

PARLIAMENTARY REMUNERATION ACT 1989 No. 160

NEW SOUTH WALES



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Parliamentary Remuneration 1989

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PARLIAMENTARY REMUNERATION ACT 1989 No. 160

NEW SOUTH WALES



Act No. 160, 1989

An Act relating to the remuneration to be paid to members of Parliament, Ministers of the Crown and the holders of certain offices in Parliament; and to repeal the Parliamentary Remuneration Tribunal Act 1975 and the Parliamentary Remuneration Tribunal (Special Provisions) Act 1989 and to amend the Parliamentary Contributory Superannuation Act 1971. [Assented to 12 December 1989]

The Legislature of New South Wales enacts:

PART 1 - PRELIMINARY

Short title

1. This Act may be cited as the Parliamentary Remuneration Act 1989.

Commencement

2. (1) This Act commences on 1 July 1990, except as provided by this section.

(2) For the purpose of making an annual determination with effect from 1 July 1990, Part 3 and Schedule 2 commence on the date of assent to this Act. They commence for all purposes on 1 July 1990.

Definitions

3. In this Act:

"basic salary" has the meaning given by section 4;

"Chief Justice" means the Chief Justice of the Supreme Court of New South Wales;

"determination" means an annual determination of the Tribunal under section 11 or a special determination of the Tribunal under section 12;

"member" means a member of either House of Parliament;

"recognised office holder" means the holder of an office for the time being specified in Schedule 1;

"remuneration" means remuneration by way of salary, additional salary, expense allowance or additional allowance under this Act;

"Tribunal" means the Parliamentary Remuneration Tribunal established under this Act.

PART 2 - PARLIAMENTARY REMUNERATION

Definition of basic salary

4. The basic salary is, for the purposes of this Act, the amount of the annual allowance by way of salary payable under the law of the Commonwealth to a Member of the House of Representatives who is not entitled to any additional salary, less \$500.

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Salary of members (other than recognised office holders)

5. A member who is not a recognised office holder is entitled to be paid a salary at the annual rate of the basic salary.

Salary and expense allowance of recognised office holders

6. (1) A recognised office holder is entitled to be paid:

- (a) a salary at the annual rate of the basic salary;
- (b) an additional salary (if any) at an annual rate calculated as a percentage of the basic salary, being the percentage specified opposite the relevant office in the second column of Schedule 1; and
- (c) an expense allowance (if any) at an annual rate calculated as a percentage of the basic salary, being the percentage specified opposite the relevant office in the third column of Schedule 1.

(2) The amount of any such additional salary or expense allowance is to be calculated to the nearest dollar.

(3) A person who holds 2 or more of the offices specified in Schedule 1 is entitled to the remuneration under this section that is applicable to only one of them, whichever has the greater or greatest such remuneration.

(4) The regulations may amend or substitute Schedule 1.

Additional allowances

7. A member or recognised office holder is also entitled to be paid such additional allowances as are specified in a determination that is in force under this Act.

PART 3 - PARLIAMENTARY REMUNERATION TRIBUNAL

The Tribunal

8. (1) For the purposes of this Act, there is established a Tribunal to be known as the Parliamentary Remuneration Tribunal.

(2) Schedule 2 has effect with respect to the Tribunal.

Functions of the Tribunal

9. The functions of the Tribunal are:

- (a) to determine additional allowances to be payable to a member or recognised office holder (for example, electoral allowances, travelling allowances and expenses and committee allowances); and
- (b) to make recommendations to the Minister on matters referred to it by the Minister, relating to the provision of services, equipment or facilities to a member or recognised office holder.

General provisions as to determinations of additional allowances

10. (1) The Tribunal may by a determination fix the classes, rates and conditions of additional allowances that are to be payable.

(2) The Tribunal may determine additional allowances in terms of allowances, fees and other emoluments payable in money (including payment of expenses), but the Tribunal may not determine travelling allowances for travel outside Australia.

(3) A determination may amend or revoke a determination that has already been made, and in particular may create, abolish or replace an additional allowance or any class of additional allowance.

(4) 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.

(5) Determinations are of 2 kinds, as follows:

- (a) annual determinations, under section 11;
- (b) special determinations, under section 12.

Annual determinations of additional allowances

11. (1) An annual determination as regards additional allowances is to be made on or before 1 June in each year (or such later date as the Chief Justice directs under this section), with effect from 1 July in that year.

(2) The Chief Justice may, because of the illness of the person holding office as the Tribunal or for any other reason that seems proper to the Chief Justice, from time to time by order published in the

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Gazette, direct that a particular annual determination is to be made on or before a later specified date.

(3) If an annual determination is not made by 1 July in a year, additional allowances continue to be payable at the rates at which they were payable before that date, until payment of additional allowances can be effected in accordance with the determination, but any necessary adjustments are to be made as a result of the making of the determination.

Special determinations of additional allowances

12. (1) The Minister may direct that a special determination be made as regards additional allowances.

(2) Such a direction:

- (a) may relate to all or any additional allowances or to any class of them; and
- (b) may relate to all or any individual members and recognised office holders or to any class of them.

(3) A special determination is to be made by such time and with effect from such time as the Minister directs.

Reports of the Tribunal

13. (1) The Tribunal is to make a report to the Chief Justice of each determination under this Act.

(2) The Chief Justice is, as soon as practicable after receipt of the report, to forward it to the Minister.

(3) The Minister is, as soon as practicable after receipt of the report, to cause a copy of it to be laid before each House of Parliament.

(4) A determination is, as soon as practicable after it is made, to be published in the Gazette.

Inquiries etc. by the Tribunal

14. (1) In the performance of its functions, the Tribunal:

- (a) may inform itself in such manner as it thinks fit and may conduct such inquiries as it thinks fit; and

- (b) may receive written or oral submissions; and
- (c) is not required to conduct any proceeding in a formal manner; and
- (d) is not bound by the rules of evidence.

(2) Without affecting the generality of subsection (1), the Tribunal may invite submissions from recognised office holders, members, officers of the Legislature, members and officers of statutory bodies and government departments and any other persons.

PART 4 - MISCELLANEOUS

Payment of Parliamentary remuneration

15. (1) Remuneration (other than additional allowances) is payable in such manner, and subject to such provisions, as may be prescribed by the regulations.

(2) Additional allowances are payable in such manner, and subject to such provisions, as may be specified in a determination that is in force.

(3) An additional allowance that is abolished or replaced ceases to be payable, in accordance with the terms of the determination.

(4) An additional allowance whose rates or conditions are modified by a determination becomes payable in its modified form instead of its previous form, in accordance with the terms of the determination.

(5) Any payment of remuneration to which a person is entitled under this Act, or any part of any such payment, not drawn by the person or on the person's behalf within 28 days after the payment becomes due and payable reverts to the Treasury and becomes part of the Consolidated Fund.

(6) All remuneration payable by virtue of this Act is payable out of the Consolidated Fund, which, to the necessary extent, is appropriated accordingly.

Terms of office

16. (1) For the purposes of this Act, a person elected as a member of the Legislative Council is to be taken:

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- (a) to become a member of the Legislative Council on the day of his or her election; and
- (b) to cease to be a member of the Legislative Council on:
 - (i) the day of his or her death; or
 - (ii) the day on which his or her seat as such a member becomes vacant, otherwise than pursuant to section 22B (1) (c) of the Constitution Act 1902; or
 - (iii) the day appointed for the taking of the poll for the periodic Council election within the meaning of that Act that next follows the day on which he or she ceases, pursuant to section 22B (1) (c) of that Act, to be a member of the Legislative Council,whichever first occurs.

(2) For the purposes of this Act, a person elected as a member of the Legislative Assembly is to be taken:

- (a) to become a member of the Legislative Assembly on the day of his or her election; and
- (b) to cease to be a member of the Legislative Assembly on:
 - (i) the day of his or her death; or
 - (ii) the day on which his or her seat as such a member becomes vacant, otherwise than by reason of the fact that that Assembly has been dissolved or has expired by the effluxion of time; or
 - (iii) the day appointed for the taking of the poll for the general election of members of the Legislative Assembly next following his or her election,whichever first occurs.

Other provisions as to basic salary

17. (1) If the basic salary changes retrospectively, remuneration under this Act is to be adjusted retrospectively in conformity with the change.

(2) If, apart from this section, there would be no basic salary under section 4 during a period, the basic salary during that period is the most recent amount of the basic salary (or, failing that, the amount of \$54,500).

Determinations not to be subject to judicial review

18. A determination of the Tribunal may not be challenged, reviewed, quashed or called into question before any court or in any legal proceedings, or restrained, removed or otherwise affected by proceedings in the nature of prohibition, mandamus, certiorari or otherwise.

Repeal of Parliamentary Remuneration Tribunal Act 1975 No. 25 and Parliamentary Remuneration Tribunal (Special Provisions) Act 1989 No. 70

19. (1) The Parliamentary Remuneration Tribunal Act 1975 and the Parliamentary Remuneration Tribunal (Special Provisions) Act 1989 are repealed.

(2) Nothing in this Act affects the payment of remuneration under the repealed Acts for any period before the commencement of this Act.

(3) A person is entitled to payment of remuneration under the repealed Acts (excluding remuneration by way of salary or expense allowances, but including special expenses allowances) for the period from the commencement of this Act until additional allowances are first determined under this Act, as if the repealed Acts were still in force.

(4) Payments under this Act are to be adjusted to avoid payment of a double benefit of the same kind for the same period through the operation of subsection (3).

(5) The provisions of section 15 (5) and (6) extend to remuneration referred to in this section.

Amendment of Parliamentary Contributory Superannuation Act 1971 No. 53

20. The Parliamentary Contributory Superannuation Act 1971 is amended as set out in Schedule 3.

Regulations

21. The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

*Parliamentary Remuneration 1989***SCHEDULE 1 - ADDITIONAL SALARIES AND EXPENSE ALLOWANCES**

(expressed as a percentage of the basic salary)

(Secs. 3, 6)

| Recognised office holder | Additional salary | Expense allowance |
|---|-------------------|-------------------|
| Part 1 - Ministers | | |
| Premier | 95% | 55% |
| Deputy Premier | 76% | 27% |
| Minister who is Leader of Government Members in the Legislative Council | 78% | 26% |
| Minister who is Deputy Leader of Government Members in the Legislative Council | 70% | 26% |
| Other Ministers in the Legislative Council | 67% | 26% |
| Other Ministers in the Legislative Assembly | 67% | 26% |
| Part 2 - Other office holders | | |
| President of the Legislative Council | 57% | 26% |
| Speaker of the Legislative Assembly | 57% | 26% |
| Deputy Leader of the Government in the Legislative Council (when not a Minister) | 20% | 14% |
| Chairman of Committees in the Legislative Council | 20% | 14% |
| Chairman of Committees in the Legislative Assembly | 20% | 14% |
| Leader of the Opposition in the Legislative Council | 20% | 14% |
| Deputy Leader of the Opposition in the Legislative Council (when leader of a party) | 11% | 14% |
| Deputy Leader of the Opposition in the Legislative Council (when not leader of a party) | 11% | 6% |

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SCHEDULE 1 - ADDITIONAL SALARIES AND EXPENSE
ALLOWANCES - *continued*

| | | |
|--|-----|-----|
| Leader of the Opposition in the Legislative Assembly | 57% | 26% |
| Deputy Leader of the Opposition in the Legislative Assembly | 20% | 14% |
| Government Whip in the Legislative Council | 11% | 6% |
| Opposition Whip in the Legislative Council | 11% | 6% |
| Government Whip in the Legislative Assembly | 13% | 7% |
| Opposition Whip in the Legislative Assembly | 13% | 7% |
| Leader in the Legislative Assembly (other than the Leader of the Opposition or the Deputy Leader of the Opposition) of a recognised political party not fewer than 10 members of which are members of the Legislative Assembly and of which no member is a Minister | 20% | 14% |
| Deputy Leader in the Legislative Assembly of such a recognised political party | ... | 7% |
| Whip in the Legislative Assembly of a recognised political party not fewer than 10 members of which are members of the Legislative Assembly | ... | 7% |
| Parliamentary Secretary in the Legislative Council | 13% | 7% |
| Parliamentary Secretary in the Legislative Assembly | 13% | 7% |
| Deputy Whip in the Legislative Assembly of a recognised political party not fewer than 40 members of which are members of the Legislative Assembly | ... | 7% |

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SCHEDULE 1 - ADDITIONAL SALARIES AND EXPENSE ALLOWANCES - *continued*

| | | |
|---|----|----|
| Chairman of the Public Accounts Committee constituted under the Public Finance and Audit Act 1983 | 7% | 7% |
| Chairman of the Joint Standing Committee on Road Safety | 7% | 7% |
| Chairman of the Regulation Review Committee constituted under the Regulation Review Act 1987 | 7% | 7% |
| Chairman of the Social Issues Committee of the Legislative Council | 7% | 7% |
| Chairman of the State Development Committee of the Legislative Council | 7% | 7% |

SCHEDULE 2 - PARLIAMENTARY REMUNERATION TRIBUNAL

(Sec. 8)

Appointment of Judge to constitute Tribunal

1. (1) The Tribunal is to consist of a Judge appointed by the Chief Justice on a part-time basis.

(2) Subject to this Act, the Judge holds office as the Tribunal for such period, not exceeding 3 years, as is specified in the instrument of appointment of the Tribunal and is eligible for re-appointment.

(3) A reference in this clause to a Judge is a reference to:

- (a) a Judge or retired Judge of a court of New South Wales; or
- (b) a person who holds, or has retired from, an office in which he or she is serving or served with the same status as a Judge of a court of New South Wales; or
- (c) a Judge or retired Judge of a court of another State or Territory or of the Commonwealth; or
- (d) a person who holds, or has retired from, an office in which he or she is serving or served with the same status as a Judge of another State or Territory or of the Commonwealth.

SCHEDULE 2 - PARLIAMENTARY REMUNERATION
TRIBUNAL - *continued*

Persons assisting the Tribunal

2. The Minister may, if the Minister thinks fit, appoint a person or persons to assist the Tribunal in any inquiry.

Fees etc.

3. (1) The person holding office as the Tribunal and any person appointed under clause 2 are to be paid such fees and allowances as are, from time to time, fixed by the Governor on the recommendation of the Minister made after consultation by the Minister with the Chief Justice and the Attorney General.

(2) The fees and allowances payable to any such person must be fixed before the person's appointment, and may be varied in respect of any year commencing on 1 January before that day.

Vacation of office

4. (1) The person holding office as the Tribunal is to be regarded as having vacated the office if the person:

- (a) dies; or
- (b) completes a term of office and is not re-appointed; or
- (c) resigns the office by instrument in writing addressed to the Governor; or
- (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her fees or allowances as the Tribunal for their benefit; or
- (e) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983; or
- (f) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable; or

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SCHEDULE 2 - PARLIAMENTARY REMUNERATION
TRIBUNAL - *continued*

- (g) is removed from office by the Governor on the recommendation of the Chief Justice.
- (2) The Governor may, on the recommendation of the Chief Justice, remove from office a person holding office as the Tribunal or a person appointed under clause 2.

SCHEDULE 3 - AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971

(Sec. 20)

(1) Section 3 (Definitions):

Omit the definition of "salary", insert instead:

"salary", in relation to a member or a former member, means:

- (a) all moneys payable, whether before or after the commencement of this Act, by way of salary or special allowance to him or her under the Constitution Act 1902, the Parliamentary Allowances and Salaries Act 1956 or any corresponding previous enactment; and
- (b) all remuneration payable to him or her under the Parliamentary Remuneration Tribunal Act 1975, excluding any portion specified under section 7A of that Act as being in the nature of an allowance for electoral or other expenses; and
- (c) all remuneration payable to him or her under the Parliamentary Remuneration Act 1989 by way of basic salary or additional salary,

and includes any allowance (other than a living away from home allowance) payable to a member under section 17G or 28 of the Constitution Act 1902, as in force at any time before the commencement of the Parliamentary Allowances and Salaries (Amendment) Act 1966, but does not include any electoral allowance payable under section 28 of the Constitution Act 1902,

**SCHEDULE 3 - AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971 - *continued***

as in force at any time before the commencement of section 15 of the Parliamentary Remuneration Tribunal Act 1975;

(2) Section 19 (Members' superannuation benefit):

(a) Section 19 (2):

After "1975" wherever occurring, insert "and other than a recognised office holder within the meaning of the Parliamentary Remuneration Act 1989".

(b) Section 19 (4):

At the end of section 19 (4) (b), insert:

; and

- (c) the total amount (if any) that, during any period during which that person was entitled to salary, was payable from time to time as remuneration by way of basic salary or additional salary under the Parliamentary Remuneration Act 1989 to a member of the Legislative Council (other than a recognised office holder within the meaning of that Act).

(c) Section 19 (4A):

At the end of section 19 (4A) (b), insert:

; and

- (c) the total amount (if any) that, during any period during which that person was entitled to salary, was payable from time to time as remuneration by way of basic salary or additional salary under the Parliamentary Remuneration Act 1989 to a member of the Legislative Assembly (other than a recognised office holder within the meaning of that Act).

(3) Section 19A (Variation of certain annual pensions):

After "1975" wherever occurring, insert "and other than a recognised office holder within the meaning of the Parliamentary Remuneration Act 1989".

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SCHEDULE 3 - AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971 - *continued*

(4) Section 23 (**Pension for widows and widowers**):

Section 23 (4):

After "1975" wherever occurring, insert "and other than a recognised office holder within the meaning of the Parliamentary Remuneration Act 1989".

(5) Section 23B (**Pension for children**):

Section 23B (1):

After "1975" wherever occurring, insert "and other than a recognised office holder within the meaning of the Parliamentary Remuneration Act 1989".

[*Minister's second reading speech made in -
Legislative Assembly on 22 November 1989
Legislative Council on 23 November 1989 a.m.*]