

REMUNERATION AND ALLOWANCES AMENDMENT ACT 1977

No. 111 of 1977

An Act relating to the remuneration and allowances payable to the holders of certain judicial and other offices, and for other purposes.

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

PART I—PRELIMINARY

Short title 1. This Act may be cited as the *Remuneration and Allowances Amendment Act 1977*.¹

Commence- 2. (1) Sections 1, 2 and 5, sub-section 9 (2), sections 13, 16 and 18
ment and sub-section 19 (2) shall come into operation on the day on which
this Act receives the Royal Assent.¹

(2) The remaining provisions of this Act shall be deemed to have come into operation on 1 June 1977.

PART II—AMENDMENTS OF THE REMUNERATION AND ALLOWANCES ACT

3. Part IV of the *Remuneration and Allowances Act 1973*² is repealed and the following Part inserted:

“PART IV—HOLDERS OF JUDICIAL AND OTHER OFFICES

Salaries and “13. (1) Subject to this section, in respect of a judicial or other office
allowances specified in column 1 of Schedule 3—
of holders of
certain
judicial and
other offices

(a) the rate per annum of the salary applicable to the office is the rate per annum specified in column 2 of that Schedule in relation to the office;

(b) the rate per annum of the annual allowance applicable to the office is the rate per annum specified in column 3 of that Schedule in relation to the office; and

(c) the rate per day of the travelling allowance (if any) applicable to the office is the rate per day specified in column 4 of that Schedule in relation to the office.

“(2) Subject to sub-sections (3) and (4), a Judge of the Federal Court of Australia who holds office by virtue of an appointment that took effect while he was a Judge (including the Chief Judge) of any other

court or courts created by the Parliament shall, while he 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, be remunerated with the salary and annual allowance to which he is from time to time entitled as a Judge of the other court or courts, and, if he continues to be a Judge of the Federal Court of Australia after he no longer holds any other judicial 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, he shall receive such salary and annual allowances as are applicable to the office held by him as a Judge of the Federal Court of Australia.

“(3) In the case of a Judge of the Federal Court of Australia to whom sub-section (2) applies, if the salary or annual allowance to which he would be entitled as a Judge of that Court if that sub-section were not applicable exceeds the salary or annual allowance, as the case may be, by which he is remunerated in accordance with that sub-section, he shall receive, in respect of his office as a Judge of that Court, an additional amount by way of salary or annual allowance, as the case may be, equal to the excess.

“(4) Where sub-section (2) applies to a Judge of the Federal Court of Australia who also holds the office of Chief Judge of the Supreme Court of the Australian Capital Territory or of the Supreme Court of the Northern Territory, sub-section (3) does not apply, but he shall, while he continues to hold both those offices, receive, in respect of his office as a Judge of the Federal Court of Australia, in addition to the salary and annual allowance by which he is remunerated in accordance with sub-section (2), salary at the rate of \$2,500 per annum and an annual allowance at the rate of \$250 per annum.

“(5) Where a person who holds two or more judicial or other offices specified in column 1 of Part II of Schedule 3 travels in the course of his duties as the holder of any one or more of those offices, nothing in this Act or any other Act entitles him to be paid travelling allowance in respect of that travel at a rate exceeding \$51 per day.

“(6) Sub-section (5) applies in relation to the offices of President or Deputy President of the Australian Conciliation and Arbitration Commission as if those offices were specified in column 1 of Part II of Schedule 3.

“(7) Sub-section (1) does not apply in respect of the office of President of the Administrative Appeals Tribunal or in respect of the office of Director-General of Security unless the President or the Director-General, as the case may be, is a Judge of a court created by the Parliament.

“(8) 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.”

Schedule

4. Schedules 3 and 4 to the *Remuneration and Allowances Act 1973* are repealed and the Schedule set out in the Schedule to this Act is substituted.

PART III—AMENDMENTS OF CERTAIN OTHER ACTS

5. After section 7 of the *Administrative Appeals Tribunal Act 1975*³ the following section is inserted:

Appointment of a Judge as a presidential member not to affect tenure, &c.

“7A. The appointment of a Judge as a presidential member, or service by a Judge as a presidential member, whether the appointment was or is made or the service occurred or occurs before or after the commencement of this section, does not affect, and shall be deemed never to have affected, his tenure of office as a Judge or his rank, title, status, precedence, salary, annual or other allowances or other rights or privileges as the holder of his office as a Judge and, for all purposes, his service, whether before or after the commencement of this section, as a presidential member shall be taken to have been, or to be, service as the holder of his office as a Judge.”

6. Section 6B of the *Australian Security Intelligence Organization Act 1956*⁴ is repealed and the following section substituted:

Remuneration and allowances of Director-General of Security

“6B. (1) Subject to this section, if the Director-General is a Judge, he shall be paid salary at such rate (if any), and an annual allowance at such rate (if any), as are fixed from time to time by the Parliament.

“(2) If the Director-General is a Judge, he is not, while he receives salary or annual allowance as a Judge, entitled to salary or annual allowance, as the case may be, under this Act, except to the extent (if any) that the salary or annual allowance that would be payable to him under this Act apart from this sub-section exceeds the salary or annual allowance payable to him as a Judge.

“(3) If the Director-General, being a Judge, receives salary under this Act by virtue of sub-section (2) and he dies or retires as a Judge, the *Judges' Pensions Act 1968* applies to or in relation to him as if the appropriate current judicial salary in relation to him were increased by the amount per annum that he would have received as salary under this Act by virtue of sub-section (2) if he had not died or retired and had continued to be the Director-General.

“(4) If the Director-General is not a Judge, he shall be paid such remuneration as is determined by the Remuneration Tribunal.

“(5) If the Director-General is not a Judge, he shall be paid such allowances as are prescribed.

“(6) Sub-sections (4) and (5) have effect subject to the *Remuneration Tribunals Act 1973*.”.

7. Section 25 of the *Bankruptcy Act 1966*⁵ is repealed and the following section substituted:

“25. (1) A Judge of the Federal Court of Bankruptcy shall be paid salary, an annual allowance and travelling allowance at such respective rates as are fixed from time to time by the Parliament.

Salary and allowances of Judges of Federal Court of Bankruptcy

“(2) The salary and annual allowance to which a Judge is entitled under this section accrue from day to day and are payable monthly.

“(3) The Consolidated Revenue Fund is appropriated to the extent necessary for payment of salaries and allowances in accordance with sub-section (1).”.

8. Section 9 of the *Commonwealth Grants Commission Act 1973*⁶ is repealed and the following section substituted:

“9. If sub-section 8 (6A) applies to the Chairman, he shall be paid salary, an annual allowance and travelling allowance at such respective rates as are fixed from time to time by the Parliament and such other allowances (if any) as are prescribed.”.

Salary and allowances of member who has status of Judge

9. (1) Section 8 of the *Conciliation and Arbitration Act 1904*⁷ is repealed and the following section substituted:

“8. (1) The President and the Deputy Presidents shall be paid salary, annual allowances and travelling allowances at the same rates as the Chief Judge and the Judges of the Federal Court of Australia, respectively.

Salary and allowances of presidential members

“(2) The salary and annual allowances to which the President and the Deputy Presidents are respectively entitled under this section accrue from day to day but are payable monthly.

“(3) The Consolidated Revenue Fund is appropriated to the extent necessary for payments of salaries and allowances in accordance with sub-section (1).”.

(2) Section 4 of the *Conciliation and Arbitration Amendment Act 1977*⁸ shall be deemed never to have had effect.

10. (1) Section 16 of the *Conciliation and Arbitration Act 1904*⁷ is repealed and the following section substituted:

Remuneration and allowances of Commissioners

“16. (1) A Commissioner shall be paid such remuneration as is determined by the Remuneration Tribunal.

“(2) A Commissioner shall be paid such allowances as are prescribed.

“(3) This section has effect subject to the *Remuneration Tribunals Act 1973*.”.

(2) Regulations in force immediately before the date of commencement of this section for the purposes of sub-section 16 (2) of the *Conciliation and Arbitration Act 1904* as in force immediately before that date continue in force as if made for the purposes of sub-section 16 (2) of the *Conciliation and Arbitration Act 1904* as in force after the commencement of this section.

Interpretation

11. Section 3 of the *Law Reform Commission Act 1973*⁹ is amended by omitting the definition of “judicial office” and substituting the following definition:

“ ‘judicial office’ means—

- (a) an office of judge of a Federal Court or of the Supreme Court of a Territory; or
- (b) an office the holder of which has, by virtue of an Act, the same status as a judge of a court referred to in paragraph (a);”.

Constitution of Law Reform Commission

12. Section 12 of the *Law Reform Commission Act 1973*⁹ is amended by inserting after sub-section (5) the following sub-section:

“(5A) In sub-section (5), ‘judicial office’ includes a judicial office of a State.”.

13. Section 13 of the *Law Reform Commission Act 1973*⁹ is repealed and the following section substituted:

Appointment of holder of judicial office as member of Law Reform Commission not to affect tenure, &c.

“13. The appointment of the holder of a judicial office as a member of the Commission, or service by the holder of a judicial office as such a member, whether the appointment was or is made or the service occurred or occurs before or after the commencement of this section, does not affect, and shall be deemed never to have affected, his tenure of that judicial office or his rank, title, status, precedence, salary, annual or other allowances or other rights or privileges as the holder of that judicial office and, for all purposes, his service, whether before or after the commencement of this section, as a member of the Commission shall be taken to have been, or to be, service as the holder of that judicial office.”.

14. (1) Section 16 of the *Law Reform Commission Act 1973*⁹ is repealed and the following section substituted:

“16. (1) A member, not being the holder of a judicial office (including a judicial office of a State), shall be paid such remuneration as is determined by the Remuneration Tribunal.

Remuneration and allowances of members of Law Reform Commission

“(2) A member shall be paid such allowances as are prescribed.

“(3) This section has effect subject to the *Remuneration Tribunals Act 1973*.”

(2) Regulations in force immediately before the date of commencement of this section for the purposes of sub-section 16 (2) or (3) of the *Law Reform Commission Act 1973* as in force immediately before that date continue in force as if made for the purposes of sub-section 16 (2) of the *Law Reform Commission Act 1973* as in force after the commencement of this section.

15. Section 17 of the *Law Reform Commission Act 1973*⁹ is amended by adding at the end thereof the following sub-section:

Termination of appointments of members of Law Reform Commission

“(4) In this section, ‘judicial office’ includes a judicial office of a State.”

16. After section 7 of the *Prices Justification Act 1973*¹⁰ the following section is inserted:

“7AA. The appointment of a person who is a Judge as a member of the Tribunal, or the service of a person who is a Judge as such a member, whether the appointment was or is made or the service occurred or occurs before or after the commencement of this section, does not affect, and shall be deemed never to have affected, his tenure of office as a Judge or his rank, title, status, precedence, salary, annual or other allowances or other rights or privileges as the holder of his office as a Judge and, for all purposes, his service, whether before or after the commencement of this section, as a member of the Tribunal shall be taken to have been, or to be, service as the holder of his office as a Judge.”

Appointment of Judge as member of Prices Justification Tribunal not to affect tenure, &c.

17. Section 8A of the *Prices Justification Act 1973*¹⁰ is repealed.

Remuneration and allowances of Chairman of Prices Justification Tribunal, being a Judge

18. After section 31 of the *Trade Practices Act 1974*¹¹ the following section is inserted:

Appointment of Judge as presidential member of Trade Practices Tribunal not to affect tenure, &c.

“31A. The appointment of a Judge of a Federal Court as a presidential member of the Tribunal, or service by a Judge of a Federal Court as a presidential member of the Tribunal, whether the appointment was or is made or the service occurred or occurs before or after the commencement of this section, does not affect, and shall be deemed never to have affected, his tenure of office as a Judge of a Federal Court or his rank, title, status, precedence, salary, annual or other allowances or other rights or privileges as the holder of his office as a Judge of a Federal Court and, for all purposes, his service, whether before or after the commencement of this section, as a presidential member of the Tribunal shall be taken to have been, or to be, service as the holder of his office as a Judge of a Federal Court.”

19. (1) Section 33 of the *Trade Practices Act 1974*¹¹ is repealed and the following section substituted:

Remuneration of members of Trade Practices Tribunal

“33. (1) Subject to this section, the President shall be paid salary at such rate (if any), and an annual allowance at such rate (if any), as are from time to time fixed by the Parliament.

“(2) The President is not, while he receives salary or annual allowance as a Judge of a Federal Court entitled to salary or annual allowance, as the case may be, under this Act except to the extent (if any) that the salary or annual allowance that would be payable to him under this Act apart from this sub-section exceeds the salary or annual allowance payable to him as such a Judge.

“(3) If the President receives salary under this Act by virtue of sub-section (2) and he dies or retires as a Judge of a Federal Court, the *Judges' Pensions Act 1968* applies to or in relation to him as if the appropriate current judicial salary in relation to him were increased by the amount per annum that he would have received as salary under this Act by virtue of sub-section (2) if he had not died or retired and had continued to be the President.

“(4) A member of the Tribunal other than a presidential member shall be paid such remuneration as is determined by the Remuneration Tribunal.

“(5) A member of the Tribunal other than a presidential member shall be paid such allowances as are prescribed.

“(6) Sub-sections (4) and (5) have effect subject to the *Remuneration Tribunals Act 1973*.”

(2) Sub-section 22 (1) and section 81 of the *Trade Practices Amendment Act 1977*¹² shall be deemed never to have had effect.

SCHEDULE

Section 4

SCHEDULE TO BE INSERTED IN REMUNERATION AND ALLOWANCES ACT

SCHEDULE 3

Section 13

Column 1	Column 2	Column 3	Column 4
Office	Rate per annum of Salary	Rate per annum of Annual Allowance	Rate per day of Travelling Allowance
	\$	\$	\$
PART I			
Chief Justice of the High Court	55,000	3,600	57
Justice (other than the Chief Justice) of the High Court	49,800	3,000	57
PART II			
Chief Judge of the Federal Court of Australia	48,200	2,750	51
Chief Judge of the Family Court of Australia	44,000	2,750	51
President of the Administrative Appeals Tribunal	44,000	2,750	
President of the Trade Practices Tribunal	44,000	2,750	
Director-General of Security	44,000	2,750	
Judge (other than the Chief Judge) of the Federal Court of Australia	44,000	2,500	51
Chief Judge of the Supreme Court of the Australian Capital Territory	42,500	2,500	51
Chief Judge of the Supreme Court of the Northern Territory	42,500	2,500	51
Chief Judge of the Australian Industrial Court	42,500	2,500	51
Judge (other than the Chief Judge) of the Australian Industrial Court	41,500	2,500	51
Judge of the Federal Court of Bankruptcy	41,500	2,500	51
Judge (other than the Chief Judge) of the Supreme Court of the Australian Capital Territory	41,500	2,500	51
Judge (other than the Chief Judge) of the Supreme Court of the Northern Territory	41,500	2,500	51
Chairman of the Commonwealth Grants Commission	41,500	2,500	51
Senior Judge of the Family Court of Australia	40,000	2,500	51
Judge (other than the Chief Judge or a Senior Judge) of the Family Court of Australia	36,000	2,500	51

NOTES

1. Act No. 111, 1977; assented to 28 October 1977.
2. Act No. 14, 1973, as amended. For previous amendments *see* Act No. 203, 1973; No. 216, 1973 (as amended by No. 20, 1974); No. 8, 1975; and Nos. 83, 170 and 182, 1976.
3. Act No. 91, 1975, as amended. For previous amendments *see* Acts Nos. 89, 91, 157, 162, 163 and 209, 1976.
4. Act No. 113, 1956, as amended. For previous amendments *see* Act No. 216, 1973 (as amended by No. 20, 1974); and No. 2, 1976.

NOTES—continued

5. Act No. 33, 1966, as amended. For previous amendments *see* Act No. 121, 1968; No. 40, 1969; No. 122, 1970; No. 216, 1973 (as amended by No. 20, 1974); No. 56, 1975; and Nos. 37, 91 and 161, 1976.
6. Act No. 54, 1973, as amended. For previous amendments *see* Act No. 216, 1973 (as amended by No. 20, 1974); No. 59, 1975; and No. 47, 1976.
7. Act No. 13, 1904, as amended. For previous amendments *see* Act No. 28, 1909; No. 7, 1910; No. 6, 1911; Nos. 5 and 18, 1914; No. 35, 1915; No. 39, 1918; No. 31, 1920; No. 29, 1921; No. 22, 1926; No. 8, 1927; No. 18, 1928; No. 43, 1930; Nos. 45 and 54, 1934; Nos. 14 and 30, 1946; Nos. 10 and 52, 1947; Nos. 65 and 77, 1948; Nos. 28 and 86, 1949; Nos. 51 and 80, 1950; Nos. 18 and 58, 1951; No. 34, 1952; Nos. 17, 18 and 54, 1955; Nos. 44 and 103, 1956; No. 30, 1958; No. 40, 1959; Nos. 15, 17 and 110, 1960; No. 40, 1961; Nos. 99 and 115, 1964; Nos. 22 and 92, 1965; Nos. 64 and 93, 1966; No. 101, 1967; No. 38, 1968; Nos. 12, 15 and 40, 1969; No. 53, 1970; No. 37, 1972; No. 138, 1973; No. 216, 1973 (as amended by No. 20, 1974); No. 89, 1974; No. 64, 1975; Nos. 3, 64, 91, 117 and 160, 1976; and No. 64, 1977.
8. Act No. 64, 1977.
9. Act No. 221, 1973.
10. Act No. 37, 1973, as amended. For previous amendments *see* Act No. 216, 1973 (as amended by No. 20, 1974); No. 47, 1974; and Nos. 91, 157 and 182, 1976.
11. Act No. 51, 1974, as amended. For previous amendments *see* Acts Nos. 63 and 56, 1975; Nos. 88 and 157, 1976; and No. 81, 1977.