

[Act 1998 No 84]



New South Wales

Parliamentary Remuneration Amendment Bill 1998

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.*

Overview of Bill

The object of this Bill is to amend the *Parliamentary Remuneration Act 1989* (*the Act*):

- (a) to enable the Parliamentary Remuneration Tribunal to determine entitlements of Members of Parliament and recognised office holders (additional to those consisting of basic salary, additional salary and expense allowance), and
- (b) to provide that in the future the Tribunal is to consist of a judicial member or retired judicial member of the Industrial Relations Commission appointed by the President of that Commission.

Parliamentary remuneration in the form of basic salary, additional salary and expense allowance will continue as a matter of statutory entitlement under Part 2 of the Act. Additional entitlements that are the subject of the proposed determinations may be in any form (including for example allowances.

* Amended in committee—see table at end of volume.

services, facilities or equipment). Existing additional allowances will be capable of being dealt with as additional entitlements by way of these determinations.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Parliamentary Remuneration Act 1989* set out in Schedule 1.

Clause 4 requires the Tribunal to make an initial determination of additional entitlements, with effect on and from 1 January 1999.

Clause 5 provides for the person currently holding office as Tribunal to continue in that office for the remainder of the person's term of office. Future appointees will be the holders of office as judicial members of the Industrial Relations Commission.

Schedule 1 [1] inserts a new section 2A, which sets out the purpose of the Act.

Schedule 1 [2] and **[3]** amend section 3.

The definition of *Chief Justice* is replaced by that of *President*, reflecting other proposed amendments.

The definition of *parliamentary duties* is inserted, and is used principally in proposed section 10 (1), for the guidance of the Tribunal in considering additional entitlements. Parliamentary duties include duties that members and recognised office holders are ordinarily expected to undertake, including participation in the activities of recognised political parties, covering for example attendance at parliamentary committee meetings, parliamentary party meetings, and annual or other party conventions.

The definition of *remuneration* is replaced. to make it clear that this expression relates only to the statutory entitlements to basic salary, additional salary and expense allowance. Additional allowances will be categorised as additional entitlements.

Schedule 1 [4] omits section 7, which deals with additional allowances. These allowances will continue to be capable of being dealt with by determinations of the Tribunal.

Schedule 1 [5] makes a consequential amendment.

Schedule 1 [6] replaces section 9, to reflect the new role of the Tribunal in making determinations of a wider class of additional entitlements.

Schedule 1 [7] replaces section 10, to reflect the new arrangements for determinations of additional entitlements. Proposed subsection (1) provides guidance to the Tribunal in making such determinations. Proposed subsection (2) enables the Tribunal to fix the classes, terms and other incidents of additional entitlements. Proposed subsection (3) provides that additional entitlements can be in any form, including in the form of additional allowances payable in money, or in the form of services, facilities and equipment. Proposed subsection (4) enables a determination (as appropriate) to fix conditions subject to which an additional entitlement is provided, to provide for substantiation, to involve reimbursement of actual expenses, to identify existing entitlements as additional entitlements, or to withdraw or alter entitlements. Proposed subsection (5) continues the current restriction on determinations dealing with overseas travel (see existing section 10 (2)). Proposed subsection (6) makes it clear that a determination can amend or revoke determinations. Proposed subsection (7) makes it clear that a determination can apply to all or any members or recognised office holders, or to any class of them. Proposed subsection (8) provides that members and recognised office holders are entitled to the additional entitlements provided for by determinations.

Schedule 1 [8], [10] and [11] make consequential amendments.

Schedule 1 [9] and [12] transfer to the President of the Industrial Relations Commission certain functions under the Act presently exercisable by the Chief Justice of the Supreme Court. These functions relate to the extension of the time within which an annual determination may be made, and the making and furnishing of reports of determinations.

Schedule 1 [13] amends section 13 to require the Tribunal to seek the advice of the Secretary of the Treasury as to the financial implications of determinations of additional entitlements. A copy of the advice is to be published as an annexure to such a determination.

Schedule 1 [14] amends section 14 to make express provision for the Tribunal to consider any submissions made by the Minister.

Schedule 1 [15] and [16] amend section 15 as a consequence of the categorisation of additional allowances as additional entitlements.

Schedule 1 [17] inserts a new section 15A to make it clear that entitlements can be provided apart from the Act as proposed to be amended.

Schedule 1 [18] inserts a new section 17A to enable the Presiding Officer of either House of Parliament to seek a ruling from the Tribunal on the interpretation or application of a determination of additional entitlements.

Schedule 1 [19] amends section 18 to provide that such a ruling is not subject to judicial review.

Schedule 1 [20]–[23] amend Schedule 2 to provide that the Tribunal is to consist of a judicial member or retired judicial member of the Industrial Relations Commission appointed by the President of that Commission, and to make consequential amendments. Section 5 of the proposed Act will allow the existing judge holding office as Tribunal to continue in office for the remainder of the applicable term.