

1989

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

JUDICIAL AND STATUTORY OFFICERS REMUNERATION LEGISLATION

AMENDMENT BILL 1989

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments and New Clauses to be Moved on Behalf of  
the Government

(Circulated by the authority of the Minister for  
Industrial Relations, the Hon Peter Morris)

JUDICIAL AND STATUTORY OFFICERS REMUNERATION  
LEGISLATION AMENDMENT BILL 1989

OUTLINE

These amendments effect technical changes to the Judicial and Statutory Officers Remuneration Legislation Amendment Bill 1989 and implement the increased rates of allowances for the President and members of the Inter-State Commission recommended in Report Number 4 of 1988 of the Remuneration Tribunal.

FINANCIAL IMPACT STATEMENT

The proposed amendments to the remuneration of the members of the Inter-State Commission will involve minimal additional (less than \$10,000) expenditure as there are only three members of the Commission. The other amendments will not have any financial impact.

## NOTES ON CLAUSES

### Amendment (1) - Clause 5

1. This amendment increases the expenses of office allowance payable to members of the Inter-State Commission, as recommended by the Remuneration Tribunal in Report Number 4 of 1988.

### Amendment (2) - New Clause 8A

#### Travelling Allowances payable to members of the Inter-State Commission

2. This amendment increases the travelling allowances payable to the President and Members of the Inter-State Commission, as recommended by the Remuneration Tribunal in Report Number 4 of 1988.

### Amendment (3) - Clause 9

3. This amendment includes in the Schedule to be inserted by the Bill a reference to a Judge (other than the Chief Justice) of the Supreme Court of the Australian Capital Territory. Such a Judge is to receive the same salary as Judges of the Federal Court of Australia and the Family Court of Australia. As currently the Judges of the Supreme Court also hold Commissions as Federal Court Judges this amendment would not result in any increase in remuneration.

### Amendment (4) - New Clause - Clause 12A

#### Inquiries and determinations by Tribunal

4. Clause 11 of the Bill has the effect of empowering the Remuneration Tribunal to make determinations in relation to remuneration of judges and members of the Inter-State Commission (currently the Tribunal is only able to make recommendations in respect of such remuneration). Under subsection 7(5) of the Remuneration Tribunal Act 1973, determinations by the Tribunal take effect on such date as the Tribunal specifies in the determination. Subsection 7(8) of that Act provides that Parliament may disallow a determination. A disallowance may take effect either before or after the determination has come into operation.

5. Subsections 72(iii) and 103(iii) of the Constitution provide, among other things, that the remuneration payable to Justices of the High Court and of the other Courts created by the Parliament and members of the Inter-State Commission shall not be diminished during their continuance in office. Where such remuneration is increased by a Remuneration Tribunal determination which is then subject to the possibility of subsequent disallowance, such a disallowance would have the effect of diminishing that remuneration during continuance in office.

6. This amendment is intended to ensure that a determination by the Remuneration Tribunal will not, so far as it relates to federal or Territory Judges or persons having the status of such a judge, come into operation until after the expiration of the period allowed by section 7 of the Remuneration Tribunal Act for the possible disallowance of that determination by the Parliament (proposed new subsection (5C)).

7. After the expiration of the disallowance period and if the determination is not disallowed the determination takes effect and the judges and persons having the status of judges covered by it will be entitled to receive the remuneration they would have received had the operation of the determination not been deferred and it had come into operation on the date set in the determination (proposed new subsection (5E)).

8. By virtue of the operation of subsection 19(3) of the Inter-State Commission Act 1975, the changes made to the Remuneration Tribunal Act by clause 11 of the Bill will also apply to the remuneration of the members of the Inter-State Commission.

Amendment(5) - Clause 13

9. This amendment ensures that the salaries applicable to the offices of Master of the Supreme Court of the Australian Capital Territory and Judicial Registrar of the Family Court of Australia will not be altered when judicial remuneration is increased upon the enactment of the Bill. It is intended that the salaries of those offices should be the subject of further consideration by the Remuneration Tribunal in the light of the increases in judicial remuneration.