

1980

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE HOUSE OF REPRESENTATIVES

REMUNERATION AND ALLOWANCES AMENDMENT BILL 1980

EXPLANATORY MEMORANDUM

(Circulated by the Minister representing the Attorney-General,
The Honourable Ian Viner, MP.)

OUTLINE

This Bill will amend the Remuneration and Allowances Act 1973. The proposed amendment gives effect to the recommendations which the Remuneration Tribunal made in respect of salaries and allowances of Justices of the High Court and of Federal Judges.

NOTES ON CLAUSES

Clause 1 - Short title etc.

This clause provides for the citation of the Act and for references in the Bill to "the Principal Act".

Clause 2 - Commencement

Sub-clause (1) provides that, subject to sub-clause (2), the Act shall come into operation on the date of assent.

The effect of sub-clause (2) is that the provisions for increases in judicial salary and travelling allowance and, in the case of existing Judges of the High Court who have not established their homes in Canberra, the payment of the special Canberra allowance in respect of duty in Canberra, shall be deemed to have taken effect from 1 July 1980 in accordance with the recommendations of the Remuneration Tribunal.

Clause 3 - Salary and allowance of certain office-holders

The changes to section 13 of the Principal Act to be effected by this clause are consequential upon the rate of travelling allowance now not being specified in the Schedule to the Act but in the substantive provisions of the Act. The amendments are of a drafting nature only, and do not involve any matters of substance.

Clause 4 - Insertion of new Sections 13A and 13B

New Section 13A: Travelling allowance payable to the Chief Justice and Justices of the High Court

Sub-section (1) is a definition provision providing that the section applies only to the Justices of the High Court.

Sub-section (2) is a definition provision for the purpose of establishing the locality of a Justice's principal place of residence, the absence from which forms the basis of the entitlement of a Justice of the High Court to travelling allowance.

Sub-section (3) provides that the Justices are entitled to travelling allowance ascertained in accordance with sub-section (4) in respect of travel within Australia and its external Territories. A Justice is entitled to travelling allowance at a daily rate in respect of duty performed otherwise than in the Australian Capital Territory or in the locality of his principal place of residence.

Sub-section (4) specifies the rate of travelling allowance which is payable in respect of travel by a Justice of the High Court in Australia and its external Territories. The new rate of travelling allowance is to be \$80 for each overnight stay. In a case where the Justice is absent for one or more overnight stays and part of the next day, he is entitled to an additional allowance of \$20 if he is absent for a period which is at least 10 hours greater than a multiple of 24 hours.

If a Justice is not absent from both his home locality and the A.C.T. for an overnight stay but is absent for at least 10 hours in any one day, he is entitled to an allowance of \$20.

Sub-section (5) applies to a Justice who is appointed after 1 July 1980 and whose principal place of residence at the date on which his appointment takes effect is neither in the A.C.T. nor a part of New South Wales adjacent to or in the vicinity of the A.C.T. Generally, a travelling allowance is not payable in respect of travel to the A.C.T. even if the Justice does not live there but, to enable him to move to the A.C.T., an allowance is payable to him in respect of such travel for either the first 3 months of his appointment or until he establishes his home in the A.C.T. whichever may be the shorter period.

Sub-section (6) specifies the rate of travelling allowance under sub-section (5). The rate is \$80 for each overnight stay. In a case where the Justice is absent for one or more overnight stays and part of the next day, he is entitled to an additional allowance of \$20 if he is absent for a period which is at least 10 hours greater than a multiple of 24 hours.

If the Justice is not absent for an overnight stay but is absent for at least 10 hours in any one day, he is entitled to an allowance of \$20.

Sub-section (7) deals with overseas travelling allowance. It provides for a Justice of the High Court to be paid overseas travelling allowance by way of reimbursement of reasonable expenses of travel. There has been no previous statutory provision for the payment of overseas travelling allowance to Justices of the High Court.

New Section 13B: Additional allowance payable to certain Justices of the High Court

Sub-section (1) applies to a Justice who held his appointment on or before 1 July 1980, and whose principal place

of residence was at that date outside both the A.C.T. and that part of New South Wales which is adjacent to or in the vicinity of the A.C.T. and which continues to remain outside that area. Such a Justice is entitled to receive a lump sum of \$7,500 per annum in respect of duty performed in Canberra. He is not entitled to a daily travelling allowance in respect of duty in Canberra. Should he move his principal place of residence to the A.C.T. or the specified part of New South Wales, the allowance will cease.

Sub-section (2) is a definition provision providing that the section applies only to Justices of the High Court.

New Section 13C: Travelling allowance payable to holders of certain offices

This section provides for allowances to be paid to certain office-holders who travel within Australia and its external Territories in connection with the performance of their duties provided the duties are performed outside their headquarters and the locality of their principal residences.

Sub-section (1) is a definition provision. It limits the operation of the section to Judges of the Federal Court of Australia, the Supreme Court of the Australian Capital Territory, the Family Court of Australia, the Australian Industrial Court and the Federal Court of Bankruptcy and to the President of the Administrative Appeals Tribunal, President of the Trade Practices Tribunal, Director-General of Security, Chairman of the Commonwealth Grants Commission, President and Deputy President of the Australian Conciliation and Arbitration Commission and the Chairman of the Law Reform Commission.

It defines 'headquarters' in relation to a Judge of a Court whose principal place of residence is situated in a

locality in which there is a registry of that Court as that locality. If there is no such registry, his headquarters is the locality in which he ordinarily performs the duties of his office. In relation to an office-holder, other than a Judge mentioned in this sub-section, his headquarters is defined as the locality in which he ordinarily performs the duties of his office.

Sub-section (2) is a definition provision. For the purposes of the section, the A.C.T., each capital city of a State and each other city or town are deemed each to constitute single localities.

Sub-section (3) provides for a travelling allowance to be paid to an office-holder in respect of his expenses of travel within Australia and the external Territories if that travel is required for the performance of his duties and it is not travel to either his headquarters or the locality of his principal place of residence. Consequently, should an office-holder live in one locality and his headquarters be in another locality, he is not entitled to an allowance when he travels from his residence to his headquarters.

Sub-section (4) specifies the rate of travelling allowance payable under sub-section (3). The rate is \$72 for each overnight stay. In a case where an office-holder is absent for one or more overnight stays and part of the next day, he is entitled to an additional allowance of \$20 if he is absent for a period which is at least 10 hours greater than a multiple of 24 hours. If the office-holder is not absent for an overnight stay but is absent for at least 10 hours in any one day, he is entitled to an allowance of \$20.

Sub-section (5) deals with overseas travel undertaken by office-holders in the performance of their duties. It provides that they be paid a travelling allowance on the same basis as officers of the First Division of the Australian Public Service.

Sub-section (6) deals with a situation in which an office-holder holds two or more of the offices to which this section applies. Should he travel in the performance of the duties of more than one of those offices at the same time, he is, in effect, only entitled to an allowance in respect of one of them.

Sub-section (7) is an exclusionary provision. Under sub-section (1) the persons holding the office of President of the Administrative Appeals Tribunal and of the Director-General of Security are qualified to receive travelling allowance under this section. This sub-section limits that entitlement. A person holding one or other of those offices must also be a Judge of a Federal Court if he is to receive a travelling allowance under this legislation.

Sub-section (8) is an exclusionary provision. Under sub-section (1), the person holding the office of Chairman of the Commonwealth Grants Commission is qualified to receive travelling allowance under this section. This sub-section limits that entitlement. The Chairman is only entitled to receive a travelling allowance under this section if he is a person to whom sub-section 8(6A) of the Commonwealth Grants Commission Act 1973 applies. That sub-section accords the Chairman the status of a Judge of the Supreme Court of the Australian Capital Territory if immediately before his appointment

as Chairman he was a Judge of a Federal Court or of the Supreme Court of a State or Territory.

Sub-section (9) is an exclusionary provision. Under sub-section (1), the person holding the office of Chairman of the Law Reform Commission is qualified to receive travelling allowance under this section. This sub-section limits that entitlement. The Chairman is only entitled to receive a travelling allowance under this section if he is either a Judge of a Federal Court or the President or a Deputy President of the Australian Conciliation and Arbitration Commission.

Clause 5 - Replacement of schedule 3

The effect of this clause is to repeal schedule 3 to the principal Act and replace it with a new schedule which specifies the annual rates of salary and allowances payable to Justices of the High Court and to Federal Judges after the Act comes into operation.