

EXPLANATORY STATEMENT

Issued by authority of the Minister for Finance and Deregulation

Governor-General Act 1974

Governor-General Allowance Order 2013

The *Governor-General Act 1974* (GG Act), among other things, provides retirement benefits to Governors-General, and death benefits in respect of their eligible spouses.

Schedule 2 of the *Judges and Governors-General Legislation Amendment (Family Law) Act 2012* (Amendment Act) makes amendments to the GG Act to implement new superannuation splitting arrangements for Governors-General.

The amendments will allow the superannuation benefits of a Governor-General to be split with a former spouse in the event of a marital or relationship breakdown, at a time a superannuation splitting agreement or order is made. A former spouse will be able to receive his or her share of the benefit at this time. These arrangements will give certainty to both parties in property settlement negotiations and will provide each party with their own separate benefit at the time of the split.

Section 4AH of the GG Act provides that the Minister may make orders providing for matters required or permitted by the Act to be provided, or matters necessary or convenient to be provided, in order to carry out or give effect to the Act.

The purpose of the *Governor-General Allowance Order 2013* (GG Order) is to set out the detailed methodology and factors for valuing interests in the GG Act and the steps for calculating benefits subject to a splitting agreement or order. Further detailed information on the GG Order is set out in the [Attachment](#).

The GG Order is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* (LIA). Although section 44 of the LIA exempts superannuation instruments from disallowance, the GG Order is subject to possible disallowance under section 4AH of the GG Act.

Consistent with the Statement of Compatibility with Human Rights prepared for the Amendment Act, the GG Order is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

The Department of Finance and Deregulation consulted with the Department of the Prime Minister and Cabinet in relation to the Amendment Act and with the Attorney-General's Department in relation to the GG Order.

DETAILS OF THE GG ORDER

Section 1 – Name of Order

This section provides that the name of the order is the *Governor-General Allowance Order 2013*.

Section 2 – Commencement

The section provides for the order to commence on 15 March 2013.

Section 3 – Authority

This section provides that the authority for the order is the *Governor-General Act 1974* (GG Act).

Section 4 – Definitions

This section includes definitions specific to the order. A range of other terms included in the order are defined in the GG Act.

Section 5 – Scheme value

Under the GG Act, it is necessary to calculate the scheme value, in order to determine the transfer amount. The transfer amount is the amount being transferred to the former spouse to create his or her benefit.

Calculation of the scheme value is undertaken using the methods set out in Schedule 1 of the order.

General note on judicial salaries for calculations under this Order

Salary determinations of the Remuneration Tribunal in respect of judicial salaries (including the salary of the Chief Justice of the High Court of Australia) are subject to parliamentary disallowance. In this Order, where it is necessary to calculate the scheme value of an interest in the GG Act (as above) or the value of allowance benefits under a splitting agreement or order (as below) at a particular time, it is intended that the calculations would be undertaken on the basis that any Remuneration Tribunal determination that is subject to disallowance, is not disallowed.

However, the actual scheme value or allowance payable from the operative time will depend upon whether any such determination is disallowed at a future date.

Section 6 – Associate immediate allowance for non-member spouse

This section sets out the steps for calculating an associate immediate allowance for the non-member (that is, the former) spouse. An associate immediate allowance is an allowance that is payable immediately at the operative time – see subsection 4AB(2) of the GG Act.

The first step is to identify the transfer amount at the operative time, upon which the allowance will be based. The transfer amount is calculated in accordance with the GG Act by reference to the splitting percentage or the base amount – see subsection 2A(2) of the GG Act for the meaning of these terms.

The following steps calculate the annual rate of the non-member spouse's allowance by dividing the transfer amount by a factor that represents the non-member spouse's age and gender in years and months (and thus reflects his or her life expectancy) at the operative time.

The annual amount is turned into a percentage of the salary of the Chief Justice of the High Court of Australia at the operative time. The allowance is indexed by applying the percentage to the Chief Justice's salary. Step 5 provides for this calculation at all times after the operative time.

Section 7 – Associate deferred allowance

This section sets out the steps for calculating an associate deferred allowance for a non-member spouse. An associate deferred allowance is an allowance that is not immediately payable at the operative time – see subsection 4AB(3) of the GG Act.

The first step is to identify the transfer amount at the operative time, upon which the allowance will ultimately be based. The transfer amount is calculated in accordance with the GG Act by reference to the splitting percentage or the base amount – see subsection 2A(2) of the GG Act for the meaning of these terms.

Until the allowance becomes payable to the non-member spouse, interest will be applied at the Treasury bond rate.

Accordingly, the next steps (2A to 2D) increase the transfer amount using the Treasury bond rate, from the operative time until the time the benefit becomes payable to the non-member spouse. The increases are applied at the end of the first financial year after the operative time, at the end of each financial thereafter (second period), and in the final period between the end of the last financial year before the benefit becomes payable to when the benefit actually becomes payable.

The increases are compounded period by period. That is, the total increase in the transfer amount will be the sum of the transfer amount at the operative time, and the increases in the transfer amount for all previous periods (if any) multiplied by the applicable Treasury bond rate calculated in steps 2B or 2C and 2D for the relevant period.

The following steps 3 to 5 calculate the annual rate of the non-member spouse's allowance by dividing the transfer amount (increased as above where relevant) by a factor that represents the non-member spouse's age and gender in years and months (and thus reflects his or her life expectancy) at the time the associate deferred allowance becomes payable.

The annual amount is turned into a percentage of the salary of the Chief Justice of the High Court of Australia at the time the associate deferred allowance becomes payable. The allowance is indexed by applying the percentage to the Chief Justice's salary. Step 6 provides for this calculation at all times after the time the associate deferred allowance becomes payable.

Section 8 – Associate deferred allowance – death of non-member spouse

This section calculates the lump sum amount that is payable if a non-member spouse dies before the associate deferred allowance becomes payable.

The lump sum amount payable is the transfer amount, increased by the Treasury bond rate in accordance with step 2A of section 7, as if the allowance had become payable as at the date of the non-member spouse's death.

It is intended that if the non-member spouse's interest had been the subject of a splitting agreement or order, for example where subsection 11 of the order had previously applied to reduce that interest, then the transfer amount for this section would be the reduced amount, increased by the Treasury bond rate as applicable.

The above situation would occur where the non-member spouse of the original split has a subsequent splitting agreement or order arising from a subsequent marital or relationship breakdown, but then dies before the original deferred allowance becomes payable. As the subsequent split has operated to reduce the amount of the associate deferred allowance, this must be taken into account in any lump sum amount paid to the estate of the non-member spouse if he or she dies before the reduced associate deferred allowance becomes payable.

Section 9 – Reduction of the retirement allowance payable after the operative time

This section deals with calculating a reduction to a retirement allowance where the split occurs while the Governor-General is serving.

The reduction to the retirement allowance is calculated at the operative time (that is, the time of the split), and is applied when the allowance becomes payable.

The first step is to identify the annual rate of the retirement allowance when it became payable, disregarding any reduction to that allowance under subsection 4(4) of the GG Act.

The next steps identify the annual rate of the allowance that would have been payable had the Governor-General retired at the operative time – disregarding subsection 4(4) of the GG Act in step 2, and having regard to the reduction in subsection 4(4) in step 3. In step 3 the rate identified is the after offsets annual rate of the retirement allowance that would have been payable had the Governor-General retired at the operative time.

The lump sum value of this after offsets rate is calculated by multiplying it by a factor which represents the age and gender of the Governor-General (and thus his or her life expectancy) at the time he or she is expected to complete his or her term of office. Where this date is known, the known date should be used for this purpose. However, where this date is not known, it would be intended that the date would be based on any information available at the time using the following as a general guide:

- where the person has held the office of Governor-General for a period of less than 5 years – the date that is 5 years after the day the person first held office as Governor-General; or
- where the person has held office as Governor-General for a period of 5 years or more – the date that is 6 months after the day this calculation is being made.

In steps 6 and 7, the value is discounted by a factor that allows for the time value of money over the period to the expected retirement of the Governor-General. The factor also includes an allowance for mortality in the period to the expected retirement. The discounting of the value reflects that the allowance is fully accrued during the Governor-General's service, but does not become payable until the Governor-General retires.

Step 8 divides the transfer amount by discounted value calculated in step 7. This is the after offsets allowance transfer factor, that is, the factor by which the Governor-General allowance is reduced as a result of the split. Accordingly, in step 9, the after offsets annual rate of the retirement allowance that would have been payable had the Governor-General retired at the operative time, is multiplied by this transfer factor. The result is the reduction in the after offsets annual rate of the retirement allowance that would have been payable had the Governor-General retired at the operative time.

In step 10, the reduction amount calculated in step 9 is divided by the annual rate in the retirement allowance in step 2 (which is the annual rate of the allowance that would have been payable had the Governor-General retired at the operative time, disregarding subsection 4(4) of the GG Act). The result is the gross allowance transfer factor.

In step 11, the gross annual rate of the retirement allowance when it became payable, that is disregarding any reduction to that allowance under subsection 4(4) of the GG Act, is multiplied by the gross allowance transfer factor. This is the reduction in the annual rate of the retirement allowance.

In step 12, the annual rate of the retirement allowance payable on retirement is calculated by subtracting the reduction from the gross annual rate of the retirement allowance.

If there has been more than one split, the above steps must be repeated in the order that the splits occurred from the earliest to the latest.

Finally, the annual amount is turned into a percentage of the salary of the Chief Justice of the High Court of Australia at the time the allowance becomes payable. The allowance is indexed by applying the percentage to the Chief Justice's salary. Step 14 provides for this calculation at all times after the allowance has become payable.

Section 10 – Reduction of the spouse allowance payable after the operative time

This section deals with calculating a reduction to a retirement allowance where the split occurs while the Governor-General is serving but the Governor-General has died and a spouse allowance has become payable.

For the purposes of calculating the reduced spouse allowance payable under paragraph 4(3)(b) of the GG Act, the rate applicable to the Governor-General under paragraph 4(3)(a) is reduced under this section. The spouse allowance is then calculated under paragraph 4(3)(b) using this reduced rate.

The calculation steps are much the same as in section 9 above.

In the first step, the annual rate of the retirement allowance reflects what would have been payable had the Governor-General retired on his or her date of death, disregarding any reduction to that allowance under subsection 4(4) of the GG Act.

The next steps identify the annual rate of the allowance that would have been payable had the Governor-General retired at the operative time – disregarding subsection 4(4) of the GG Act in step 2, and having regard to the reduction in subsection 4(4) in step 3. In step 3 the rate identified is the after offsets annual rate of the retirement allowance that would have been payable had the Governor-General retired at the operative time.

The lump sum value of this after offsets rate is calculated by multiplying it by a factor which represents the age and gender of the Governor-General at the time he or she would have been expected to complete his or her term of office based on the information available at the operative time. Where this date was known, the known date should be used for this purpose. However, where this date was not known, it would be intended that the date would be based on any information available at the time using the following as a general guide:

- where the person has held the office of Governor-General for a period of less than 5 years – the date that is 5 years after the day the person first held office as Governor-General; or
- where the person has held office as Governor-General for a period of 5 years or more – the date that is 6 months after the day this calculation is being made.

In steps 6 and 7, the value is discounted by a factor that allows for the time value of money over the period to the expected retirement of the Governor-General. The factor also includes an allowance for mortality in the period to the expected retirement. The discounting of the value reflects that the allowance is fully accrued during the Governor-General's service, but does not become payable until the Governor-General retires.

Step 8 divides the transfer amount by discounted value calculated in step 7. This is the after offsets allowance transfer factor, that is, the factor by which the Governor-General allowance is reduced as a result of the split. Accordingly, in step 9, the after offsets annual rate of the retirement allowance that would have been payable had the Governor-General retired at the operative time, is multiplied by this transfer factor. The result is the reduction in the after offsets annual rate of the retirement allowance that would have been payable had the Governor-General retired, and not died, at the operative time.

In step 10, the reduction amount calculated in step 9 is divided by the annual rate in the retirement allowance in step 2 (which is the annual rate of the allowance that would have been payable had the Governor-General retired, and not died, at the operative time, disregarding subsection 4(4) of the GG Act). The result is the gross allowance transfer factor.

In step 11, the gross annual rate of the retirement allowance when it became payable, that is disregarding any reduction to that allowance under subsection 4(4) of the GG Act, is multiplied by the gross allowance transfer factor. This is the reduction in the annual rate of the retirement allowance.

In step 12, the annual rate of the retirement allowance payable if the Governor-General had retired is calculated by subtracting the reduction from the gross annual rate of the retirement allowance.

If there has been more than one split, the above steps must be repeated in the order that the splits occurred from the earliest to the latest.

Finally, the annual amount is turned into a percentage of the salary of the Chief Justice of the High Court of Australia at the time the allowance becomes payable. The allowance is indexed by applying the percentage to the Chief Justice's salary. Step 14 provides for this calculation at all times after the allowance has become payable.

Under paragraph 4(3)(b) the GG Act, the spouse allowance is 5/8ths of the rate applicable under paragraph 4(3)(a), therefore the spouse allowance payable in this case will be 5/8ths of the reduced rate calculated under this section 10.

However, note that subsection 4(4) of the GG Act can apply in respect of a spouse allowance to reduce the allowance payable under paragraph 4(3)(b), including where a spouse is in receipt of a relevant reversionary allowance or where the spouse is in receipt of a relevant pension or allowance arising from his or her own service, or both. See subsection 4(4) of the GG Act.

Section 11 – Operative time during growth phase – reduction of associate deferred allowance

This section deals with the reduction of an associate deferred allowance as the result of a subsequent splitting agreement or order, where that split occurs before the allowance had become payable. This situation would occur where the non-member (that is, the former) spouse of the original split has a subsequent splitting agreement or order arising from a subsequent marital or relationship breakdown, in the period prior to when the associate deferred allowance becomes payable.

The reduction to the associate deferred allowance is calculated at the operative time (of the subsequent split), and is applied when the allowance becomes payable.

As a first step, it is necessary to increase the transfer amount that was payable at the operative time, that is, the transfer amount in respect of the subsequent split.

Interest will be applied at the Treasury bond rate from the operative time to the time the associate deferred allowance becomes payable.

Accordingly, the next steps (2A to 2D) increase the transfer amount using the Treasury bond rate, from the operative time until the time the benefit becomes payable. The increases are applied at the end of the first financial year after the operative time, at the end of each financial thereafter, and in the final period between the end of the last financial year before the benefit becomes payable to when the benefit actually becomes payable.

The increases are compounded period by period. That is, the total increase in the transfer amount will be the sum of the transfer amount at the operative time and the increases in the transfer amount for all previous periods (if any) multiplied by the

applicable Treasury bond rate calculated in steps 2B or 2C and 2D for the relevant period.

In steps 3 to 5, the lump sum value of the associate deferred allowance is calculated at the time it becomes payable (disregarding the subsequent payment split). The calculation involves identifying the associate deferred allowance at the time of payment and multiplying it by a factor that represents the member spouse's age and gender in years and months (and thus reflects his or her life expectancy) at the time the associate deferred allowance becomes payable. These steps also take account of the fact that the lump sum value of the associate deferred pension would have increased by the bond rate over the period to the date of payment.

The result is reduced by the amount calculated in step 2A before it is converted back into an annual allowance.

Note that it is intended that if the associate deferred allowance has been previously reduced because of another prior split, the reduction must also be taken into account.

The final steps provide for indexation of the allowance by turning the annual amount into a percentage of the salary of the Chief Justice of the High Court of Australia. The allowance is indexed by applying the percentage to the Chief Justice's salary.

Example for section 11:

A member spouse has an entitlement to an associate deferred allowance, which has not yet become payable. The scheme value of those benefits immediately before the operative time is \$300,000. An agreement served on the Secretary specifies that 40% of the interest is to be transferred to the non-member spouse. Therefore, the transfer amount is \$120,000.

Step 1 identifies the transfer amount to be \$120,000.

Step 2 increases the transfer amount, by the Treasury bond rate, to the day on which the associate deferred allowance becomes payable to the non-member spouse.

The \$120,000 is increased by the bond rate to \$132,000.

Steps 3 to 5 calculate the lump sum value of the associate deferred allowance on the date of payment, before reduction for the current family law split.

This will take account of the fact that the \$300,000 has been increased by the bond rate over the period to the date of payment. The increase brings the amount to \$330,000.

Step 6 reduces the lump sum value of the associate deferred allowance calculated above by the increased transfer amount calculated in step 2. So, \$330,000 is reduced by \$132,000, leaving \$198,000.

Step 7 turns this reduced amount back into an annual allowance by multiplying it by the relevant age and gender factor.

Steps 8 and 9 provide for indexation of the allowance amount after it has become payable.

Section 12 – Reduction of standard allowance payable at operative time

This section deals with calculating the reductions for allowances that are being paid at the operative time, that is, at the time of the split. In each case, the reduction will apply to the annual rate of the allowance payable at the operative time and will therefore take into account any prior adjustment to the allowance, including from another previous split.

As special arrangements apply to Governors-General affected by the superannuation surcharge, the steps for the reduction of these allowances are dealt with in section 13.

Subsection 12(1) deals with the reduction of an associate immediate allowance as the result of a subsequent split of this allowance.

The first step is to identify the annual rate of the associate immediate allowance payable at the operative time. It is intended that this would take into account any previous adjustment that had been made to the allowance, such as a reduction arising from a previous split, that is, where a splitting agreement or order had previously applied.

The lump sum value of the associate immediate allowance is calculated by multiplying the annual allowance amount by a factor that represents the age and gender of the member spouse, in years and months (and thus his or her life expectancy), at the operative time.

Note that in these circumstances, the person who was originally the non-member spouse will become the member spouse in respect of the subsequent split of the associate immediate allowance.

The transfer amount is subtracted from this amount before it is converted back to an annual allowance amount by the same age and gender factor.

In step 6, the reduced associate immediate allowance is turned into a percentage of the salary of the Chief Justice of the High Court of Australia at the operative time. The allowance is indexed by applying the percentage to the Chief Justice's salary. Step 7 provides for this calculation at all times after the operative time.

Subsection 12(2) deals with the reduction of an associate deferred allowance (that is, an associate deferred allowance that was being paid at the operative time) as the result of a subsequent split of that allowance. Again, the person who was originally the non-member spouse will become the member spouse in respect of this subsequent split of the associate deferred allowance.

The first step is to identify the annual rate of the associate deferred allowance payable at the operative time. It is intended that this would take into account any previous adjustment that had been made to the allowance, such as a reduction arising from a previous split, that is, where a splitting agreement or order had previously applied.

The lump sum value of the associate deferred allowance is calculated by multiplying the annual allowance amount by a factor that represents the age and gender of the member spouse, in years and months (and thus his or her life expectancy), at the operative time.

The transfer amount is subtracted from this amount before it is converted back to an annual allowance amount by the same age and gender factor.

In step 6, the reduced associate deferred allowance is turned into a percentage of the salary of the Chief Justice of the High Court of Australia at the operative time. The allowance is indexed by applying the percentage to the Chief Justice's salary. Step 7 provides for this calculation at all times after the operative time.

Subsection 12(3) provides for the reduction of a spouse allowance in the case where the allowance has become payable to the spouse because the Governor-General has died, and where that spouse has a subsequent splitting agreement or order in respect of that allowance (that is, because of a subsequent marital or relationship breakdown).

The first step is to identify the annual rate of the spouse allowance payable at the operative time. It is intended that this would take into account any previous adjustment that had been made to the allowance, such as a reduction arising from a previous split, that is, where a splitting agreement or order had previously applied.

The lump sum value of the allowance is calculated by multiplying the annual allowance amount by a factor that represents the age and gender of the member spouse, in years and months (and thus his or her life expectancy), at the operative time.

The transfer amount is subtracted from this amount before it is converted back to an annual allowance amount by the same age and gender factor.

In step 6, the reduced spouse allowance is turned into a percentage of the salary of the Chief Justice of the High Court of Australia at the operative time. The allowance is indexed by applying the percentage to the Chief Justice's salary. Step 7 provides for this calculation at all times after the operative time.

Subsection 12(4) deals with the reduction of a retirement allowance in respect of a retired Governor-General (not affected by the superannuation surcharge) who is a member spouse.

The first step is to identify the annual rate of the retirement allowance payable at the operative time, disregarding subsection 4(4) of the GG Act.

In step 2, the annual rate of the reduction in the retirement allowance, having regard to the adjustment in subsection 4(4) of the GG Act, is identified.

In step 3, the after offsets annual rate of the retirement is calculated by subtracting the reduction identified in step 2 by the annual rate in step 1.

It is intended that this rate would also take into account any previous adjustment that had been made to the allowance, such as a reduction arising from a previous split, that is, where a splitting agreement or order had previously applied.

The lump sum value of the allowance is calculated by multiplying the annual after offsets allowance amount by a factor that represents the age and gender of the member spouse, in years and months (and thus his or her life expectancy), at the operative time.

Step 6 divides the transfer amount by the lump sum value of the allowance. The result is the after offsets allowance transfer factor.

The reduction in the after offsets annual rate of the retirement allowance is calculated by multiplying this transfer factor by the after offsets annual rate of the retirement allowance identified in step 3.

In step 8, the annual rate of the retirement allowance payable at the operative time, disregarding subsection 4(4) of the GG Act, is calculated by subtracting the reduction in the after offsets annual rate of the retirement allowance above, from the annual rate of the retirement allowance identified in step 1.

In step 9, the reduced retirement allowance is turned into a percentage of the salary of the Chief Justice of the High Court of Australia at the operative time. The allowance is indexed by applying the percentage to the Chief Justice's salary. Step 10 provides for this calculation at all times after the operative time.

Note that the actual rate of retirement allowance payable will be the amount calculated in this subsection less any reduction due to the operation of subsection 4(4) of the GG Act.

Subsection 12(5) provides for the reduction of a spouse allowance because the Governor-General has died and a spouse allowance has become payable.

For the purposes of calculating the reduced spouse allowance payable under paragraph 4(3)(b) of the GG Act, the reduced rate that was applicable to the Governor-General at the time of his or her death, disregarding subsection 4(4) of the GG Act, is identified in step 1.

In step 2, the reduced retirement allowance is turned into a percentage of the salary of the Chief Justice of the High Court of Australia at the operative time. The allowance is indexed by applying the percentage to the Chief Justice's salary. Step 3 provides for this calculation at all times after the operative time.

Under paragraph 4(3)(b) the GG Act, the spouse allowance is 5/8ths of the rate applicable under paragraph 4(3)(a), therefore the spouse allowance payable in this case will be 5/8ths of the reduced rate that was payable to the Governor-General at the time of his or her death.

However, note that subsection 4(4) of the GG Act can apply in respect of a spouse allowance to reduce the allowance payable under paragraph 4(3)(b), including where a spouse is in receipt of a relevant reversionary allowance or where the spouse is in receipt of a relevant allowance arising from his or her own service, or both. See subsection 4(4) of the GG Act.

Section 13 – Reduction of standard allowance payable at operative time if superannuation surcharge applies

This section applies to Governors-General who were first appointed between the period the superannuation surcharge was operative (that is, between 20 August 1996 and 1 July 2005) and who are therefore affected by the surcharge.

Subsection 13(2) deals with the reduction of a retirement allowance in respect of a retired Governor-General (affected by the superannuation surcharge) who is a member spouse.

The first step is to identify the annual rate of the retirement allowance payable at the operative time. It is intended that this rate would take into account the effect of the Prescribed Percentage as a result of the surcharge, together with the offsetting effect of any other pensions or allowances incorporated into the definition of “basic rate”.

It is intended that this annual rate of the retirement allowance would also take into account any previous adjustment that had been made to the allowance, such as a reduction arising from a previous split, that is, where a splitting agreement or order had previously applied.

The lump sum value of the allowance is calculated by multiplying the annual allowance amount by a factor that represents the age and gender of the member spouse, in years and months (and thus his or her life expectancy), at the operative time.

Step 4 divides the transfer amount by the lump sum value of the allowance to work out the allowance transfer factor.

The reduction in the annual rate of the retirement allowance is calculated by multiplying this transfer factor by the annual rate of the retirement allowance identified in step 1.

In step 6, the annual rate of the retirement allowance payable at the operative time is calculated by subtracting the reduction in the after offsets annual rate of the retirement allowance above, from the annual rate of the retirement allowance identified in step 1.

In step 7, the reduced retirement allowance is turned into a percentage of the salary of the Chief Justice of the High Court of Australia at the operative time. The allowance is indexed by applying the percentage to the Chief Justice’s salary. Step 8 provides for this calculation at all times after the operative time.

Subsection 13(2) provides for the reduction of a spouse allowance because the Governor-General has died and a spouse allowance has become payable.

For the purposes of calculating the reduced spouse allowance payable under paragraph 4(3)(b) of the GG Act, the reduced rate that was applicable to the Governor-General at the time of his or her death, is identified in step 1.

In step 2, the reduced retirement allowance is turned into a percentage of the salary of the Chief Justice of the High Court of Australia at the operative time. The allowance is indexed by applying the percentage to the Chief Justice’s salary. Step 3 provides for this calculation at all times after the operative time.

Under paragraph 4(3)(b) the GG Act, the spouse allowance is 5/8ths of the rate applicable under paragraph 4(3)(a), therefore the spouse allowance payable in this case will be 5/8ths of the reduced rate that was payable to the Governor-General at the time of his or her death..

However, note that a reduction can also apply in respect of a spouse allowance to reduce the allowance payable under paragraph 4(3)(b), including where a spouse is in receipt of a relevant reversionary allowance or where the spouse is in receipt of a relevant pension or allowance arising from his or her own service, or both.

Schedule 1 – Methods and factors

Schedule 1 sets out the methods for calculating the scheme value of interests under the GG Act.

Division 1.2 of Schedule 1 deals with the valuation of interests in the growth phase (that is, interests that have not commenced to be paid at the time of the split).

Relevant interests are:

- 1 an interest of a person who holds office of Governor-General; and
- 2 the interest of a person entitled to an associate deferred allowance in accordance with section 4AC of the GG Act.

The scheme value of these interests is determined using the formulas set out in the Division and the relevant factors set out in Division 1.4.

The valuations take account of the person's age and gender (and thus his or her life expectancy) at the relevant date (that is, at the date of valuation).

Valuation of a Governor-General's interest also takes account of the time value of money over the period to the expected retirement of the Governor-General, by applying a discount factor. The factor also includes an allowance for mortality in the period to the expected retirement. The discounting of the value reflects that the allowance is fully accrued during the Governor-General's service, but does not become payable until the Governor-General retires.

The scheme value of this interest is therefore calculated by multiplying the annual rate of the allowance that would be payable to the person under section 4 of the GG Act if he or she ceased to hold office on the relevant date, by the relevant age and gender factor. The result is then multiplied by the discount factor.

Valuation of an associate deferred allowance takes account of the addition of interest at the Treasury bond rate, as calculated under step 2A of section 7 of this Order.

The scheme value of this interest is therefore calculated by multiplying the amount calculated in 2A of section 7, with the relevant date taken to be when the associate deferred allowance becomes payable, by the amount calculated by the formula that applies the age and gender factors (noting that, in this case, as the age and gender factors are the same, the result will be 1).

Division 1.3 deals with interests in the payment phase (that is, allowances already being paid at the time of the split). The scheme value of these interests is determined using the formulas set out in this Division and the relevant factors set out in Division 1.4.

In this case, the scheme value takes account of the annual rate of the allowance payable to the person at the relevant date and also their age and gender (and thus his or her life expectancy) at the time of valuation.

Accordingly, the scheme value of this interest is calculated by multiplying the annual rate of the allowance that is or was payable under section 4 of the GG Act at the relevant date, by the relevant age and gender factor.