



New South Wales

Parliamentary Remuneration Amendment Act 1998 No 84

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Parliamentary Remuneration Amendment Act 1998 No 84

Act No 84, 1998

An Act to amend the *Parliamentary Remuneration Act 1989* to make provision for the determination of additional allowances and other entitlements of Members of Parliament and certain office holders, and to alter the basis of appointment of the Parliamentary Remuneration Tribunal; and for other purposes. [Assented to 14 July 1998]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Parliamentary Remuneration Amendment Act 1998*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Parliamentary Remuneration Act 1989 No 160

The *Parliamentary Remuneration Act 1989* is amended as set out in Schedule 1.

4 Initial determination of additional entitlements

- (1) An initial determination relating to additional entitlements is to be made by the Parliamentary Remuneration Tribunal on or before 1 December 1998, with effect on and from 1 January 1999.
- (2) The *Parliamentary Remuneration Act 1989* as amended by this Act applies, with any necessary adaptations, to the initial determination in the same way as it applies to an annual determination.

5 Transitional provision regarding Parliamentary Remuneration Tribunal

- (1) If the person holding office as Parliamentary Remuneration Tribunal immediately before the commencement of this section is a Judge of the Supreme Court, the person continues to hold office as Tribunal in accordance with the *Parliamentary Remuneration Act 1989*, for the period comprising the remainder of the person's term of office, as if the amendments made by this Act to Schedule 2 to that Act had not been made.
- (2) During the period referred to in subsection (1), references in that Act to the President of the Industrial Relations Commission are taken to be references to the Chief Justice of the Supreme Court of New South Wales.
- (3) This section ceases to have effect when the office of Tribunal first becomes vacant after the commencement of this section.

Schedule 1 Amendments

(Section 3)

[1] Section 2A

Insert after section 2:

2A Purpose of Act

- (1) The purpose of this Act is to provide a system under which:
 - (a) all members are provided with statutory salaries (the basic salary) that are paid as personal income for the performance of their parliamentary duties as members, and
 - (b) all or some recognised office holders are provided with statutory additional salaries that are paid as personal income for the performance of their parliamentary duties as recognised office holders, and
 - (c) all or some recognised office holders are provided with statutory expense allowances for the purpose of facilitating the efficient performance of their parliamentary duties as recognised office holders, and
 - (d) all or some members and all or some recognised office holders may be provided with additional allowances and other entitlements for the purpose of facilitating the efficient performance of their parliamentary duties as members or recognised office holders.
- (2) Nothing in this section gives rise to any civil cause of action or can be taken into account in any civil proceedings.

[2] Section 3 Definitions

Omit the definitions of *Chief Justice* and *remuneration*.

[3] Section 3

Insert in appropriate order:

parliamentary duties of a member or recognised office holder means the duties that attach to the office of a member or recognised office holder, and includes the duties that a member or recognised office holder is ordinarily expected to undertake, including participation in the activities of recognised political parties, and includes any duties prescribed as being within this definition, but does not include any duties prescribed as being outside this definition.

President means the President of the Industrial Relations Commission.

remuneration means remuneration by way of salary, additional salary or expense allowance under Part 2.

[4] Section 7 Additional allowances

Omit the section.

[5] Part 3

Omit the heading to the Part.

Insert instead “**Additional entitlements**”.

[6] Section 9

Omit the section. Insert instead:

9 Functions of the Tribunal

- (1) The functions of the Tribunal are:
 - (a) to make determinations of additional entitlements that are to be available to a member or recognised office holder, and
 - (b) to approve proposed amendments to the *Parliamentary Contributory Superannuation Act 1971*.

- (2) The Tribunal has such other powers, authorities, duties or functions as are conferred or imposed on it by or under this or any other Act.

[7] Section 10

Omit the section. Insert instead:

10 General provisions as to determinations of additional entitlements

- (1) In making determinations, the Tribunal is to give effect to the following principles:
- (a) additional entitlements are to be provided for the purpose of facilitating the efficient performance of the parliamentary duties of members or recognised office holders,
 - (b) parliamentary duties of members and recognised office holders include participation in the activities of recognised political parties.
- (2) The Tribunal may by a determination fix the classes, terms and other incidents of additional entitlements.
- (3) A determination may provide for additional entitlements in any form, including but not limited to:
- (a) the payment of additional allowances in terms of allowances, fees and other emoluments payable in money (including for example electoral allowances, travel allowances, travel expenses, and committee allowances), and
 - (b) the provision of services, facilities and equipment (including for example electorate services, electorate staff, electorate offices, office equipment, travel, and communication equipment).
- (4) A determination may:
- (a) fix conditions on which an additional entitlement is to be provided, and may specify the form of substantiation (if any) that is required for particular kinds of additional entitlements, and

- (b) involve the reimbursement of the whole or a part of actual expenses, and
 - (c) identify an existing entitlement as an additional entitlement, and
 - (d) withdraw or alter an additional entitlement.
- (5) However, a determination may not grant, withdraw or otherwise deal with entitlements for travel outside Australia.
- (6) A determination may amend or revoke a determination that has already been made.
- (7) A determination or a provision of a determination may relate to all or any individual members and recognised office holders or to any class of them.
- (8) Members and recognised office holders are entitled to additional entitlements in accordance with the provisions of applicable determinations.

[8] Section 11 Annual determinations of additional entitlements

Omit "allowances" from section 11 (1).
Insert instead "entitlements".

[9] Section 11 (2)

Omit "Chief Justice" wherever occurring.
Insert instead "President".

[10] Section 11 (3)

Insert "additional entitlements are to continue to be provided on the current basis. and additional entitlements in the nature of" after "a year,".

[11] Section 12 Special determinations of additional entitlements

Omit “allowances” wherever occurring.
Insert instead “entitlements”.

[12] Section 12 (3)

Omit the subsection. Insert instead:

- (3) A special determination is to be made by such time as the Minister directs and is to take effect from such time as the Tribunal specifies in the determination.

[13] Section 13 Reports of the Tribunal

Omit “Chief Justice” wherever occurring.
Insert instead “President”.

[14] Section 13 (5)

Insert after section 13 (4):

- (5) Before the report of a determination is made to the President, the Tribunal is required to seek the written advice of the Secretary of the Treasury as to the financial implications of the determination. A copy of the advice is to be published as an annexure to the determination.

[15] Section 14 Inquiries etc by the Tribunal

Insert at the end of section 14 (1) (d):

, and

- (e) is to consider any submissions furnished by the Minister.

[16] Section 15 Payment of Parliamentary remuneration and allowances

Omit “(other than additional allowances)” from section 15 (1).

[17] Section 15 (5)

Insert “or additional allowances” after “remuneration”.

[18] Section 15A

Insert after section 15:

15A Entitlements generally

- (1) Nothing in this Act is to be construed as preventing members or recognised office holders from being provided with entitlements apart from this Act, including for example:
 - (a) offices and facilities at Parliament House, or
 - (b) offices and facilities for Ministers elsewhere, or
 - (c) travel by Ministers.
- (2) To the extent to which additional entitlements under this Act, or any such entitlements provided apart from this Act, need to be funded, they are to be provided out of money to be appropriated by Parliament or otherwise legally available.

[19] Section 17A

Insert after section 17:

17A Rulings

- (1) The President of the Legislative Council or the Speaker of the Legislative Assembly may request the Tribunal to give a ruling on the interpretation or application of a determination.
- (2) The Tribunal is required to give the requested ruling within a reasonable period, unless the request is withdrawn.

[20] Section 18 Determinations or rulings not to be subject to judicial review

Insert “, or a ruling of the Tribunal under section 17A,” after “Tribunal”.

[21] Schedule 2 Parliamentary Remuneration Tribunal

Omit “Chief Justice” wherever occurring.
Insert instead “President”.

[22] Schedule 2, clause 1 Appointment of person to constitute Tribunal

Omit “Judge” from clause 1 (1).
Insert instead “judicial member or retired judicial member of the Industrial Relations Commission”.

[23] Schedule 2, clause 1 (2)

Omit “Judge”. Insert instead “person appointed”.

[24] Schedule 2, clause 1 (3)

Omit the subclause.

[Minister’s second reading speech made in—
Legislative Assembly on 23 June 1998
Legislative Council on 29 June 1998]