

1983-84

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

---

Presented and read a first time, 5 September 1984

*(Special Minister of State)*

**A BILL**

FOR

**An Act relating to the remuneration and allowances payable to the holders of certain judicial and statutory offices**

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

**Short title**

5      1. This Act may be cited as the *Judicial and Statutory Officers (Remuneration and Allowances) Act 1984*.

**Commencement**

2. This Act shall be deemed to have come into operation on 1 July 1984.

**Salaries and expenses of office allowances**

10      3. (1) Subject to this section, in respect of a judicial or other office specified in column 1 of the Schedule—

- (a) the rate per annum of the salary applicable to the office on and after 1 July 1984 and before 1 January 1985 is the rate per annum specified in column 2 of the Schedule in relation to the office;

(b) the rate per annum of the salary applicable to the office on and after 1 January 1985 is the rate per annum specified in column 3 of the Schedule in relation to the office; and

(c) the rate per annum of the expenses of office allowance applicable to the office is the rate per annum specified in column 4 of the Schedule in relation to the office.

5

(2) If, after the commencement of this Act, the Australian Conciliation and Arbitration Commission gives a decision in a National Wage Case and the adjustment of salaries made by, or to be made in accordance with, that decision would, if it were applicable to a rate of salary specified in column 2 or 3 of the Schedule, result in an increase in that rate of salary, that rate of salary shall be deemed to be increased accordingly.

10

(3) Subject to sub-sections (4) and (5), a person being a Judge of the Federal Court of Australia who holds office by virtue of an appointment that took effect while the person was a Judge (including the Chief Judge) of any other court or courts created by the Parliament or while the person was a member of the Inter-State Commission shall, while the person continues to hold office both as a Judge of the Federal Court of Australia and as a Judge (including the Chief Judge) of that other court or of any of those other courts, or as a member of the Inter-State Commission, as the case may be, be remunerated with the salary and expenses of office allowance to which the person is from time to time entitled as a Judge of the other court or courts or as a member of the Inter-State Commission, as the case may be, and, if the person continues to be a Judge of the Federal Court of Australia after the person no longer holds any other office referred to in this sub-section, other than an office as an additional Judge of the Supreme Court of a Territory or as a Judge of the Supreme Court of an external Territory, the person shall receive such salary and expenses of office allowance as are applicable to the office held by the person as a Judge of the Federal Court of Australia.

15

20

25

(4) In the case of a person who is a Judge of the Federal Court of Australia to whom sub-section (3) applies, if the salary or expenses of office allowance to which the person would be entitled as a Judge of that Court if that sub-section were not applicable exceeds the salary or expenses of office allowance, as the case may be, by which the person is remunerated in accordance with that sub-section, the person shall receive, in respect of the person's office as a Judge of that Court, an additional amount by way of salary or expenses of office allowance, as the case may be, equal to the excess.

30

35

(5) If the person who holds the office of Chief Judge of the Supreme Court of Norfolk Island also holds the office of a Judge (other than the Chief Judge) of the Federal Court of Australia, the person shall, while continuing to hold both those offices, receive, in respect of the office of Chief Judge of the Supreme Court of Norfolk Island, in addition to the salary and expenses of office allowance by which the person is remunerated in respect of the other office held by the person, an expenses of office allowance at the rate of \$540 per annum.

40

(6) If the person who holds the office (in this sub-section referred to as the “relevant office”) of—

(a) President of the Administrative Appeals Tribunal;

(b) President of the Trade Practices Tribunal; or

(c) Chairman of the Law Reform Commission,

also holds the office of a Judge (other than the Chief Judge) of the Federal Court of Australia (in this sub-section referred to as the “judicial office”), the person shall, while continuing to hold both the judicial office and the relevant office, receive in respect of the relevant office, in addition to the salary and expenses of office allowance by which the person is remunerated in respect of the judicial office, an expenses of office allowance at the rate of \$540 per annum.

(7) Sub-section (1) does not apply in respect of the office of Chairman of the Commonwealth Grants Commission unless sub-section 8 (6A) of the *Commonwealth Grants Commission Act 1973* applies to the holder of the office.

(8) A member of the Inter-State Commission other than the President of that Commission—

(a) shall be paid salary at the rate from time to time payable to the holder of an office in the Australian Public Service that has a classification of Level 6; and

(b) an expenses of office allowance at the rate of \$1,900 per annum.

**Travelling allowance payable to the Chief Justice and Justices of the High Court**

4. (1) In this section, “judicial office to which this section applies” means the office of Chief Justice of the High Court or an office of Justice of the High Court.

(2) For the purposes of this section—

(a) the Australian Capital Territory shall be deemed to constitute a single locality;

(b) each capital city of a State shall be deemed to constitute a single locality; and

(c) each other city or town shall be deemed to constitute a single locality.

(3) There is payable to a person who holds a judicial office to which this section applies an allowance ascertained in accordance with sub-section (4) in respect of the person’s expenses of travel within Australia and the external Territories—

(a) if the sole or principal place of residence of the person is at a place in the Australian Capital Territory, in connection with the performance of the person’s duties otherwise than in the Australian Capital Territory; or

- (b) in any other case, in connection with the performance of the person's duties otherwise than in—

- (i) the Australian Capital Territory; and
- (ii) the locality in which the person's sole or principal place of residence is situated.

5

(4) The allowance in respect of the expenses of travel payable under sub-section (3) to a person who holds a judicial office to which this section applies is—

- (a) if the travel involves an absence from the person's sole or principal place of residence and from the Australian Capital Territory that includes an overnight stay or overnight stays—

10

- (i) in a case to which sub-paragraph (ii) does not apply—

(A) for an overnight stay in a capital city—\$140; or

(B) for any other overnight stay—\$100; or

- (ii) if the number of hours of the absence is not less than the number ascertained in accordance with the formula  $24A + 10$ , where  $A$  is the number of overnight stays included in the absence—the sum of the amount that would be ascertained under sub-paragraph (i) if that sub-paragraph were applicable and \$30; or

15

20

- (b) if the travel involves an absence from the person's sole or principal place of residence and from the Australian Capital Territory of not less than 10 hours but does not include an overnight stay—\$30.

(5) There is payable to a person who holds a judicial office to which this section applies, in respect of travel outside Australia and the external Territories in connection with the performance of the person's duties, an allowance by way of reimbursement of the reasonable expenses of that travel.

25

#### **Additional allowance payable to certain Justices of the High Court**

5. (1) There is payable to a person—

- (a) who holds a judicial office to which this section applies; and

30

- (b) whose sole or principal place of residence was at the time when the person's appointment, or first appointment, as the case may be, to any such judicial office took effect, and has at all subsequent times been, at a place outside, but not in a part of New South Wales that is adjacent to or in the vicinity of, the Australian Capital Territory,

35

an allowance, on account of expenses that will be incurred by the person by reason that the person's sole or principal place of residence is at a place outside, and not in a part of New South Wales that is adjacent to or in the vicinity of, the Australian Capital Territory, at the rate of \$9,900 per annum.

(2) In this section, "judicial office to which this section applies" means the office of Chief Justice of the High Court or an office of Justice of the High Court.

40

**Travelling allowances payable to holders of certain offices**

**6. (1) In this section—**

“headquarters”, in relation to a person who holds an office to which this section applies, means—

(a) if that office is an office of Chief Justice, Chief Judge, Senior Judge or Judge of a Court and the sole or principal place of residence of the person is situated in a locality in which there is a registry of that Court—that locality; or

(b) in a case to which paragraph (a) does not apply—the locality where the person ordinarily performs the duties of that office;

“office to which this section applies” means—

(a) an office specified in column 1 of Part II of the Schedule (other than the office of President of the Inter-State Commission);

(b) President of the Australian Conciliation and Arbitration Commission; or

(c) Deputy President of the Australian Conciliation and Arbitration Commission.

**(2) For the purposes of this section—**

(a) the Australian Capital Territory shall be deemed to constitute a single locality;

(b) each capital city of a State shall be deemed to constitute a single locality; and

(c) each other city or town shall be deemed to constitute a single locality.

**(3) There is payable to a person who holds an office to which this section applies an allowance ascertained in accordance with sub-section (4) in respect of the person's expenses of travel within Australia and the external Territories in connection with the performance of the person's duties (including duties of any other office held by the person) otherwise than at—**

(a) the person's headquarters; and

(b) the locality in which the person's sole or principal place of residence is situated.

**(4) The allowance in respect of the expenses of travel payable under sub-section (3) to a person who holds an office to which this section applies is—**

(a) if the travel involves an absence from the person's sole or principal place of residence and from the person's headquarters that includes an overnight stay or overnight stays—

(i) in a case to which sub-paragraph (ii) does not apply—

(A) for an overnight stay in a capital city—\$125; or

(B) for any other overnight stay—\$95; or

(ii) if the number of hours of the absence is not less than the number ascertained in accordance with the formula  $24A + 10$ , where  $A$  is the number of overnight stays included in the

absence—the sum of the amount that would be ascertained under sub-paragraph (i) if that sub-paragraph were applicable and \$30; or

- (b) if the travel involves an absence from the person's sole or principal place of residence and from the person's headquarters of not less than 10 hours but does not include an overnight stay—\$30. 5

(5) There is payable to a person who holds an office to which this section applies, in respect of the person's expenses of travel outside Australia and the external Territories in connection with the performance of the person's duties (including duties of any other office held by the person) the same allowance as would be applicable to the holders of offices referred to in paragraph (a) of the definition of "office of Secretary" in sub-section 7 (1) of the *Public Service Act 1922* in respect of the expenses of similar travel in the performance of their duties. 10

(6) Where a person who holds 2 or more offices to which this section applies travels in connection with the performance of the person's duties as the holder of any one or more of those offices, nothing in this Act or in any other Act entitles the person to be paid in respect of the expenses of that travel an amount exceeding the amount that the person would be entitled to be paid if the person held only the office, or one of the offices, to the duties of which the travel relates. 15  
20

(7) Notwithstanding sub-section (1), the office of Chairman of the Commonwealth Grants Commission shall not be taken to be an office to which this section applies unless sub-section 8 (6A) of the *Commonwealth Grants Commission Act 1973* applies to the holder of the office. 25

(8) Notwithstanding sub-section (1), the office of Chairman of the Law Reform Commission shall not be taken to be an office to which this section applies unless the Chairman is a Judge of a court created by the Parliament or the holder of an office referred to in paragraph (b) or (c) of the definition of "office to which this section applies" in sub-section (1). 30  
30

### **Remuneration of office-holder who is appointed to another office**

7. (1) Where a person appointed to hold a statutory office in a full-time capacity was, immediately before the appointment, the holder in a full-time capacity of another statutory office or an officer (including an unattached officer) of the Australian Public Service or an officer in the service of a body corporate established for a public purpose by or under an Act, the person shall, if the regulations so provide, be paid, during the period of the appointment (including any period of re-appointment) to the first-mentioned statutory office, in lieu of the remuneration and expenses of office allowance (if any) payable in respect of that office, remuneration at such rate and an expenses of office allowance at such rate (if any) as are specified in, or ascertained in accordance with, the regulations. 35  
40

(2) Where a regulation made for the purposes of sub-section (1) provides for the payment to the holder of a statutory office in respect of that office—

(a) of remuneration at a rate specified in, or ascertainable in accordance with, the regulation; or

5 (b) of remuneration at a rate, and an expenses of office allowance at a rate, specified in or ascertainable in accordance with, the regulation,

the regulation has effect only if, and so long as—

(c) in a case to which paragraph (a) applies, the rate of remuneration payable in accordance with the regulation exceeds—

10 (i) if remuneration, but no expenses of office allowance, would, but for this section, be payable in respect of the office—the rate of that remuneration; or

(ii) if both remuneration and an expenses of office allowance would, but for this section, be payable in respect of the  
15 office—the sum of the rate of that remuneration and the rate of that expenses of office allowance; and

(d) in a case to which paragraph (b) applies, the sum of the rate of remuneration and the rate of expenses of office allowance payable in accordance with the regulation exceeds—

20 (i) if remuneration, but no expenses of office allowance, would, but for this section, be payable in respect of the office—the rate of that remuneration; or

(ii) if both remuneration and an expenses of office allowance would, but for this section, be payable in respect of the  
25 office—the sum of the rate of that remuneration and the rate of that expenses of office allowance.

(3) The Governor-General may make regulations prescribing all matters permitted to be prescribed by this section.

### **Repeal and saving**

30 **8. (1)** Sections 13, 13A, 13B, 13C and 17 of, and the Schedule to, the *Remuneration and Allowances Act 1973* are repealed.

(2) Any regulations under section 17 of the *Remuneration and Allowances Act 1973* that were in force immediately before the commencement of this Act continue in force as if made under section 7 of this Act.

---

*Judicial and Statutory Officers (Remuneration  
and Allowances) No. , 1984*

**SCHEDULE**

Sub-section 3 (1)

Column 1	Column 2	Column 3	Column 4
Office	Rate per annum of salary on and from 1 July 1984	Rate per annum of salary on and from 1 January 1985	Rate per annum of expenses of office allowance
	\$	\$	\$
<b>PART I</b>			
Chief Justice of the High Court . . . . .	107,035	112,790	5,430
Justice (other than Chief Justice) of the High Court . . . . .	97,252	102,481	4,885
<b>PART II</b>			
Chief Judge of the Federal Court of Australia . . . . .	89,771	94,599	4,885
Chief Justice of the Supreme Court of the Australian Capital Territory . . . . .	84,592	89,141	4,885
Chief Judge of the Family Court of Australia . . . . .	82,291	86,716	4,885
Chairman of the Commonwealth Grants Commission . . . . .	82,291	86,716	4,885
Judge (other than the Chief Judge) of the Federal Court of Australia . . . . .	82,291	86,716	4,345
Judge (other than the Chief Justice) of the Supreme Court of the Australian Capital Territory . . . . .	82,291	86,716	4,345
President of the Inter-State Commission . . . . .	82,291	86,716	4,345
Senior Judge of the Family Court of Australia . . . . .	74,062	78,044	3,800
Judge (other than the Chief Judge or a Senior Judge) of the Family Court of Australia . . . . .	69,947	73,709	3,800