

1979

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

JUDGES' (LONG LEAVE PAYMENTS) BILL 1979

EXPLANATORY MEMORANDUM

(Circulated by authority of the Attorney-General,
Senator the Honourable P.D. Durack, Q.C.)

JUDGES (LONG LEAVE PAYMENTS) BILL 1979

The purpose of this Bill is to make provision for payments in lieu of untaken long leave on the retirement or death of federal Judges (other than Justices of the High Court of Australia, who are dealt with in the High Court Justices (Long Leave Payments) Bill) and persons having the status of Judges.

Generally, a Judge is to be entitled to payment at the rate of 5.2 weeks salary for each completed year of qualifying service, with a maximum payment equal to 52 weeks salary.

Clauses 1 and 2

These formal clauses provide for a short title and commencement date.

Clause 3

Provides for the definition of certain terms. The effect of paragraph (b) of the definition of 'Judge' is to include inter alia the Presidential members of the Conciliation and Arbitration Commission.

Clause 4

Sub-clause 4(1) authorises the payment in lieu of long leave not taken either on retirement of a Judge who has completed at least 10 years' service or on the death of a Judge (whether or not he has completed 10 years' service), of an amount calculated in accordance with sub-clause 4(2).

Sub-clause 4(2) sets out the period in respect of which the amount payable in sub-clause 4(1) is calculated. The period in question is either a period of 52 weeks or a period calculated at the rate of 5.2 weeks for each completed year of qualifying service, whichever is the lesser. The maximum payment in lieu of long leave not taken in respect of a Justice is an amount equal to his judicial salary for a period of 52 weeks.

Sub-clause 4(3) defines the service required of a Justice to enable him to benefit under this Bill. The effect of the first part is to exclude any period of service in respect of which the Justice has taken long leave or has been paid in lieu of such leave. The effect of the second part is to include in his service any prior judicial service as that term is defined in the Judges' Pensions Act 1968.

Clause 5

Sub-clauses 5(1) and 5(2) set out the persons entitled to a payment in lieu of leave, made either on retirement or death of a Justice.

Where a Justice retires payment is to the Justice. Where a Justice dies in office payment is made to the surviving spouse and, if there is none, to any dependants, or in any other case to the legal personal representative of the Justice.

Sub-clause 5(3) provides that where a payment is made to dependants of a deceased Justice the amount payable shall be distributed between or among those dependants as directed by the Attorney-General.

Sub-clause 5(4) Where a person who would otherwise be the recipient of a payment is under a legal disability, the Attorney-General may pay an amount payable under the Bill to a trustee.

Clause 6

This clause authorises an appropriation for payments made under the Act.

Clause 7

Under this clause, which is based on an equivalent provision in the Judges' Pensions Act 1968, an amount is not paid on the removal of a Justice from office unless the Governor-General otherwise directs.