defined benefit pension on retirement. For example, lump sum benefits are generally payable to Judges in the Scheme who have served less than six years, and to Division 2 Judges of the Federal Circuit and Family Court on their retirement.
- I note that previous Governments did not legislate to close the Judges Pension Scheme and that most of the States continue to provide defined benefit pension schemes to their Judges.
- The Judges' Pensions Scheme and the Governors-General Pension Scheme remain the only government defined benefit superannuation schemes that have not been closed to new members.
- In terms of cost, the two schemes are relatively small compared to the other government defined benefit schemes, which have been closed for over a decade.
- **We have inherited a budget under significant pressure, with deficits as far as the eye can see and a trillion dollars of debt.** We'll be looking at any sensible ideas for budget repair.

JUDGES PENSIONS

Policy Commitments

N/A.

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Date Updated: 15/07/2022
Date Last Printed: 12/08/2022 2:17 PM

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JUDGES PENSIONS**Background**Media report

On 14 July 2022, The Sydney Morning Herald newspaper (Attachment A refers) reported that the closure of the Judges' Pension Scheme to new members would save taxpayers \$400 million over the next decade with savings to 'rapidly accelerate' from 2031-32, based on a Parliamentary Budget Office (PBO) costing provided to Senator Andrew Bragg.

- Questions about PBO costings should be directed to the PBO.

Judges Pensions Scheme

The *Judges' Pension Act 1968* (the Act) provides access to a defined benefit pension for Judges of the High Court, the Federal Court and Federal Circuit and Family Court (FCFC) (Division 1). Judges of the FCFC (Division 2) are excluded.

The Act provides for a full defined benefit retirement pension payable to a Judge who has attained age 60 and served at least ten years in a federal court. Under the Scheme, a full retirement pension is determined as 60 per cent of the appropriate judicial salary. Judicial salaries are determined from time to time by the Remuneration Tribunal and published on their website.

- The current maximum retirement pension payable is \$364,890 per annum for former Chief Justices of the High Court, and is calculated at 60 per cent of the current salary for a Chief Justice of the High Court (\$608,150).
- In June 2022, the Remuneration Tribunal determined a 2.75 per cent increase to judicial salaries, and following the parliamentary disallowance period, judicial pensions will be increased accordingly to apply retrospectively from 1 July 2022.

Not all federal Judges receive a full pension on retirement. That is:

- a partial pension is payable for life from the Judges' Pensions Scheme where the Judge has only served at least six years (but less than 10 years) at the mandatory retirement age of 70.

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- a lump sum benefit is payable from the Judges' Pensions Scheme equal to the Superannuation Guarantee (currently 10.5 per cent of salary) plus interest for Judges who serve less than six years.
- Judges of the FCFC (Division 2) are generally entitled to defined contribution superannuation benefits under a separate Act, the *Federal Circuit Court and Family Court of Australia Act 2021*— a lump sum benefit is generally payable equal to 15.4% of salary accumulated with interest.

The Judges' Pensions Scheme and the Governors-General Pension Scheme remain the only government defined benefit superannuation schemes open to new members.

- The Parliamentary Contributory Superannuation Scheme, a defined benefit pension scheme, was closed to Parliamentarians who joined the Parliament on or after 9 October 2004.
- The last defined benefit superannuation scheme for public servants was closed around 17 years ago. The Commonwealth Superannuation Scheme (CSS) closed on 30 June 1990. The Public Sector Superannuation Scheme (PSS) closed on 30 June 2005.

Except for Tasmania, the States and Territories provide defined benefit superannuation entitlements to the Judges. In 1999, Tasmania closed its defined benefit scheme to new Judges and commenced providing the Superannuation Guarantee benefit under a defined contribution scheme to Judges who commenced from that time.

The Sydney Morning Herald
Thursday 14th July 2022
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Axing judge's pensions would save taxpayers \$400 million

Rachel Clun
Economics correspondent

FEDERAL COURTS

Closing the generous pension scheme for federal judges that currently provides each retiree hundreds of thousands of dollars a year would leave the budget more than \$400 million better off by the end of the decade, according to independent costing analysis.

Liberal senator Andrew Bragg said the defined benefits scheme was way outside of keeping with community expectations.

The current scheme sees retired judges who had been in their role for a decade or longer receive 60 per cent of their working income as a pension, which in some cases is nearly \$365,000 a year.

"This is really the most outrageous hangover from a bygone era," Bragg said.

The independent Parliamentary Budget Office, on request by Bragg, analysed the costs involved in closing the existing pension scheme to new judges and moving

to superannuation.

Its report found that in the short term, closing the existing scheme to new judges and instead paying 15.4 per cent in superannuation would cost the government \$4.7 million over the next four years, and would boost the government's financial worth by about \$42 million over the same period.

But as more retired judges took up the super scheme instead of the old pension, savings would swell.

In a decade's time, the budget would be \$415 million better off as a result of the change. The report projected those savings were would "rapidly accelerate" from 2031-32 as the number of retirees on the old pension scheme declines.

"Savings would dominate over the long term," the report said.

A 2021 Finance Department report on the current pension scheme found it would rise in cost over the next 40 years – from just under \$60 million this year, to more than \$250 million by 2060.

The same report found the gov-

ernment would need to set aside nearly \$1.8 billion this year to pay for future judge's pensions. That budget liability would blow out to nearly \$1.7 billion by 2030, and reach \$5.2 billion by 2060 if the current scheme remained in place.

Bragg said the government cannot afford to run large deficits for decades, and moving federal judges onto superannuation would be one way to find future savings.

"It's a special deal that exists for one profession. I don't understand why the taxpayers of Australia should continue to fund that."

Treasurer Jim Chalmers has repeatedly stressed the importance of budget repair and finding savings ahead of the government's first budget in October.

The federal judge pension plan is the last of the government's generous defined benefits schemes.

The defined benefits scheme for politicians, which pays former politicians 75 per cent of their last base salary, was closed by former prime minister John Howard to all new politicians elected after 2004.

The rest of the federal public service moved off the defined benefits scheme after it was closed to new members in 2005.

The finance minister was approached for comment.

"This is really the most outrageous hangover from a bygone era."

Liberal senator Andrew Bragg

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