

1983-84

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

COCOS (KEELING) ISLANDS SELF-DETERMINATION
(CONSEQUENTIAL AMENDMENTS) BILL 1984

EXPLANATORY MEMORANDUM

(circulated by the Minister Representing The Minister for Territories and Local Government, Senator the Honourable A.T. Gietzelt).

This memorandum takes account of amendments made by the House of Representatives to the bill as introduced.

COCOS (KEELING) ISLANDS SELF-DETERMINATION
(CONSEQUENTIAL AMENDMENTS) BILL 1984

Outline

The Cocos (Keeling) Islands Self-Determination (Consequential Amendments) Bill 1984 will extend Commonwealth legislation in the areas of health, social security and federal electoral representation to the Territory of Cocos (Keeling) Islands, following the decision of the residents of the Territory, in the Act of Self-Determination held on 6 April 1984, to integrate with Australia.

The Bill will amend the Commonwealth Electoral Act 1918 so as to place residents of the Territory within the boundaries of the Northern Territory for federal electoral purposes. An amendment consequent upon the amendment of the Electoral Act 1918 will also be made to the Northern Territory (Self-Government) Act 1978.

The Bill will also amend the Commonwealth Grants Commission Act 1973 to enable the Grants Commission to exercise its powers and functions in relation to the Territory.

The Bill will also amend the Health Insurance Act 1973 and the National Health Act 1953 so as to make residents of the Territory eligible for benefits under that legislation on a basis equivalent to that for mainland Australians.

The Bill will amend the Social Security Act 1947 so that a resident of the Territory will be treated as a resident of Australia for the purposes of that Act.

NOTES ON THE CLAUSES OF THE BILL

PART I - PRELIMINARY

Clause 1: Short Title

Citation.

Clause 2: Commencement

Clause 2 will provide that the provisions of the Bill dealing with social security matters shall be deemed to have come into effect on 6 April 1984, the date of the Act of Self-Determination in the Territory. The clause will also provide that all other provisions shall come into operation on the day on which the Act receives the Royal Assent.

PART II - AMENDMENTS OF COMMONWEALTH ELECTORAL ACT 1918

Clause 3: Principal Act

This clause will identify the Commonwealth Electoral Act 1918, as amended by the Commonwealth Electoral Legislation Amendment Act 1983, as the Principal Act being amended by Part II of this Bill.

Clause 4: Interpretation

Sub-clause 4(a) will amend the Principal Act to provide for the Cocos (Keeling) Islands to be part of the Commonwealth electoral Division of the Northern Territory.

Sub-clause 4(b) will insert into the Principal Act a new sub-section 5(b) which will extend the general provisions of the Principal Act to the Territory of Cocos (Keeling) Islands.

Clause 5: Assistant Divisional Returning Officers

Clause 5 will amend section 10 of the Principal Act to ensure that Assistant Divisional Returning Officers can be appointed for the electoral District being created for the Territory.

Clause 6: Subdivisions

Sub-clause 6(a) will amend sub-section 26(1) of the Principal Act to render its provisions subject to the provisions of a new section 26(1A).

Sub-clause 6(b) will insert a new section 26(1A) into the Principal Act to require the entire Territory of Cocos (Keeling) Islands to be a separate electoral District of the Commonwealth Division of the Northern Territory.

PART III - AMENDMENTS OF THE COMMONWEALTH GRANTS COMMISSION ACT 1973

Clause 7: Principal Act

This clause will identify the Commonwealth Grants Commission Act 1973 as the Principal Act being amended by Part III of this Bill.

Clause 8: Extension of Principal Act to Territory of Cocos (Keeling) Islands.

Clause 8 will insert a new section (6) into the Principal Act to extend the general provisions of that Act to the Territory of Cocos (Keeling) Island.

Clause 9: Inquiries relating to the Territory of Cocos (Keeling) Islands

Clause 9 will insert a new section (16C) into the Principal Act to provide for references concerning the Cocos (Keeling) Islands to be made to the Grants Commission by the Minister on the same basis as that relating to the Northern Territory.

Clause 10: Reports to be laid before Parliament

Clause 10 will amend sub-section 25(1) of the Principal Act to enable reports by the Grants Commission relating to the Cocos (Keeling) Islands to be laid before the Parliament.

PART IV - AMENDMENTS TO THE HEALTH INSURANCE ACT 1973

Clause 11: Principal Act

This clause will identify the Health Insurance Act 1973 as the Principal Act for the purposes of Part IV of the Bill.

Clause 12: Interpretation

This clause will amend section 3 of the Principal Act, which defines various expressions for the purposes of the Principal Act, by the insertion of a definition of "Australia" and by amending the existing definition of "recognized hospital". "Australia" will be defined to include the Territory of Cocos (Keeling) Islands. This will permit persons ordinarily resident or domiciled in the Territory to be embraced by the existing definition of "Australian resident". The amendment to the definition of "recognized hospital" will empower the Minister by writing signed by him to declare a hospital in the Territory to be a "recognized hospital" for the purposes of the Principal Act.

Clause 13: Extension of Act To Territory of Cocos (Keeling) Islands

This clause will insert a new section 7A into the Principal Act which will provide that the Principal Act extends to the Territory of Cocos (Keeling) Islands.

Clause 14: Medicare benefit not payable where compensation etc. payable

This clause will amend section 18 of the Principal Act which relates to applications for medicare benefit in respect of a professional service rendered in connection with an injury where a relevant payment, by way of compensation or damages under the law of a state or an internal Territory, has been or may be received in respect of that injury. Section 18 empowers the medicare benefit to be withheld, or a provisional payment made, in such circumstances. The amendment will extend the reference in section 18 to compensation or damages under the law of a State or internal Territory to include the law of the Territory of Cocos (Keeling) Islands.

PART V - AMENDMENTS TO THE NATIONAL HEALTH ACT 1953

Clause 15: Principal Act

This clause will identify the National Health Act 1953 as the Principal Act.

Clause 16: Extension of Act to the Territory of Cocos (Keeling) Islands

This clause will extend the provisions of the Principal Act to the Territory of Cocos (Keeling) Islands.

Clause 17: Interpretation

This clause will amend section 58D of the Principal Act by deleting the present definition of "registered nurse" and replacing it with a new definition. The new definition will repeat the substance of the present one but includes, with respect to the Territory of Cocos (Keeling) Islands, a nurse with such qualifications as are prescribed.

Under Part VB of the Principal Act, the Part under which the term "registered nurse" is defined, a registered nurse's certification that a patient is receiving adequate nursing care is required before a person can be an approved person for the purposes of that Part in respect of that patient.

Clause 18: Interpretation

This clause will amend section 66 of the Principal Act by inserting a new sub-section (7). This new sub-section will provide that for the purposes of Part VI of the Principal Act, the Territory of Cocos (Keeling) Islands shall be deemed to form part of the State of Western Australia.

Part VI of the Principal Act deals basically with the registration of health benefits organizations and various powers of the Minister for Health in relation to such registration.

Clause 19: Reinsurance Account in Health Benefits Fund

This clause will amend section 73BB of the Principal Act by inserting in sub-section (11) a definition of "Australia". This definition would provide that the term "Australia" includes the Territory of Cocos (Keeling) Islands. Section 73BB provides for the establishment and maintenance by each health benefits organization of a Reinsurance Account in the health benefits fund conducted by it.

PART VI - AMENDMENTS TO THE NORTHERN TERRITORY (SELF-GOVERNMENT) ACT 1978

Clause 20: Principal Act

Clause 20 will provide that in Part VI of the Bill the Northern Territory (Self-Government) Act 1978 is referred to as the Principal Act.

Clause 21: Qualifications of Electors

Clause 21 will amend section 14 of the Principal Act so as to ensure that persons who are entitled to vote at an election of a member of the House of Representatives for the Northern Territory by virtue of their being residents of the Territory of Cocos (Keeling) Islands, will not thereby be entitled to vote at an election of members of the Legislative Assembly of the Northern Territory.

This clause will also delete from section 14 of the Principal Act references to the now repealed Northern Territory Electoral Regulations and Northern Territory Representation Act 1972.

PART VII - AMENDMENTS TO THE SOCIAL SECURITY ACT 1947

Clause 22: Principal Act

This clause will provide that the Social Security Act 1947 is referred to as the Principal Act in this Part.

Clause 23: Interpretation

Section 6 of the Principal Act provides for definitions of terms used in, and rules of interpretation for, the Principal Act.

Paragraph 23(a) will amend sub-section 6(1) of the Principal Act to insert a definition of "Australia" which includes the Territory. This will mean that a person resident in the Territory on or after 6 April 1984 will be treated as a resident of Australia under the Principal Act.

Paragraph 23(b) will amend sub-section 6(1) of the Principal Act to insert a definition of "external Territory", which is defined not to include the Territory. This will mean that provisions in the Principal Act which refer to an external Territory will not refer to the Cocos (Keeling) Islands, since the Cocos (Keeling) Islands will be deemed part of Australia by this clause.

Clause 24: Extension of Act to the Territory of Cocos (Keeling) Islands

This clause will insert a new section 60 in the Principal Act, which will provide that the Principal Act extends to the Territory.

Clause 25: Interpretation

Section 17B of the Principal Act provides for a definition of "remote area" for the purposes of the remote area allowance under Part IIA of the Principal Act, which became payable from 1 May 1984.

This clause will amend that definition in such a way that the Territory would be regarded as being within the remote area, so enabling persons resident in the Territory to become eligible for the allowance.

Clause 26: Claims for pensions, etc, before 6 July 1984

The normal rules in the Principal Act generally provide for payment of social security cash benefits after the lodgement of claims. However, where a new cash benefit is introduced, or the Principal Act is significantly extended, it is customary to provide a 3-month period of grace within which a payment can be made prior to lodgement of a claim.

This clause will enable a person who was qualified or eligible to receive a pension, benefit or allowance under the Principal Act before 6 July 1984, and who lodges a claim before 6 July 1984 but after becoming qualified or eligible, to be paid that pension, benefit or allowance from the date of qualification or eligibility.

For example, if a woman resident in the Territory is qualified for a family allowance on 6 April 1984, but does not lodge a claim for the allowance until 6 July 1984, payment of the allowance will nevertheless be made to her as if she had lodged the claim immediately upon being qualified for the allowance.

By clause 2(2), Part VII will come into operation on 6 April 1984, which was the date of the Act of Self-Determination by the residents of the Territory.







