

# Parliamentary Remuneration Act 1989 No 160

[1989-160]



New South Wales

## Status Information

### Currency of version

Historical version for 3 July 2023 to 10 August 2023 (accessed 12 August 2024 at 13:57)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**  
Sec 4A(3) of this Act (sec 4A(3) repeals sec 4A on 30.6.2025).

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 3 July 2023

# Parliamentary Remuneration Act 1989 No 160



New South Wales

## Contents

<b>Long title</b> .....	5
<b>Part 1 Preliminary</b> .....	5
1 Name of Act .....	5
2 Commencement .....	5
2A Purpose of Act .....	5
3 Definitions .....	6
<b>Part 2 Parliamentary remuneration</b> .....	7
4 Definition of basic salary .....	7
4A Temporary arrangements for determination of basic salary .....	7
5 Salary of members (other than recognised office holders) .....	7
6 Salary and expense allowance of recognised office holders .....	7
<b>Part 2A Employment benefits</b> .....	8
6A Employment benefits .....	8
6B Functions of Tribunal relating to employment benefits .....	9
6C Special determinations as to employment benefits .....	9
7 (Repealed) .....	10
<b>Part 3 Additional entitlements</b> .....	10
8 (Renumbered as sec 14G) .....	10
9 Tribunal may make determinations as to additional entitlements .....	10
10 General provisions as to determinations of additional entitlements .....	10
11 Annual determinations of additional entitlements .....	11

12 Special determinations of additional entitlements .....	12
12A Financial implications of determinations .....	12
13, 14 (Renumbered as secs 14H, 14I).....	12
<b>Part 3A Parliamentary superannuation</b> .....	12
<b>Division 1 Approval of amendments to Parliamentary Contributory Superannuation Act 1971</b>	
.....	12
14A Superannuation approvals.....	12
<b>Division 2 Superannuation arrangements for post-2007 members</b> .....	13
14B Application of Division .....	13
14C Definitions .....	14
14D Superannuation contributions for members.....	14
14E Payment of superannuation contributions .....	15
<b>Division 3 Salary sacrifice for additional superannuation contributions</b>	
.....	15
14EA Application of Division .....	15
14F Salary sacrifice arrangements .....	16
<b>Part 3B The Tribunal</b> .....	16
14G The Tribunal .....	17
14H Reports of the Tribunal .....	17
14I Inquiries etc by the Tribunal .....	17
<b>Part 4 Miscellaneous</b> .....	17
15 Payment of Parliamentary remuneration, allowances and employment benefits .....	17
15A Entitlements generally .....	18
16 Terms of office .....	18
17 (Repealed).....	19
17A Rulings.....	19
18 Determinations or rulings not to be subject to judicial review.....	20
19 Repeal of Parliamentary Remuneration Tribunal Act 1975 No 25 and Parliamentary Remuneration Tribunal (Special Provisions) Act 1989 No 70	
.....	20

20 Savings, transitional and other provisions.....	20
21 Regulations.....	20
<b>Schedule 1 Additional salaries and expense allowances.....</b>	<b>20</b>
<b>Schedule 2 Parliamentary Remuneration Tribunal.....</b>	<b>24</b>
<b>Schedule 3 Savings, transitional and other provisions .....</b>	<b>26</b>

# Parliamentary Remuneration Act 1989 No 160



New South Wales

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*.

## Part 1 Preliminary

### 1 Name of Act

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

### 2 Commencement

- (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.

### 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 or received as employment benefits 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, and

(e) superannuation arrangements are provided for members who are not continuing members of the closed Parliamentary Contributory Superannuation Fund.

(2) Nothing in this section gives rise to any civil cause of action or can be taken into account in any civil proceedings.

### 3 Definitions

(1) In this Act—

**additional entitlements** means the electoral allowance and other additional entitlements under Part 3.

**basic salary** has the meaning given by section 4.

**Chief Commissioner** means the Chief Commissioner of the Industrial Relations Commission.

**designated employer**—see section 6A.

**determination** means an annual determination of the Tribunal under section 11 or a special determination of the Tribunal under section 12.

**employment benefit**—see section 6A.

**member** means a member of either House of Parliament.

**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.

**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 or expense allowance under Part 2.

**salary sacrifice contribution** means a superannuation contribution made for a member by way of salary sacrifice.

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

#### Note—

The [Interpretation Act 1987](#) contains definitions and other provisions that affect the interpretation and

application of this Act.

- (2) Notes in the text of this Act do not form part of this Act.

## **Part 2 Parliamentary remuneration**

### **4 Definition of basic salary**

- (1) For the purposes of this Act, the basic salary is as follows—
- (a) until the Tribunal otherwise determines, 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,
  - (b) the amount determined by the Tribunal from time to time in accordance with this section.
- (2) The Tribunal may make a determination fixing the amount of the basic salary. Determinations are to be made at such times as the Tribunal thinks fit or the Minister directs.
- (3) In making a determination, the Tribunal is to give effect to the same policies on increases in remuneration as those that the Industrial Relations Commission is required to give effect to under section 146C of the *Industrial Relations Act 1996* when making or varying awards or orders relating to the conditions of employment of public sector employees.
- (4) The policies referred to in subsection (3) do not include any policy that provides for increases in remuneration based on employee-related savings.

### **4A Temporary arrangements for determination of basic salary**

- (1) A determination of basic salary under section 4 by the Tribunal must not fix an amount that would increase the basic salary to an amount that is more than the amount determined to have effect from 1 July 2022.
- (2) To the extent of an inconsistency between this section and section 4(3), this section prevails.
- (3) This section is repealed at the end of the day on 30 June 2025.

### **5 Salary of members (other than recognised office holders)**

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

### **6 Salary and expense allowance of recognised office holders**

- (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.

## Part 2A Employment benefits

### 6A Employment benefits

- (1) A member (including a recognised office holder) is entitled to be provided with employment benefits if the member elects by notice in writing to the designated employer to be provided with those benefits and if the designated employer approves of that election.
- (2) For the purposes of this section, an **employment benefit** is a benefit (other than a salary sacrifice contribution) that—
  - (a) is or is to be provided to a member at the cost of the State, and
  - (b) is of a private nature, and
  - (c) is of a kind approved as an employment benefit by a determination of the Tribunal, either generally or in relation to any member or class of members.
- (3) The cost of providing an employment benefit (including any applicable tax or administrative costs) is to be as determined from time to time by the designated employer and the remuneration otherwise payable to the member is reduced by the cost of providing the benefit.
- (4) The designated employer may from time to time determine the terms and conditions on which, including the manner in which, employment benefits are to be provided.
- (5) Any determination by the designated employer under this section as to the costing or terms and conditions of, or any other matter relating to, the provision of employment



benefits is to be consistent with any determination of the Tribunal relating to those matters.

- (6) The provision of an employment benefit to a member may be terminated at any time by the member by notice in writing to the designated employer.
- (7) For the purposes of this section, the **designated employer** is the person holding the position of Executive Manager, Parliamentary Services in the Parliament's Department of Parliamentary Services or the holder of a position of the following kind that is prescribed by the regulations for the purposes of this section—
  - (a) a position of an officer of either House of Parliament,
  - (b) any position under the separate control of the President or Speaker, or under their joint control.
- (8) This section has effect despite anything to the contrary in this Act, the [Constitution Act 1902](#) or any other Act.

#### **6B Functions of Tribunal relating to employment benefits**

- (1) The Tribunal may, from time to time, make determinations with regard to employment benefits.
- (2) The Tribunal may, by a determination—
  - (a) fix the type of benefits that may be provided as employment benefits, and
  - (b) fix conditions on which employment benefits are to be provided, and
  - (c) make provision for the costing of employment benefits.
- (3) A determination may amend or revoke a determination that has already been made.
- (4) A determination or a provision of a determination may relate to all or any members or to any class of members.
- (5) In fixing the type of benefits that may be provided as employment benefits, the Tribunal may only approve a benefit of a kind that is available to a Public Service employee (other than a benefit that is only available to Public Service senior executives within the meaning of the [Government Sector Employment Act 2013](#)).

#### **6C Special determinations as to employment benefits**

- (1) The Minister may direct that a special determination be made by the Tribunal as regards employment benefits.
- (2) Any such direction—
  - (a) may relate to all or any employment benefits or 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 as the Minister directs and is to take effect from such time as the Tribunal specifies in the determination.

## **7 (Repealed)**

## **Part 3 Additional entitlements**

**8** (Renumbered as sec 14G)

### **9 Tribunal may make determinations as to additional entitlements**

The Tribunal may make determinations of additional entitlements that are to be available to a member or recognised office holder.

### **10 General provisions as to determinations of additional entitlements**

(1) In making determinations under this Part, 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) Members and recognised office holders are entitled to an electoral allowance and other additional entitlements in accordance with the provisions of applicable determinations of the Tribunal under this Part.

(2A) The Tribunal may, by a determination—

(a) fix the amount of the electoral allowance, and

(b) fix the classes, terms and other incidents of other additional entitlements.

(2B) The following provisions apply to the electoral allowance—

(a) the allowance is payable to members (whether or not recognised office holders),

(b) the allowance is payable in money,

(c) the allowance is payable as compensation in respect of all incidents of the performance of parliamentary duties (other than those compensated or reimbursed by other additional entitlements),

(d) different amounts may be fixed for different members or classes of members.

- (2C) Subsections (3) and (4) apply to determinations with respect to additional entitlements, other than the electoral allowance.
- (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 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) (Repealed)

#### **11 Annual determinations of additional entitlements**

- (1) An annual determination as regards additional entitlements is to be made on or before 1 June in each year (or such later date as the Chief Commissioner directs under this section), with effect from 1 July in that year.
- (2) The Chief Commissioner may, because of the illness of the person holding office as the Tribunal or for any other reason that seems proper to the Chief Commissioner, from time to time by order published in the 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 entitlements are to continue to be provided on the current basis, and additional entitlements in the

nature of 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.

## **12 Special determinations of additional entitlements**

- (1) The Minister may direct that a special determination be made as regards additional entitlements.
- (2) Such a direction—
  - (a) may relate to all or any additional entitlements 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 as the Minister directs and is to take effect from such time as the Tribunal specifies in the determination.

## **12A Financial implications of determinations**

- (1) In making a determination under this Part, the Tribunal is to have regard to the financial implications of the determination for the State.
- (2) The Tribunal is required—
  - (a) to invite the Secretary of the Treasury to make submissions to the Tribunal about those financial implications, and
  - (b) to take any submission so made into account before making the determination.
- (3) A copy of any such submission made by the Secretary of the Treasury is to be included as an annexure to the determination.

**13, 14** (Renumbered as secs 14H, 14I)

## **Part 3A Parliamentary superannuation**

### **Division 1 Approval of amendments to [Parliamentary Contributory Superannuation Act 1971](#)**

#### **14A Superannuation approvals**

- (1) The Tribunal may, for the purposes of section 4 of the [Parliamentary Contributory Superannuation Act 1971](#), determine whether any proposed amendment to that Act is warranted.
- (2) In determining whether any amendment is warranted, the Tribunal—

- (a) must have regard to the Heads of Government Agreement, that commenced on 1 July 1996, relating to the exemption of certain State public sector superannuation schemes from the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth, including whether the amendment is consistent with that agreement, and
  - (b) must have regard to the effects of any proposed amendment on the present and future liabilities of the Parliamentary Contributory Superannuation Fund, and
  - (c) may obtain, and have regard to, actuarial advice relating to the costs and effects of any proposed amendment.
- (3) If the Tribunal determines that an amendment is warranted, the Tribunal must issue a certificate approving the amendment and forward it to the member of the Legislative Assembly requesting the determination. If the member proposes to proceed with or support the amendment, the member is to cause the certificate to be laid before the Legislative Assembly (unless a certificate to the same effect has already been laid before the Legislative Assembly in the same Session of Parliament).
  - (4) The Tribunal must cause a determination that an amendment is warranted to be published in the Gazette if notified by any member of the Legislative Assembly that the member proposes to proceed with or support the amendment.
  - (5) Section 14I applies to the Tribunal in the exercise of its functions under this Division in the same way as it applies to the exercise of its functions in making determinations.
  - (6) Without affecting the generality of section 14I, the Tribunal may, in considering whether to approve an amendment, invite submissions from the Trustees of the Parliamentary Contributory Superannuation Fund.

## **Division 2 Superannuation arrangements for post-2007 members**

### **14B Application of Division**

- (1) This Division applies to members, other than continuing members under the *Parliamentary Contributory Superannuation Act 1971*.

**Note—**

Section 4A of the *Parliamentary Contributory Superannuation Act 1971* closes the Parliamentary Contributory Superannuation Scheme to members elected at or after the 2007 general election (other than existing members who are re-elected).

- (2) In this section, a **continuing member** includes a member who has elected to cease to have deductions of salary made under section 18B of the *Parliamentary Contributory Superannuation Act 1971*.

## 14C Definitions

In this Division and Division 3—

**complying approved deposit fund** means a complying approved deposit fund for the purposes of section 47 of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

**complying superannuation fund** means a complying superannuation fund for the purposes of section 45 of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

**First State Superannuation Fund** has the same meaning as **Fund** has in the *First State Superannuation Act 1992*.

**retirement savings account** has the same meaning as in the *Retirement Savings Accounts Act 1997* of the Commonwealth.

**salary** of a member means—

- (a) the maximum contribution base within the meaning of the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth, or
- (b) the total of the following amounts—
  - (i) the remuneration payable to the member by way of basic salary and additional salary (if any),
  - (ii) the cost of any employment benefits provided to the person (as determined by the designated employer),
  - (iii) the amount of any additional superannuation contributions made by way of salary sacrifice under section 14F, or
- (c) the salary of the member prescribed by the regulations for the purposes of this definition,

whichever is the greatest.

**2007 general election** means the first State general election held after the commencement of this section.

## 14D Superannuation contributions for members

- (1) The State of New South Wales must make, for each member, a superannuation contribution equivalent to the salary contribution percentage for the person for each financial year, or part, for which the person is a member of Parliament.
- (2) A contribution is not required to be made in respect of any period before the 2007

general election.

- (3) The superannuation contribution payable under this section, and any additional contributions under section 14F, are payable out of the Consolidated Fund, which, to the necessary extent, is appropriated accordingly.
- (4) In this section—
  - salary contribution percentage** for a person means—
    - (a) 9% of the salary, unless paragraph (b) applies, or
    - (b) such other greater percentage of the salary of the person as may be prescribed by the regulations for the purposes of this definition.

#### **14E Payment of superannuation contributions**

- (1) The contribution payable under section 14D for a member is to be paid—
  - (a) to the First State Superannuation Fund, or
  - (b) if a nomination is in force under this section, to the nominated complying superannuation fund, complying approved deposit fund or retirement savings account.
- (2) A member may, by notice in writing to the Treasurer, nominate a complying superannuation fund other than the First State Superannuation Fund or a complying approved deposit fund or retirement savings account as the fund or account to which the contribution is to be paid.
- (3) A member may, by notice in writing to the Treasurer, revoke or vary a nomination under this section at any time.
- (4) The regulations may make provision for or with respect to matters relating to membership of the First State Superannuation Fund of members for whom contributions are paid to the Fund under this section and other ancillary matters. The regulations may, for that purpose, apply provisions of the [First State Superannuation Act 1992](#) with any necessary modifications.

### **Division 3 Salary sacrifice for additional superannuation contributions**

#### **14EA Application of Division**

This Division applies to all members, including continuing members under the [Parliamentary Contributory Superannuation Act 1971](#) referred to in section 14B (**contributors to the PCSS**).

#### **14F Salary sacrifice arrangements**

- (1) A member may elect, by notice in writing to the designated employer, to make additional superannuation contributions by way of salary sacrifice contributions.
- (2) A **salary sacrifice contribution** is a contribution paid in accordance with an approval by the designated employer under which the member elects to forgo remuneration yet to be earned and the remuneration foregone is to be applied by the designated employer as a superannuation contribution to a superannuation fund, approved deposit fund or retirement account.
- (3) An election may be made at any time, but only in respect of future salary payments.
- (4) An election is to specify the percentage or amount of the member's basic salary and additional salary (if any) payable to the member that is to be used to make the additional superannuation contributions.
- (4A) If an election is made by a contributor to the PCSS, the election is to specify that the additional superannuation contributions are to be paid to one of the following—
  - (a) the First State Superannuation Fund,
  - (b) a complying superannuation fund,
  - (c) a complying approved deposit fund,
  - (d) a retirement savings account.
- (5) An election is to be in the form approved by the designated employer and to be accompanied by the information required by the designated employer.
- (6) A member may elect, by notice in writing to the designated employer, to vary or revoke an election.
- (7) An election takes effect when it is approved by the designated employer and the trustee or administrator of the superannuation fund or account concerned.
- (8) If an election is in force under this section—
  - (a) the basic salary and additional salary (if any) otherwise payable to the member is to be reduced by the amount of the contributions (despite any other provision of this Act), and
  - (b) any such contributions are to be paid to the First State Superannuation Fund, or to another complying superannuation fund, a complying approved deposit fund or a retirement savings account nominated by the member for that purpose under section 14E or this section.

### **Part 3B The Tribunal**



#### **14G The Tribunal**

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

#### **14H Reports of the Tribunal**

- (1) The Tribunal is to make a report to the Chief Commissioner of each determination under this Act.
- (2) The Chief Commissioner 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.
- (5) (Repealed)

#### **14I Inquiries etc by the Tribunal**

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

#### **15 Payment of Parliamentary remuneration, allowances and employment benefits**

- (1) Remuneration 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.
- (4A) Employment benefits are subject to such provisions as may be specified in a determination that is in force.
- (5) Any payment of remuneration or additional allowances 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 (including the cost of providing employment benefits and salary sacrifice contributions) is payable out of the Consolidated Fund, which, to the necessary extent, is appropriated accordingly.

#### **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.

#### **16 Terms of office**

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

(3) For the purposes of this Act, a person who continues as President, or as Deputy President and Chair of Committees, of the Legislative Council under section 22G (6A) of the *Constitution Act 1902* does not cease to be a member of the Legislative Council while so continuing as President or as Deputy President and Chair of Committees.

(4) For the purposes of this Act, a person who continues as Speaker, or as Deputy Speaker, of the Legislative Assembly under section 31 (5) of the *Constitution Act 1902* does not cease to be a member of the Legislative Assembly while so continuing as Speaker or as Deputy Speaker.

## **17 (Repealed)**

### **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.

## **18 Determinations or rulings not to be subject to judicial review**

A determination (including a determination under section 14A) of the Tribunal, or a ruling of the Tribunal under section 17A, 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.

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

- (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.

## **20 Savings, transitional and other provisions**

Schedule 3 has effect.

## **21 Regulations**

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.

## **Schedule 1 Additional salaries and expense allowances**

*intref* (expressed as a percentage of the basic salary)

(Sections 3, 6)

<b>Recognised office holder</b>	<b>Additional salary</b>	<b>Expense allowance</b>
---------------------------------	--------------------------	--------------------------

**Part 1 Ministers**

Premier	95%	55% less such percentage as is necessary to reduce the Premier's expense allowance by \$15,000
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%
Senior Ministers, being Ministers not referred to above who are designated as Senior Ministers by the Premier	67%	26%
Other Ministers	57%	26%

**Part 2 Other office holders**

President of the Legislative Council	57%	26%
Speaker of the Legislative Assembly	57%	26%
Deputy Speaker of the Legislative Assembly	30%	20%
Parliamentary Secretary to the Premier (Leader of the House) in the Legislative Assembly	30%	20%
Deputy Leader of the Government in the Legislative Council (when not a Minister)	20%	14%
Deputy President and Chair of Committees in the Legislative Council	30%	20%
Assistant Speaker of the Legislative Assembly	20%	14%
Leader of the Opposition, when not Leader or Deputy Leader of the Opposition in the Legislative Council or Leader or Deputy Leader of the Opposition in the Legislative Assembly	57%	26%
Leader of the Opposition in the Legislative Council	20%	14%
Assistant President 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%

Deputy Leader in the Legislative Council (other than the Leader of the Opposition or the Deputy Leader of the Opposition) of a recognised political party not fewer than 9 members of which are members of the Legislative Council and of which no member is a Minister	7%	6%
Leader of the Opposition in the Legislative Assembly (when leader of a party)	57%	26%
Leader of the Opposition in the Legislative Assembly (when not leader of a party)	0%	0%
Deputy Leader of the Opposition in the Legislative Assembly	20% (0% while Leader of the Opposition is a member of the Legislative Council)	14% (0% while Leader of the Opposition is a member of the Legislative Council)
Government Whip in the Legislative Council	13%	7%
Deputy Government Whip in the Legislative Council	7%	6%
Opposition Whip in the Legislative Council	13%	7%
Deputy Opposition Whip in the Legislative Council	7%	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	13%	7%
Whip in the Legislative Assembly of a recognised political party not fewer than 10 members of which are members of the Legislative Assembly	11%	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	11%	7%
Chair of the Committee on Children and Young People constituted under the <a href="#">Advocate for Children and Young People Act 2014</a>	6.25%	6.25%
Chair of the Committee on the Health Care Complaints Commission constituted under the <a href="#">Health Care Complaints Act 1993</a>	6.25%	6.25%

Chair of the Committee on the Independent Commission Against Corruption constituted under the <i>Independent Commission Against Corruption Act 1988</i>	6.25%	6.25%
Chair of the Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission constituted under the <i>Ombudsman Act 1974</i>	6.25%	6.25%
Chair of the Legislation Review Committee constituted under the <i>Legislation Review Act 1987</i>	6.25%	6.25%
Chair of the Public Accounts Committee constituted under the <i>Government Sector Audit Act 1983</i>	6.25%	6.25%
Chair of the Standing Committee on Parliamentary Privilege and Ethics of the Legislative Assembly	6.25%	6.25%
Chair of the Legislative Assembly Committee on Community Services	6.25%	6.25%
Chair of the Legislative Assembly Committee on Environment and Planning	6.25%	6.25%
Chair of the Legislative Assembly Committee on Law and Safety	6.25%	6.25%
Chair of the Legislative Assembly Committee on Transport and Infrastructure	6.25%	6.25%
Chair of the Legislative Assembly Committee on Investment, Industry and Regional Development	6.25%	6.25%
Chair of the Law and Justice Committee of the Legislative Council	6.25%	6.25%
Chair of the Privileges Committee of the Legislative Council	6.25%	6.25%
Chair of the Procedure Committee of the Legislative Council	6.25%	6.25%
Chair of the Public Accountability Committee of the Legislative Council	6.25%	6.25%
Chair of the Public Works Committee of the Legislative Council	6.25%	6.25%
Chair of the Regulation Committee of the Legislative Council	6.25%	6.25%
Chair of the Social Issues Committee of the Legislative Council	6.25%	6.25%
Chair of the State Development Committee of the Legislative Council	6.25%	6.25%
Chair of the Portfolio Committee No 1—Premier and Finance	6.25%	6.25%
Chair of the Portfolio Committee No 2—Health	6.25%	6.25%
Chair of the Portfolio Committee No 3—Education	6.25%	6.25%
Chair of the Portfolio Committee No 4—Industry	6.25%	6.25%
Chair of the Portfolio Committee No 5—Legal Affairs	6.25%	6.25%

Chair of the Portfolio Committee No 6—Transport and Customer Service	6.25%	6.25%
Chair of the Portfolio Committee No 7—Planning and Environment	6.25%	6.25%
Chair of the Joint Standing Committee on Electoral Matters	6.25%	6.25%
Chair of the Joint Standing Committee on Road Safety	6.25%	6.25%
Chair of the Joint Standing Committee on the Office of the Valuer-General	6.25%	6.25%

**Transitional provision—**

On and from the commencement of the [Parliamentary Remuneration Amendment Regulation 2019](#), the percentages prescribed in this Schedule, in relation to any of the following office holders, extend to any remuneration of a person (who is such an office holder on that commencement) that relates to any period in the current Parliament during which the person held the relevant office before that commencement—

- (a) the Chair of the Public Accountability Committee of the Legislative Council,
- (b) the Chair of the Public Works Committee of the Legislative Council,
- (c) the Chair of the Regulation Committee of the Legislative Council,
- (d) the Chair of the Portfolio Committee No 2—Health,
- (e) the Chair of the Portfolio Committee No 4—Industry,
- (f) the Chair of the Portfolio Committee No 5—Legal Affairs,
- (g) the Chair of the Portfolio Committee No 6—Transport and Customer Service,
- (h) the Chair of the Portfolio Committee No 7—Planning and Environment.

## Schedule 2 Parliamentary Remuneration Tribunal

(Section 14G)

### 1 Appointment of person to constitute Tribunal

- (1) The Tribunal is to consist of a person, appointed by the Governor on a part-time basis, who holds or has held a judicial office of this State.
- (1A) The Minister is not to recommend to the Governor the appointment of a person as the Tribunal unless the Minister certifies that the Chief Justice of the Supreme Court has nominated the person for the appointment.
- (2) Subject to this Act, the person appointed 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 person holding office as the Tribunal immediately before the substitution of subclause (1) by the [Industrial Relations Amendment \(Industrial Court\) Act 2016](#) continues in office despite that substitution until the person’s term ends, unless the person sooner vacates that office.



## **2 Persons assisting the Tribunal**

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

## **3 Fees etc**

- (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.

## **4 Vacation of office**

- (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 mentally incapacitated person, or
  - (f) is convicted in New South Wales of an offence that is punishable by 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
  - (g) is removed from office by the Governor.
- (2) The Governor may remove from office a person holding office as the Tribunal or a person appointed under clause 2.
- (3) The Minister is not to recommend to the Governor the removal of a person from office under subclause (1) (g) or (2) unless the Minister certifies that the Chief Justice of the Supreme Court has advised the Minister that the person should be removed from office.

## Schedule 3 Savings, transitional and other provisions

### 1 Savings and transitional regulations

The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts—

*Parliamentary Remuneration Amendment Act 2001*

*Parliamentary Remuneration Amendment (Recognised Office Holder) Act 2002*

*Parliamentary Superannuation Legislation Amendment Act 2005*

*Parliamentary Remuneration Amendment (Salary Packaging) Act 2009*

*Parliamentary, Local Council and Public Sector Executives Remuneration Legislation Amendment Act 2011*

### 2 Provision consequent on enactment of **Parliamentary Remuneration Amendment Act 2001**

Section 10, as amended by the *Parliamentary Remuneration Amendment Act 2001*, extends to a determination of the Tribunal that was in force on the commencement of those amendments.

### 3 Provision consequent on enactment of **Parliamentary Remuneration Amendment (Recognised Office Holder) Act 2002**

Anything done or omitted to be done on or after 27 March 1999 is as valid as it would have been had the amendment to Schedule 1 made by Schedule 1 [2] to the *Parliamentary Remuneration Amendment (Recognised Office Holder) Act 2002* been in force when the thing was done or omitted to be done.

### 4 Existing elections for superannuation contributions

(1) An existing contributions election continues in force as if it had been made under this Act as amended by the *Parliamentary Remuneration Amendment (Salary Packaging) Act 2009*.

(2) In this clause—

**existing contributions election** means an election by a member that was in force under section 14F immediately before the amendment of that section by the *Parliamentary Remuneration Amendment (Salary Packaging) Act 2009*.

### 5 Basic salary changes after introduction of Bill for the **Parliamentary, Local Council and Public Sector Executives Remuneration Legislation Amendment Act 2011**

If the annual allowance by way of salary payable under the law of the Commonwealth is varied after 20 June 2011 and before the Tribunal makes a determination under section 4

of this Act, the basic salary for the purposes of this Act does not include (and is taken never to have included) any amount that exceeds \$139,544.

**Note—**

The amount of \$139,544 represents the basic salary of \$136,140 on 20 June 2011 increased by 2.5%.