

CLAUSE NOTES

Parliamentary Salaries, Superannuation and Allowances Amendment Bill 2015

PART 1 – PRELIMINARY

Clause 1: Short Title

This provides the short title to be used when citing the Act for any legal purpose.

Clause 2: Commencement

The Act commences on 1 July 2015, even if Royal Assent has to occur on a later date.

PART 2 – INDUSTRIAL RELATIONS ACT 1984 AMENDED

Clause 3: Principal Act

This Clause specifies that the *Industrial Relations Act 1984* (the IR Act) is the Act to be amended by this Part of the Bill.

Clause 4: Long title amended

The long title of the IR Act is to be amended by including a reference to the determination of the salaries, allowances and benefits for members of Parliament (MPs) as one of the purposes of that Act.

Clause 5: Section 15 amended (General functions and powers of the President)

This Clause amends section 15(1) of the IR Act, which specifies the general functions and powers of the President of the Tasmanian Industrial Commission (the Commission).

It adds a new function to the existing functions of the President.

The new function is for the President to appoint a Full Bench of the Commission, which will include the President as one member, to undertake the tasks required of the Commission under the *Parliamentary Salaries, Superannuation and Allowances Act 2012* (the PSSA Act).

Clause 6: Section 19AB inserted

This Clause inserts a new section (19AB) into Division 2 of Part II of the IR Act.

Division 2 Part II of the IR Act deals with the jurisdiction, function and powers of the Commission.

The new section to be inserted by this amendment provides for the full bench of the Commission, properly constituted by the President in accordance with section 15(1)(l), to determine the salaries, allowances and benefits for members of Parliament under the PSSA Act.

Clause 7: Section 94 amended (costs of administration)

This Clause amends section 94 of the IR Act which deals with the costs of administration of the IR Act.

The amendment ensures that the Commission is able to use the funds provided to it by the Parliament to meet the costs and expenses incurred by the Commission in determining the salaries, allowances and benefits for MPs under the PSSA Act.

PART 3 – PARLIAMENTARY SALARIES, SUPERANNUATION AND ALLOWANCES ACT 2012 AMENDED

Clause 8: Principal Act

This Clause specifies that the PSSA Act is the Act to be amended by this Part of the Bill.

Clause 9: Part 1: Heading inserted

This Clause inserts a new heading before section 1 of the PSSA Act.

Clause 10: Section 3 amended (Interpretation)

This Clause inserts certain new definitions into the Interpretation section of the PSSA Act to assist users of the Act to properly interpret its provisions.

The new terms defined for the purpose of the PSSA Act are: amending Act, determination and President of the Commission.

The Clause also provides for the removal of terms that no longer need defining in the PSSA Act once this amending Act commences.

The definition of basic salary is also amended to remove a reference to the previous means of the determination of the salary.

Clause 11: Parts 2 and 3 inserted

This Clause inserts two new parts (2 and 3) into the PSSA Act.

The new Part 2 deals with the functions of and method of inquiry to be used by the Commission in determining the salaries, allowances and benefits for MPs under the PSSA Act.

The new Part 3 deals with the Inquiries, Reports and Determinations to be made by the Commission.

New PART 2 – PERFORMANCE BY COMMISSION OF FUNCTIONS UNDER THIS ACT

New section: 3A Functions of Commission

This new section provides that it is a function of a Full Bench of the Commission, as constituted under section 15(1)(l) of the IR Act, to inquire into the kinds of and amounts of salary, allowances and benefits to which MPs are entitled and make determinations about those matters. (3A(1)(a) and (c))

In its first determination due before 1 March 2016 the Commission is also to inquire and report into the report of the tribunal established by Order-in-Council dated 26 June 2013 to determine the basic salary, allowances and benefits of members of Parliament. The report of the tribunal was tabled in Parliament on 3 June 2014. The recommendations in that report have not been implemented. (3A(1)(b))

The section also gives the Commission the powers necessary to perform its functions. (3A(2))

New section: 3B Method of Inquiry by Commission

This new section provides for the Commission in undertaking its functions to inform itself on matters as it sees fit and to receive written or oral submissions. Proceedings of the Commission are not required to be formal and the Commission is not bound by the rules of evidence.

If the Commission requests assistance, the Secretary, Department of Premier and Cabinet may appoint people to assist the Commission with its inquiries.

New PART 3 – INQUIRIES, REPORTS AND DETERMINATIONS BY COMMISSION

New section: 3C Inquiries by Commission

Subclause (1) provides for the matters into which the Commission must inquire. These matters are:

- (i) The amount of basic salary paid to MPs;
- (ii) The kinds of and amounts of any additional salary paid to MPs who are the holders of specific offices; and
- (iii) The kinds of and amounts of allowances paid to MPs.

The Commission may also inquire into matters related to these specified matters (Subclause (2)).

As the Minister administering the PSSA Act, the Premier may write to the Commission requiring that it inquire into a related matter. The Commission must do so if asked. Any notice by the Premier to the Commission must be tabled in Parliament (Subclauses (3), (4) and (5)).

New section: 3D Contents of reports

This Clause requires that the Commission, after conducting its inquiry, must prepare a report which is to be tabled in Parliament (new section 3F).

The report that the Commission must prepare is to contain:

- (i) Information that the Commission thinks appropriate to include; and
- (ii) The Commission's recommendations and determinations in relation to:
 - The amount of basic salary to be paid to MPs;
 - The kinds of and amounts of any additional salary to be paid to MPs who hold specific offices (which are the offices specified in Tables 1 and 2 of clause 1 of Part 2 of Schedule 1 of the PSSA Act or other offices the Commission decides to include for the purpose of an entitlement to additional salary); and
 - The kinds of and amounts of allowances to be paid to MPs.

In its first report the Commission must report on its inquiry into the report of the tribunal established by Order-in-Council dated 26 June 2013 to determine the basic salary, allowances and benefits of MPs which was tabled in Parliament on 3 June 2014 (subclause (1)(c)).

The Commission's determination is also to include the date on which the determination is to take effect, the date it is to cease and the date (not less than 12 months later) when the next inquiry and report by the Commission is to be made (subclauses (2)(e), (f), (g)).

A report, including a determination, by the Commission has to be tabled in Parliament (new section 3F) and may be disallowed (new section 3G).

Subclause (3) provides that the date of effect of a determination may be before the date it is tabled as part of a report, or before the period that the Houses of Parliament have to disallow the report and determination expires.

New section: 3E When inquiries and reports to be made

The first report of the Commission must be made before 1 March 2016 (subclause (1)).

This report will also include a report on the report of the tribunal established by Order-in-Council dated 26 June 2013 to determine the basic salary, allowances and benefits of MPs which was tabled in Parliament on 3 June 2014 (subclause (2)).

The first determination will specify the date by which the next report is due (in accordance with section 3D(2)(g)).

Future reports of the Commission will be required by the date specified in a determination as to when the next report is due (subclause (3)).

If a determination is disallowed by both Houses under section 3G, then a report must be provided by the Commission within 12 months from the date the determination was disallowed (subclause(4)).

New section: 3F Tabling of report

A report of the Commission must be tabled in both Houses of Parliament. The President provides a copy of the report to each Clerk who arranges for its tabling.

New section: 3G House may disallow determination

Once a report has been tabled each House of Parliament has 10 sitting days to consider a resolution, if one is put, disallowing the determination contained in the report.

A House may also by resolution extend the time for considering disallowance.

New section: 3H When determination takes effect

Unless it has been disallowed by both Houses of Parliament, a determination comes into effect on a date specified in the determination (subclause (1)).

The date of effect specified in a determination may be a date that is before it is tabled in the Parliament, as part of a report, or before the date by which disallowance would need to be resolved (subclause (2)).

New section: 3I Notice of determination

If both Houses of Parliament do not resolve to disallow a determination and it is to take effect, a notice is to be placed in *the Gazette* setting out the determination (subclause (1)).

Any such notice is not a statutory rule (subclause (2)).

Clause 12: Part 4 Heading inserted

This Clause inserts a new heading to cover the subject matter of sections 4 to 8 of the PSSA Act that deal with the entitlement of MPs to salaries, allowances and benefits.

Clause 13: Part 5 Heading inserted

This Clause inserts a new heading to cover the subject matter of sections 9 to 12 of the PSSA Act that deal with miscellaneous administration matters.

Clause 14: Section 10A inserted

This Clause inserts a power for regulations to be made for the purposes of the PSSA Act. Currently this power does not exist in the PSSA Act.

Clause 15: Schedule 1 amended (Salaries Payable to Members of Parliament)

Schedule 1 deals with the salaries (basic and additional) payable to MPs. A number of amendments are made by this Clause.

Basic Salary

The first set of amendments, subclauses 15(a) to (e), deal with the determination of the basic salary of a MP.

The basic salary for each of the financial years commencing 1 July 2012 and 1 July 2013 was determined by the Auditor-General in accordance with clause 3 of the Schedule. This clause is to be omitted by the amending Act and so the reference needs to refer to the wording of clause 3 as it was prior to the amending Act commencing (subclauses 15(a) and 15(b)).

The basic salary from 1 July 2014 was set by clause 2(3) of the PSSA Act and was fixed. The provision did not provide for any future increase, and was not for a specified period. Subclause 15(c) limits the effect of clause 2(3) of Schedule 1 to the 2014-15 financial year.

Subclause 15(d) inserts two new subclauses into clause 2 of Schedule 1 after subclause (3).

The new subclause 2(4) sets the basic salary for the 2015-16 financial year as \$120,835. This is 2 per cent more than the salary applying in the 2014-15 financial year, which was \$118,466.

The new subclause 2(5)(a) provides that the basic salary from 1 July 2016 is that set out in a determination of the Commission, which has taken effect and has not been disallowed.

If a determination does not come into effect when it is due to, because it has not been made, or the disallowance period has not expired, or it has been disallowed, the basic salary to which MPs are entitled immediately before the determination was due to take effect continues until a new determination is made (new subclause 2(5)(b)).

Subclause 15(e) removes the existing clauses 3 and 4 of Schedule 1 from the PSSA Act. These clauses are no longer necessary as they refer to past determinations.

Additional salary – offices specified in Table 1

The second set of amendments, subclauses 15(f) and (g), deals with the determination of the additional salary payable to some MPs that hold certain offices.

Clause 1(1) of Part 2 of Schedule 1 deals with the additional salary payable to the Premier, Deputy Premier, Ministers of the Crown, Secretary to Cabinet and Certain Officers of the Parliament, in addition to the basic salary.

The offices that currently attract additional salary are set out in two tables, Table 1 and Table 2, as part of clause 1 of Part 2 of Schedule 1 of the PSSA Act.

Subclause 15(f) changes a reference in subclause 1(1) of Part 2 of Schedule 1 from subclause (3) to subclause (4). This is required because of the insertion of some new subclauses into subclause 1(1) of Part 2 of Schedule 1 in accordance with subclause 15(g).

Subclause 15(g) removes the existing subclauses (2) and (3) from clause 1 of Part 2 of Schedule 1. New subclauses (2), (3), (4) and (5) are substituted.

The new subclause 1(2) of Part 2 of Schedule 1 sets the additional salary for offices specified in Table 1 for the 2015-16 financial year as the percentage of basic salary specified for that office in Schedule 4. These percentages have not changed from those payable currently.

The new subclause 1(3)(a) of Part 2 of Schedule 1 provides that the additional salary payable for offices specified in Table 1 from 1 July 2016 is that set out in a determination of the Commission, which has taken effect and has not been disallowed.

The amount of additional salary determined by the Commission may be expressed as an amount or as a percentage of the amount of the basic salary.

If a determination does not come into effect when it is due to, because it has not been made, or the disallowance period has not expired, or it has been disallowed, the additional salary to which MPs who hold offices specified in Table 1 are entitled immediately before the determination was due to take effect continues until a new determination is made (new subclause 1(3)(b)).

Additional salary – office specified in Table 2 and certain other offices

The new subclause 1(4) of Part 2 of Schedule 1 sets the additional salary for the office specified in Table 2 for the 2015-16 financial year as the percentage of basic salary specified for that office in Schedule 5. This percentage has not changed from that payable currently.

The new subclause 1(5)(a) provides that the additional salary payable from 1 July 2016 for the office specified in Table 2, and any other offices that the Commission decides to include for the purpose of an entitlement to additional salary, is that set out in a determination of the Commission, which has taken effect and has not been disallowed.

The amount of additional salary determined by the Commission may be expressed as an amount or as a percentage of the amount of the basic salary.

If a determination does not come into effect when it is due to, because it has not been made, or the disallowance period has not expired, or it has been disallowed, the additional salary to which MPs who hold offices specified in Table 1 are entitled immediately before the determination was due to take effect continues until a new determination is made (new subclause 1(5)(b)).

Clause 16: Schedule 2 amended (Allowances and Benefits to Which Members of Parliament are Entitled)

Schedule 2 of the PSSA Act deals with the allowances and benefits to which MPs are entitled. A number of amendments to Schedule 2 are made by this Clause.

Subclause 16(a) removes subclause 1(1) of Schedule 2. This subclause refers to a previous determination of allowances and benefits which is no longer required.

Subclause 16(b) makes a minor editorial change to subclause 1(2) of Schedule 2 – replacing 'amount' with 'amounts'.

Subclause 16(c) specifies that the allowances and benefits set out in Schedule 6 apply for the 2015-16 financial year.

Subclause 16(d) removes subclauses 1(3), (4), (5) and (6) of Schedule 2 as they refer to a previous determination mechanism which is no longer required. It substitutes a new subclause 1(3).

The new subclause 1(3)(a) of Schedule 2 sets the amounts of allowances and benefits to which MPs are entitled from 1 July 2016 to be those set out in a determination of the Commission, which has taken effect and has not been disallowed.

The amount of an allowance or benefit determined by the Commission may be expressed as an amount or as a percentage of the amount of the basic salary.

If a determination does not come into effect when it is due to, because it has not been made, or the disallowance period has not expired, or it has been disallowed, the allowances and benefits to which MPs are entitled immediately before the determination was due to take effect continue until a new determination is made (new subclause 1(3)(b) of Schedule 2).

Clause 17: Schedule 5 amended (Relevant Provisions for Purposes of clause 1(3) of Part 2 of Schedule 1))

Schedule 5 specifies the additional salary that applies to an office specified in Table 2 of Part 2 of Schedule 1.

This clause changes the reference in the heading from clause 1(3) to clause 1(4) to reflect an amendment made to Schedule 1 by clause 15 of this Bill, and removes the words 'of Notice' from the heading as they are no longer required.

Clause 18: Schedule 6 amended (Relevant Provisions for Purposes of clause 1(2) of Schedule 2))

Schedule 6 specifies the amounts of the allowances and benefits to which MPs are entitled for the 2015-16 financial year. The Motor Vehicle Allowance and the Electorate Allowances are set as dollar amounts and are updated to reflect the 2 per cent increase in the basic salary that applies from 1 July 2015.

Subclause 18(a) removes the words 'of Notice' from the heading as they are no longer required.

Subclause 18(b) sets the amount of the Motor Vehicle Allowance to \$15,305. The previous amount was \$15,005.

Subclause 18(c) removes the direct link between increases in the Motor Vehicle Allowance with increases in the basic salary. In the future the Commission will determine how the Motor Vehicle Allowance will vary.

Subclause 18(d) resets the Electorate Allowances, by removing the amounts of allowances specified in clause 2 and specifying new amounts. The amounts of the Electorate Allowances applying from 1 July 2015 are a 2 per cent increase over those applying as at 1 July 2014. The subclause also omits subclause 2(2) of Schedule 2 and so removes the direct link between increases in the Electorate Allowances with increases in the basic salary. In the future the Commission will determine how the Electorate Allowances will vary.

PART 4 – CONCLUDING PROVISION

Clause 19: Repeal of Act

The *Parliamentary Salaries, Superannuation and Allowances Amendment Act 2015* is repealed a year after it commences.