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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

CHRISTMAS ISLAND ADMINISTRATION

(MISCELLANEOUS AMENDMENTS) BILL 1984

EXPLANATORY MEMORANDUM

(Circulated by the authority of the Minister representing the
Minister for Territories and Local Government, Senator the Hon.
A.T. Gietzelt)

This memorandum takes account of amendments made by the House of
Representatives to the Bill as introduced.

CHRISTMAS ISLAND ADMINISTRATION
(MISCELLANEOUS AMENDMENTS) BILL 1984

OUTLINE

The Christmas Island Administration (Miscellaneous Amendments) Bill 1984 will extend Commonwealth legislation in the areas of health, social security, federal electoral representation and education to the Territory of Christmas Island, following the decision of the Government to bring living conditions in the Territory into line with those in mainland Australia.

The Bill will amend the Christmas Island Act 1958 so as to enable the making of Ordinances of the Territory to regulate the use and occupation of land. A further amendment to the Christmas Island Act will enable Ordinances of the Territory to be made in relation to the Supreme Court of the Territory, that may have effect outside the Territory.

The Bill will amend the Commonwealth Electoral Act 1918 so as to place residents of the Territory within the boundaries of the Northern Territory for federal electoral purposes. An amendment consequent upon the amendment of the Commonwealth Electoral Act 1918 will also be made to the Northern Territory (Self-Government) Act 1978.

The Bill will also amend the Health Insurance Act 1973 and the National Health Act 1953 so as to make residents of the Territory eligible for benefits under that legislation on a basis equivalent to that for mainland Australians.

The Bill will amend the Referendum (Machinery Provisions) Act 1984 so as to place residents of the Territory within the Commonwealth Electoral Division of the Northern Territory for the purposes of referendums.

The Bill will also amend the Social Security Act 1947 so that a resident of the Territory will be treated as a resident of Australia for the purposes of that Act.

PART 1 - PRELIMINARY

Clause 1: Short Title

Citation

Clause 2: Commencement

Clause 2 will provide that the provisions of the Bill dealing with social security matters shall come into effect, or be deemed to have come into effect on 1 October 1984, the date upon which measures intended to bring living conditions into line with those in mainland Australia are to be introduced.

The Clause will also provide that all other provisions shall come into effect on the day on which the Act receives the Royal assent.

PART II - AMENDMENTS OF CHRISTMAS ISLAND ACT 1958

Clause 3: Principal Act

This clause will identify the Christmas Island Act 1958 as the Principal Act being amended by Part II of this Bill.

Clause 4: Registries and Registrars

This clause will insert a new section 11A into the Principal Act which will enable provision to be made by Ordinance of the Territory of Christmas Island for or in relation to the establishment and operation of registries of the Supreme Court of the Territory, at places outside the Territory. This will allow registries of the Supreme Court to be established in mainland Australia, thereby facilitating access to the Supreme Court for persons resident on the mainland. The new section will also enable provision to be made by Ordinance of the Territory for or in relation to the exercise of powers or the performance of duties, at places outside the Territory, by persons holding offices in relation to the Supreme Court. The amendment will enable advantage to be taken of expertise available in mainland Australia to assist in the administration of the Supreme Court of the Territory.

Clause 5: Acquisition and Disposal of Land

This clause will amend the Principal Act so as to provide that the Lands Acquisition Act 1955 will not prevent the making or operation of an Ordinance or other law of the Territory that would otherwise conflict with that Act. The provision will enable Ordinances or other laws of the Territory to be made regulating the alienation, use or occupancy of land, or the acquisition of land. Sub-clause 2 ensures that any acquisition of land will be on the basis of just terms compensation.

Clause 6: Formal Amendments

Clause 6 will amend a number of provisions of the Principal Act as set out in the Schedule to the Bill. The amendments contained in the Schedule are technical amendments.

PART III - AMENDMENTS OF COMMONWEALTH ELECTORAL ACT 1918

Clause 7: Principal Act

This clause will identify the Commonwealth Electoral Act 1918 as amended by the Commonwealth Electoral Legislation Amendment Act 1983, the Commonwealth Electoral Legislation Amendment Act 1984, and the Cocos (Keeling) Island Self-Determination (Consequential Amendments) Act 1984 as the Principal Act being amended by Part III of this Bill.

Clause 8: Interpretation

Paragraph 8(a) will amend the Principal Act to provide for the Territory of Christmas Island to be part of the Commonwealth Electoral Division of the Northern Territory.

Paragraph 8(b) will insert into sub-section 4(1) of the Principal Act a definition of "Australia" that will include the Territories of Cocos (Keeling) Islands and Christmas Island.

Paragraph 8(c) will extend the general provisions of the Principal Act to the Territory of Christmas Island. The Principal Act would not otherwise extend to the Territory by virtue of section 8 of the Christmas Island Act 1958

Clause 9: Assistant Divisional Returning Officers

This Clause will amend sub-section 34(2) of the Principal Act to allow the Australian Electoral Commission to appoint a separate Assistant Divisional Returning Officer for the Territory of Christmas Island.

Clause 10: Subdivisions

Clause 10 will amend sub-section 79(2) of the Principal Act to provide for the Territory of Christmas Island to be a separate District of the Division of the Northern Territory.

PART IV - AMENDMENTS OF HEALTH INSURANCE ACT 1973

Clause 11: Principal Act

This clause will identify the Health Insurance Act 1973 as the Principal Act for the purposes of Part IV of the Bill.

Clause 12: Interpretation

Clause 12 will amend section 3 of the Principal Act, which defines various expressions for the purposes of the Principal Act, by amending the definitions of "Australia" and "recognized hospital". "Australia" will be amended so as to include the Territory of Christmas Island. This will permit persons ordinarily resident or domiciled in the Territory to be embraced by the existing definition of "Australian resident". The amendment to the definition of "recognized hospital" will empower the Minister, by writing signed by him, to declare a hospital in the Territory to be a "recognized hospital" for the purposes of the Principal Act.

Clause 13: External Territories

This clause will amend section 7A of the Principal Act to provide that the Principal Act shall extend to the Territory of Christmas Island.

Clause 14: Medicare benefit not payable where compensation etc., payable.

Clause 14 will amend section 18 of the Principal Act which relates to applications for medicare benefit in respect of a professional service rendered in connection with an injury or illness where a relevant payment, by way of compensation or damages under the law of a State, an internal Territory, or the Territory of Cocos (Keeling) Islands has been or may be received in respect of that injury or illness. Section 18 empowers the medicare benefit to be withheld, or a provisional payment made, in such circumstances. The amendment will extend the reference in section 18 to compensation or damages under the law of a State, an internal Territory or the Territory of Cocos (Keeling) Islands to include the law of the Territory of Christmas Island.

PART V - AMENDMENTS OF NATIONAL HEALTH ACT 1953

Clause 15: Principal Act

Clause 15 will identify the National Health Act 1953 as the Principal Act being amended by Part V of this Bill.

Clause 16: External Territories

This clause will amend section 6A of the Principal Act to extend the application the Principal Act to the Territory of Christmas Island.

Clause 17: Interpretation

Clause 17 will amend section 58D of the Principal Act by amending the definition of "registered nurse" to enable a nurse with such qualifications (if any) as are prescribed by regulations to be a "registered nurse" with respect to the Territory of Christmas Island. Under Part VB of the Principal Act, the Part under which the term "registered nurse" is defined, a registered nurse's certification that a patient is receiving adequate nursing care is required before a person can be an approved person for the purposes of that Part in respect of that patient.

Clause 18: Interpretation

Clause 18 will amend sub-section 66(7) of the Principal Act to provide that for the purposes of Part VI of the Principal Act, the Territory of Christmas Island shall be deemed to form part of the State of Western Australia. Part VI of the Principal Act deals basically with the registration of health benefits organizations and various powers of the Minister for Health in relation to such registration.

Clause 19: Reinsurance Account in health benefits fund

This Clause will amend sub-section 73BB(11) of the Principal Act to provide that the definition of "Australia" contained in that sub-section shall include the Territory of Christmas Island. Section 73BB provides for the establishment and maintenance by each health benefits organization of a Reinsurance Account in the health benefits fund conducted by it.

Clause 20: Interpretation

Clause 20 will amend section 84 of the Principal Act by inserting a new sub-section 3A to provide that for the purposes of Part VII of the Principal Act, which deals with pharmaceutical benefits, the Administrators of the Territories of Cocos (Keeling) Islands and Christmas Island shall be regarded as the governing body of the public hospital of the respective Territory.

Clause 21: Effect of Prosecution for Offence

Section 133 of the Principal Act gives to the Secretary of the Department of Health power to suspend an authority or approval in respect of the supply of pharmaceutical benefits, where the holder of an authority or an approved medical practitioner is charged with having committed an offence against a law of a State or internal Territory, that arises out of, or is connected with, the supply of pharmaceutical benefits.

This clause extends the power of suspension to cover breaches of relevant Cocos (Keeling) Islands and Christmas Island laws.

Clause 22: Right of Commonwealth officers to practise

This Clause will insert a new sub-section (2) into section 135 of the Principal Act to provide that the definition of "Territory" in sub-section 135(1) shall include the Territory of Cocos (Keeling) Islands and the Territory of Christmas Island. The amendment will enable an employee of the Commonwealth who is registered as a medical practitioner, dentist, nurse, pharmaceutical chemist, pharmacist, physiotherapist or optometrist under the law of a State or Territory, to perform on behalf of the Commonwealth the duties of his or her profession in the Territory of Cocos (Keeling) Islands or the Territory of Christmas Island, without being so registered in those Territories.

PART VI - AMENDMENT OF NORTHERN TERRITORY (SELF-GOVERNMENT) ACT
1978

Clause 23: Principal Act

Clause 23 will identify the Northern Territory (Self-Government) Act 1978 as the Principal Act being amended by Part VI of this Bill.

Clause 24: Qualification of electors

Clause 24 will amend sub-section 14(2) of the Principal Act so as to ensure that persons who are entitled to vote at an election of a member of the House of Representatives for the Northern Territory by virtue of their being residents of the Territory of Christmas Island, will not thereby be entitled to vote at an election of members of the Legislative Assembly of the Northern Territory.

PART VII - AMENDMENTS OF REFERENDUM (MACHINERY PROVISIONS) ACT
1984

Clause 25: Principal Act

This clause will identify the Referendum (Machinery Provisions) Act 1984 as the Principal Act amended by Part VII of this Bill.

Clause 26: Interpretation

Paragraph 26(a) will insert a definition of "Australia" into sub-section 3(1) of the Principal Act. The new definition will include the Territory of Cocos (Keeling) Islands and the Territory of Christmas Island in the meaning of "Australia".

Paragraph 26(b) will amend sub-section 3(1) of the Principal Act to provide for the Territory of Christmas Island to be part of the Commonwealth Electoral Division of the Northern Territory.

Paragraph 26(c) will amend sub-section 3(3) of the Principal Act to extend the general provisions of the Principal Act to the Territory of Christmas Island. In the absence of such a provision the Principal Act would not extend to the Territory by virtue of section 8 of the Christmas Island Act 1958.

PART VIII - AMENDMENTS OF SOCIAL SECURITY ACT 1947

Clause 27: Principal Act

This clause will identify the Social Security Act 1947 as the Principal Act amended by Part VIII of this Bill.

Clause 28: Interpretation

Section 6 of the Principal Act provides for definitions of terms used in, and rules of interpretation for, the Principal Act.

Paragraph 28(a) will amend the definition of "Australia" contained in sub-section 6(1) of the Principal Act to include the Territory of Christmas Island. This will mean that a person resident in the Territory on or after 1 October 1984 will be treated as a resident of Australia under the Principal Act.

Paragraph 28(b) will amend sub-section 6(1) of the Principal Act to provide that the definition of "external Territory" contained in that sub-section will not include the Territory of Christmas Island. This will mean that provisions in the Principal Act which refer to an external Territory will not refer to the Territory of Christmas Island.

Clause 29: External Territories

This Clause will amend sub-section 6C(1) of the Principal Act to provide that the Principal Act extends to the Territory of Christmas Island.

Clause 30: Interpretation

Section 17B of the Principal Act provides for a definition of "remote area" for the purposes of the remote area allowance under Part IIA of the Principal Act, which became payable from 1 May 1984.

This clause will amend that definition in such a way that the Territory of Christmas Island would be regarded as being within the remote area, so enabling persons resident in the Territory to become eligible for the allowance.

Clause 31: Claims for Pensions, etc, before 1 January 1985

The normal rules in the Principal Act generally provide for payment of social security benefits after the lodgement of claims. However, where a new cash benefit is introduced, it is customary to provide a 3 month period of grace within which a payment can be made prior to lodgement of a claim.

This clause will enable a person who was qualified or eligible to receive a pension, benefit or allowance under the Principal Act before 1 January 1985, and who lodges a claim before 1 January 1985 but after becoming qualified or eligible, to be paid that pension, benefit or allowance from the date of qualification or eligibility.

For example, if a woman resident in the Territory of Christmas Island is qualified for a family allowance on 1 October 1984 but does not lodge a claim until 31 December 1984, payment of the allowance will nevertheless be made to her as if she had lodged the claim immediately upon being qualified for the allowance.

By clause 2(2), Part VIII will come into operation on 1 October 1984.

PART IX - AMENDMENTS OF STUDENT ASSISTANCE ACT 1973

Clause 32: Principal Act

This clause will identify the Student Assistance Act 1973 as the Principal Act amended by Part IX of this Bill.

Clause 33: Interpretation

Clause 33 will amend section 5 of the Principal Act so as to provide that, for the purposes of the definitions of "university", "advanced education institution", "technical college" and "tertiary education institution", contained in that section, a reference to Australia should include a reference to the Territory of Christmas Island.

The amendment will enable courses at the technical college on Christmas Island to be approved for the purposes of section 10 of the Principal Act. Eligible persons studying at the technical college may then qualify for payment of Tertiary Education Assistance.

