

TASMANIA

PARLIAMENTARY SALARIES, SUPERANNUATION AND ALLOWANCES BILL 2012

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**PARLIAMENTARY SALARIES,
SUPERANNUATION AND ALLOWANCES BILL
2012**

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

P. R. ALCOCK, *Clerk of the House*
15 May 2012

*(Brought in by the Premier, the Honourable Larissa Tahireh
Giddings)*

A BILL FOR

**An Act to make provision with respect to the salaries,
superannuation and allowances to be paid to members of
Parliament**

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Parliamentary Salaries, Superannuation and Allowances Act 2012*.

2. Commencement

This Act commences on 1 July 2012 but if this Act does not receive the Royal Assent by that date it is taken to have commenced on 1 July 2012.

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3. Interpretation

In this Act, unless the contrary intention appears –

accumulation scheme means the Tasmanian Accumulation Scheme established under the *Public Sector Superannuation Reform Act 1999*;

additional salary means the additional salary that is payable to certain members of Parliament under Part 2 of Schedule 1;

allowances and benefits means the allowances and benefits to which members of Parliament are entitled under Schedule 2;

basic salary means the amount determined from time to time under Part 1 of Schedule 1 as the basic salary;

Commission means a Full Bench of the Tasmanian Industrial Commission constituted under sections 5 and 14 of the *Industrial Relations Act 1984*;

Committee means the Committee of Review established by order-in-council dated 23 October 1996 to enquire into certain allowances and benefits to which members of Parliament are entitled;

complying superannuation scheme means a complying superannuation fund as

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provided by the law of the Commonwealth;

contributory scheme means the superannuation arrangements provided by Part 5 of the *Retirement Benefits Regulations 2005*;

House means a House of Parliament;

member of Parliament means a member of either House;

Opposition means the recognised non-government party with the greatest number of members in the House of Assembly;

parliamentary salary means the basic salary that is payable to a member of Parliament and any additional salary payable to the member of Parliament;

RBF Board means the Retirement Benefits Fund Board continued in existence under section 7 of the *Retirement Benefits Act 1993*;

recognised non-government party means a political party that has 4 or more members of Parliament in the House of Assembly, being a political party of which no member is the Premier;

relevant officer means the Clerk of the House of Assembly, the Clerk of the Legislative Council or the Secretary of the

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responsible Department in relation to the *Constitution Act 1934*, as the case may require;

RSA means a Retirement Savings Account within the meaning of the *Retirement Savings Accounts Act 1997* of the Commonwealth;

Second Committee means the Committee of Review established by order-in-council dated 1 June 2006 to review certain allowances and benefits to which members of Parliament are entitled;

transfer day means the day specified in a notice under section 7(5) of the *Public Sector Superannuation Reform Act 1999*.

4. Parliamentary salaries and allowances and benefits of members of Parliament

- (1) The parliamentary salaries and allowances and benefits that are to be paid to members of Parliament are payable in accordance with, and at the rates specified in or determined by reference to, the provisions of Schedules 1 and 2.
- (2) Where, after calculating the amount of any parliamentary salary or allowances and benefits that, but for this subsection, would be payable to a member of Parliament under this Act, that amount comprises a number of cents less than 100 or a number of whole dollars and a number

of cents less than 100, that number of cents is, if less than 50, to be disregarded, but if 50 or more, is to be treated as one dollar.

- (3) The superannuation entitlements for members of Parliament elected after 1 July 1999 and to whom neither the *Parliamentary Superannuation Act 1973* nor the *Parliamentary Retiring Benefits Act 1985* applies are to be determined in accordance with Schedule 3.

5. Basic salary and allowances and benefits payable to member of Parliament calculated from day he or she is elected

The basic salary and allowances and benefits payable to a member of Parliament are to be calculated from and including the day on which he or she is elected as a member of Parliament and, except as provided by section 6, cease to be payable on the day on which he or she ceases to be a member of Parliament.

6. Parliamentary salary and allowances and benefits payable to member of House of Assembly ceasing to be member

Where a member of the House of Assembly ceases to be a member of that House by reason of the dissolution of that House or the expiry of that House by the effluxion of time, he or she is, notwithstanding the cessation of his or her membership of that House, entitled to continue

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to receive the parliamentary salary and allowances and benefits payable to that member until the day fixed for the taking of the poll next following the dissolution or expiry of that House.

7. Apportionment

The *Apportionment Act 1871* applies to and in relation to all remuneration that is payable by virtue of this Act as if the Crown were bound by that Act.

8. Appropriation

Parliamentary salaries, employer superannuation contributions and allowances and benefits that are payable under this Act are payable out of the Consolidated Fund which, to the necessary extent, is appropriated accordingly.

9. Further amendment of regulations not prevented

The amendment by this Act of a provision of any regulations does not prevent that or any other provision of those regulations from being amended or rescinded by a later regulation.

10. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act in so far as it relates to the superannuation entitlements of members of Parliament is assigned to the Treasurer and the department responsible to the Treasurer in relation to the administration of this Act in so far as it relates to the superannuation entitlements of members of Parliament is the Department of Treasury and Finance; and
- (b) the administration of this Act except in so far as it relates to the superannuation entitlements of members of Parliament is assigned to the Premier and the department responsible to the Premier in relation to the administration of this Act except in so far as it relates to the superannuation entitlements of members of Parliament is the Department of Premier and Cabinet.

11. Consequential amendments

The legislation specified in Schedule 7 is amended as specified in that Schedule.

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12. Legislation repealed

The legislation specified in Schedule 8 is repealed.

**SCHEDULE 1 – SALARIES PAYABLE TO MEMBERS
OF PARLIAMENT**

Section 4(1)

PART 1 – BASIC SALARY

1. Member to be paid basic salary

- (1) Each member of Parliament is to be paid the basic salary.
- (2) Notwithstanding subclause (1), a member of Parliament may, by notice in writing given to the relevant officer, elect to be paid a salary, specified in the notice, that is less than the basic salary.
- (3) A member of Parliament may withdraw a notice under subclause (2) by another notice in writing given to the relevant officer and, on any such withdrawal, the member of Parliament is to be paid the basic salary.

2. Basic salary

- (1) The basic salary is 95.734 per cent of the reference salary specified in subclause (2).
- (2) The reference salary is the salary rate applicable to Level 1 in Range 1 of Band 9 of the General Stream of the Tasmanian State Service Award.

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3. Auditor-General to determine amount

- (1) The Auditor-General must, not later than 14 days after any adjustment to the reference salary –
 - (a) determine the amount that is the basic salary; and
 - (b) cause a notice to be published in the next *Gazette* after the determination is made specifying the amount so determined.
- (2) A determination under subclause (1) has effect on and from the date on which the adjustment to the reference salary takes effect.
- (3) A notice under subclause (1)(b) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

**PART 2 – ADDITIONAL SALARY PAYABLE TO PREMIER,
DEPUTY PREMIER, MINISTERS OF THE CROWN, THE
SECRETARY TO CABINET AND CERTAIN OFFICERS OF THE
PARLIAMENT**

**1. Additional salary payable to Premier, Deputy
Premier, Ministers of the Crown, Secretary to
Cabinet and certain officers of the Parliament**

- (1) In addition to the basic salary, an additional salary is payable to a member of Parliament who holds an office specified in Table 1 of subclause (2) or Table 2 of subclause (3).
- (2) The additional salary payable to a member of Parliament holding an office specified in Table 1 of this subclause is to be such percentage of the amount of the basic salary as was determined by the Commission and published by notice in the *Gazette* dated 15 May 1997, the relevant provisions of which notice are set out in Schedule 4.

Table 1

Premier

Deputy Premier

Minister

Secretary to Cabinet

Legislative Council

President

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Leader for the Government

Chair of Committees

Deputy Leader for the Government

House of Assembly

Speaker

Chair of Committees

Leader of the Opposition

Deputy Leader of the Opposition

Government Whip

Opposition Whip

- (3) The additional salary payable to a member of Parliament holding the office specified in Table 2 of this subclause is to be such percentage of the amount of the basic salary as was determined by the Committee and published by notice in the Gazette dated 15 May 1997, the relevant provision of which notice is set out in Schedule 5.

Table 2

House of Assembly

Leader of a recognised non-government party, other than the Opposition

2. Payment of additional salary in relation to more than one office

- (1) If a member of Parliament holds more than one office specified in clause 1, the member is entitled to receive additional salary in respect of only one such office.
- (2) If a member of Parliament holds more than one office specified in clause 1, the member is entitled to be paid the amount of additional salary that is the highest amount applicable to those offices.

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PART 3 – GENERAL PROVISIONS RELATING TO SALARIES

1. Salary to be paid in equal instalments on certain dates

A parliamentary salary that is payable under the provisions of Parts 1 and 2 of this Schedule is to be paid by equal instalments on the fifteenth and last days of each month.

2. Member of Parliament may elect to salary sacrifice

- (1) Notwithstanding section 4, a member of Parliament may elect, in writing to the relevant officer, at any time but not more than once in a period of one year, that his or her parliamentary salary determined in accordance with section 4 may be provided –
 - (a) in part by the payment of salary to the member of Parliament; and
 - (b) in part by the payment of employer superannuation contributions to an RSA or a regulated superannuation fund, which may include the accumulation scheme.
- (2) A member of Parliament who –

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(a) is subject to the *Retirement Benefits (Parliamentary Superannuation) Regulations 2002*; and

(b) elects to sacrifice some or all of his or her parliamentary salary in accordance with subclause (1) –

is taken, for the purposes of paying superannuation contributions or receiving superannuation benefits under those regulations, to have received the parliamentary salary applicable to that member, notwithstanding the salary sacrifice.

(3) A member of Parliament who –

(a) is elected after 1 July 1999; and

(b) is not subject to the *Retirement Benefits (Parliamentary Superannuation) Regulations 2002*; and

(c) elects to sacrifice some or all of his or her parliamentary salary under subclause (1) –

is taken to have received the parliamentary salary applicable to him or her, notwithstanding the salary sacrifice.

(4) If a member of Parliament elects to sacrifice some or all of his or her salary under subclause (1), the election has effect from the date of the election or from a later date specified in the election for that purpose.

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**SCHEDULE 2 – ALLOWANCES AND BENEFITS TO
WHICH MEMBERS OF PARLIAMENT ARE
ENTITLED**

Section 4(1)

**1. Allowances and benefits to which members of
Parliament are entitled**

- (1) The amount of the allowances and benefits payable to members of Parliament are those specified in the determination of the Second Committee and published by notice in the *Gazette* dated 23 August 2006, and as subsequently determined by the Auditor-General in accordance with paragraph 13.1 of that determination.
- (2) The amount of the allowances and benefits payable to members of Parliament at the commencement of this Act are set out in Schedule 6.
- (3) For each allowance and benefit specified as a monetary amount in Schedule 6, the amount of the allowance and benefit payable to members of Parliament is to be adjusted at the same time as the basic salary is adjusted and by the same percentage movement that is to apply to the basic salary.
- (4) The Auditor-General must, not later than 14 days after any adjustment to the basic salary –

- (a) determine in accordance with subclause (3) the amount of each adjusted allowance and benefit specified as a monetary amount in Schedule 6; and
 - (b) cause a notice to be published in the next available *Gazette* after the determination is made specifying the amounts so determined.
- (5) A determination under subclause (4)(a) has effect on and from the date on which the adjustment to the basic salary takes effect.
- (6) A notice under subclause (4)(b) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

2. Certain other allowances and benefits to which members of Parliament or former members of Parliament are entitled

In addition to the allowances and benefits referred to in clause 1, a member of Parliament or former member of Parliament, as the case may be, is entitled to the following:

- (a) a benefit to which a member of Parliament or former member of Parliament is entitled under any superannuation scheme, arrangement or agreement;

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- (b) a benefit to which a member of Parliament is entitled under a personal accident and illness insurance policy;
- (c) staff, office accommodation, equipment (including the capital and recurrent costs of that equipment), facilities and other resources provided to assist a member of Parliament in the performance of the member of Parliament's duties;
- (d) the reimbursement of expenses incurred by a member of Parliament in the course of –
 - (i) representing the Parliament, with the approval of the presiding officer of the Legislative Council and the presiding officer of the House of Assembly, at any conference, activity or event connected with the member of Parliament's parliamentary duties; or
 - (ii) representing a House, with the approval of that House or the presiding officer of that House, at any conference, activity or event connected with the member of Parliament's parliamentary duties.

**SCHEDULE 3 – SUPERANNUATION FOR MEMBERS
OF PARLIAMENT ELECTED AFTER 1 JULY 1999**

Section 4(3)

**1. Superannuation entitlements of members of
Parliament elected after 1 July 1999**

- (1) This Schedule applies only in respect of a member of Parliament elected after 1 July 1999 who is not subject to the *Retirement Benefits (Parliamentary Superannuation) Regulations 2002*.
- (2) Where a person is elected as a member of Parliament after 1 July 1999 and before the transfer day –
 - (a) he or she is not eligible to become a member of the contributory scheme; and
 - (b) references to an employee in the *Public Sector Superannuation Reform Act 1999* are to be read as including references to the member of Parliament; and
 - (c) the rate of contributions to be made in respect of the member of Parliament is 9% of the parliamentary salary determined in accordance with section 4; and
 - (d) all such contributions are to be paid into an RSA or complying superannuation scheme nominated by the member of Parliament in accordance with

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subclause (4) or, if no such nomination is made, into the accumulation scheme.

- (3) Where a person is elected as a member of Parliament on or after the transfer day –
 - (a) he or she is not eligible to become a member of the contributory scheme; and
 - (b) subject to subclause (4), he or she is to be a member of the accumulation scheme; and
 - (c) references to an employee in the *Public Sector Superannuation Reform Act 1999* are to be read as including references to the member of Parliament; and
 - (d) the rate of contributions to be made in respect of the member of Parliament is 9% of the parliamentary salary determined in accordance with section 4.
- (4) The member of Parliament may at any time elect to become a member of an RSA or a complying superannuation scheme that is not the accumulation scheme.
- (5) If the member of Parliament has become a member of an RSA or a complying superannuation scheme that is not the accumulation scheme, he or she may elect at any time while holding office as such to become a member of the accumulation scheme.

- (6) Where the member of Parliament elects to become a member of a complying superannuation scheme that is not the accumulation scheme, the relevant officer must, on being satisfied after making reasonable inquiries that the nominated scheme is a complying superannuation scheme, make contributions –
 - (a) at the rate of 9% of the parliamentary salary determined in accordance with section 4; and
 - (b) in the manner required by the rules of that scheme and the requirements of the law of the Commonwealth.
- (7) Where the member of Parliament has become a member of an RSA, the relevant officer must make contributions to that RSA at the rate of 9% of the parliamentary salary determined in accordance with section 4.
- (8) An election under this section is to be made in writing to the relevant officer.

2. Voluntary contributions and spouse contributions

- (1) A member of Parliament may elect, in writing to the RBF Board, to make voluntary contributions or spouse contributions to the accumulation scheme.
- (2) In this clause –

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spouse includes the person who is in a significant relationship, within the meaning of the *Relationships Act 2003*, with a member of Parliament.

3. Lump sum benefit may be taken as allocated pension

(1) Where a member of Parliament or his or her surviving partner is entitled to a lump sum benefit, he or she may elect to transfer all or part of that benefit to the accumulation scheme or an allocated pension account established by the regulations under the *Retirement Benefits Act 1993*.

(2) In this clause –

surviving partner means the widow or widower of a member of Parliament, and includes the person with whom the member of Parliament was in a significant relationship, within the meaning of the *Relationships Act 2003*, but only where that widow, widower or person was, in the opinion of the Board –

(a) living with the member of Parliament at the time of his or her death on a genuine domestic basis; or

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- (b) in receipt of significant financial support from that member of Parliament.

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**SCHEDULE 4 – RELEVANT PROVISIONS FOR
PURPOSES OF CLAUSE 1(2) OF PART 2 OF
SCHEDULE 1**

Clause 1(2) of Part 2 of Schedule 1

1. Additional Salary

The percentage of the basic salary that is
additional salary is –

Office	Per cent
Premier	115
Deputy Premier	82
Minister	70
Secretary to Cabinet	30
Legislative Council	
President	35
Leader for the Government	70
Chair of Committees	20
Deputy Leader for the Government	35

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Office	Per cent
House of Assembly	
Speaker	35
Chair of Committees	20
Leader of the Opposition	70
Deputy Leader of the Opposition	35
Government Whip	6
Opposition Whip	6

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**SCHEDULE 5 – RELEVANT PROVISIONS OF NOTICE
FOR PURPOSES OF CLAUSE 1(3) OF PART 2 OF
SCHEDULE 1**

Clause 1(3) of Part 2 of Schedule 1

1. Additional salary

The percentage of the basic salary that is
additional salary is –

Office	Per cent
Leader of a recognised non- government party, other than the Opposition	35

**SCHEDULE 6 – RELEVANT PROVISIONS OF NOTICE
FOR PURPOSES OF CLAUSE 1(2) OF SCHEDULE 2**

Clause 1(2) of Schedule 2

1. Motor Vehicle Allowance

The Motor Vehicle Allowance on the commencement of this Act is \$14 423 per annum, and is to be adjusted by the same percentage movement and from the same operative date as applies to the basic salary from time to time.

2. Electorate Allowance

(1) Subject to subclause (2), the Electorate Allowances on the commencement of this Act are –

Legislative Council

Group 1	Apsley	\$45 677 per annum
Group 2	Murchison	\$42 070 per annum
	Western Tiers	
Group 3	Derwent	\$36 059 per annum
	Huon	
Group 4	Montgomery	\$33 656 per annum
	Rumney	

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Group 5	Mersey	\$28 848 per annum
	Rosevears	
	Windermere	
	Elwick	
	Nelson	
	Launceston	
	Pembroke	
	Hobart	

House of Assembly

Bass	\$39 667 per annum
Braddon	\$43 272 per annum
Denison	\$28 848 per annum
Franklin	\$34 858 per annum
Lyons	\$48 081 per annum

- (2) The Electorate Allowances in subclause (1) are to be adjusted by the same percentage movement and from the same operative date as applies to the basic salary from time to time.

3. Committee Sitting Fees

There is payable to a member of a Standing Committee, including the Community Development and Environment, Resources and Development Committees, for each day on which the member attends a summoned meeting of a Committee at which a quorum is present, a sitting fee calculated on a daily basis, irrespective of the number of meetings, according to the following scale:

- (a) in the case of a Chair of a Committee, at the rate of 0.12% of the annual amount of the basic salary for the time being;
- (b) in the case of any other member of a Committee, at the rate of 0.10% of that annual amount.

4. Telecommunications Allowance

- (1) There is payable to each member of Parliament a Telecommunications Allowance.
- (2) The Allowance is to be paid by way of reimbursement of –
 - (a) service and equipment charges for one telephone service installed in the member of Parliament's home, and 80% of all call charges applicable to that fixed line; and
 - (b) 80% of all charges for a mobile telephone –

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except as outlined in subclause (3).

- (3) The Allowance in respect of a mobile telephone for the holder of the offices of the President of the Legislative Council, Speaker of the House of Assembly, Leader of the Opposition and Leader of a recognised non-government party, is to be unlimited.

5. Entertainment Allowance

There is payable to a person holding an office specified in the first column herein, an Entertainment Allowance of an amount equivalent to the percentage of the basic salary as specified in the second column:

Column 1	Column 2
Office	% of basic salary
Premier	12
President of the Legislative Council	6
Speaker of the House of Assembly	6

6. Away From Home Travelling Allowance

- (1) There is payable to a member of Parliament an Away From Home Travelling Allowance for

expenses incurred while travelling on official parliamentary business.

- (2) The rate of the Allowance is to be calculated in accordance with the Travel Allowance and Meal Allowance components prescribed from time to time by the Tasmanian State Service Award of the Commission.
- (3) Where a member of Parliament exceeds the Allowance to which he or she is entitled, the member may, subject to any guidelines issued from time to time by the Government, claim an allowance by way of reimbursement of expenses, at the rate equivalent to the actual expenses incurred on submission of documentary evidence of those expenses.
- (4) The Allowances referred to in subclauses (2) and (3) are mutually exclusive and a member must claim either the Travelling Allowance referred to in subclause (2) or the reimbursement of actual expenses referred to in subclause (3).

7. Bass Strait Islands Travelling Allowance

- (1) There is payable to any member of Parliament travelling to the Bass Strait Islands on official Parliamentary business a Bass Strait Islands Travelling Allowance.
- (2) The Bass Strait Islands Travelling Allowance is payable by way of reimbursement of expenses incurred by members of Parliament.

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8. Taxi Allowance

- (1) In order to avoid the necessity for a ministerial driver to be on call, there is payable to a Minister a Taxi Allowance.
- (2) A Taxi Allowance is paid by way of a taxi voucher.

SCHEDULE 7 – CONSEQUENTIAL AMENDMENTS

Section 11

Judicial Review Act 2000

1. Schedule 2 is amended by omitting item 6.

Public Sector Superannuation Reform Act 1999

1. Section 3AA(2)(e) is amended by omitting “Schedule 2 to the *Parliamentary Salaries, Superannuation and Allowances Act 1973*” and substituting “Schedule 2 to the *Parliamentary Salaries, Superannuation and Allowances Act 2012*”.

Retirement Benefits (Parliamentary Superannuation) Regulations 2002

1. Regulation 3 is amended as follows:
 - (a) by omitting “*Parliamentary Salaries, Superannuation and Allowances Act 1973*” from the definition of *additional salary* and substituting “*Parliamentary Salaries, Superannuation and Allowances Act 2012*”;
 - (b) by omitting “*Parliamentary Salaries, Superannuation and Allowances Act 1973*” from the definition of *basic salary* and substituting “*Parliamentary Salaries,*

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*Superannuation and Allowances Act
2012”.*

2. Regulation 21(10) is amended by inserting “or the *Parliamentary Salaries, Superannuation and Allowances Act 1973*” after “*Parliamentary Salary and Allowances Act 1962*”.
3. Regulation 81(1)(c) is amended by omitting “item 7C of Part III of Schedule 1 to the *Parliamentary Salaries, Superannuation and Allowances Act 1973*” and substituting “Part 2 of Schedule 1 to the *Parliamentary Salaries, Superannuation and Allowances Act 2012*”.

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SCHEDULE 8 – LEGISLATION REPEALED

Section 12

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1973 (No. 27 of 1973)