

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 2017.

(2) This Act comes into operation on 1 June 2017.

Amendment of section 4

2. The Judges' Remuneration Act 1971 [*Act 45*], which is referred to as the "principal Act" in this Act, is amended in section 4—

(a) by renumbering the existing section as subsection (1);
and

(b) by inserting after the renumbered subsection (1) the following subsection:

“(2) For the purpose of computing a Judge's pension, the period of service of a Judge in another capacity under section 8c shall be counted as the period of service as a Judge”.

Amendment of section 5

3. Section 5 of the principal Act is amended by substituting for subsection (2) the following subsection:

“(2) For the purposes of subsection (1), where a Judge has, as required by the Yang di-Pertuan Agong under paragraph 8c(1)(b), relinquished his office in order to serve in another capacity for any period in the national interest and having completed his tour of duty in the other capacity—

(a) is immediately reappointed to the office of a Judge, the period of his service as a Judge before, and the period during which he served in that other capacity after, he relinquished his office as a Judge shall be counted as period of service as a Judge; or

(b) is not reappointed to the office of a Judge by virtue of him having reached his retirement age pursuant to subsection 8c(3), the period of his service as a Judge before, and the period during which he served in that other capacity until he attains his retirement age after, he relinquished his office as a Judge shall be counted as period of service as a Judge.”.

Amendment of section 8

4. Section 8 of the principal Act is amended by substituting for paragraph (c) the following paragraph:

“(c) resigns from the office of a Judge after he has held the office of a Judge for a continuous period of not less than five years, including the period of his service as Judicial Commissioner immediately before his appointment as a Judge; or”.

Substitution of section 8c

5. The principal Act is amended by substituting for section 8c the following section:

“Service in another capacity in the national interest

8c. (1) A Judge of the Federal Court, the Court of Appeal or the High Court may be required by the Yang di-Pertuan Agong in the national interest to—

(a) serve in another capacity without relinquishing his office of a Judge; or

(b) relinquish the office of a Judge to serve in another capacity,

for any period as specified by the Yang di-Pertuan Agong.

(2) For the purpose of subsection (1), where a Judge is required to serve in another capacity in the national interest, the remuneration to which the Judge is entitled under this Act during the period he serves in such other capacity shall be paid by the body where he serves in such other capacity.

(3) Where a Judge of the Federal Court, the Court of Appeal or the High Court is required to relinquish the office of a Judge to serve in another capacity under paragraph (1)(b) and having completed his tour of duty in the other capacity, is not reappointed to the office of a Judge by virtue of him having reached his retirement age, he shall be deemed to have served as a Judge until the age of sixty-six years and retires pursuant to paragraph 8(a).”.

EXPLANATORY STATEMENT

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

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

3. *Clause 2* seeks to amend section 4 of Act 45 to provide that the period during which a Judge had served in another capacity under section 8c shall be counted as the period of service as a Judge for the purpose of computing a Judge's pension.

4. *Clause 3* seeks to amend subsection 5(2) of Act 45 arising from the proposed amendment to section 8c.

5. *Clause 4* seeks to amend paragraph 8(c) of Act 45 to enable a Judge to resign from his office at any age without losing his pension rights provided he has held the office of a Judge for a continuous period of not less than five years. The amendment further seeks to make it clear that the period of continuous service of not less than five years includes the period he served as a Judicial Commissioner immediately before his appointment as a Judge.

6. *Clause 5* seeks to substitute section 8c of Act 45 to extend the powers of the Yang di-Pertuan Agong to require a Judge to serve in another capacity at any age either without relinquishing his office of a Judge or by relinquishing his office as a Judge. In such circumstances where a Judge is required to serve in another capacity in the national interest, the remuneration to which the Judge is entitled under this Act during the period he serves in such other capacity shall be paid by the body where he serves in such other capacity. If he is required to relinquish his office as a Judge and is not reappointed as a Judge, he will be deemed to have served as a Judge until the age of sixty-six years and retires pursuant to paragraph 8(a) of Act 45.

FINANCIAL IMPLICATIONS

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

[PN(U2)3035]