

CLAUSE NOTES

PARLIAMENTARY SALARIES, SUPERANNUATION AND ALLOWANCES BILL 2012

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 2012, even if Royal Assent has to occur on a later date.

Clause 3: Interpretation

This Clause defines certain terms that are used in the Bill.

Clause 4: Parliamentary salaries and allowances and benefits of members of Parliament

Subclause (1) provides that the salaries and allowances and benefits to which members of Parliament are entitled are those specified in Schedules 1 and 2 of the Bill.

Subclause (2) specifies how the amount of a salary or an allowance or benefit is rounded to the nearest dollar.

Subclause (3) provides that the superannuation entitlements to which members of Parliament elected after 1 July 1999 are entitled are those specified in Schedule 3 of the Bill. The subclause also provides that Members first elected before 1 July 1999 are covered by the *Parliamentary Superannuation Act 1973* or the *Parliamentary Retiring Benefits Act 1985*.

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

This Clause provides that members of Parliament are entitled to be paid the basic salary and allowances and benefits specified in Schedules 1 and 2 from and including the day on which he or she is elected.

Subject to the provisions in Clause 6 about members of the House of Assembly, these entitlements cease to be payable on the day on which a member ceases to be a member of Parliament (eg under the *Constitution Act 1934*, if a member resigns then on the day that the Governor receives such resignation or if a member is a candidate for election but fails to get elected then the day of that election (ie polling day)).

Clause 6: Parliamentary salary and allowances and benefits payable to Member of House of Assembly ceasing to be member

Clause 6 provides that if the House of Assembly is dissolved or expires and so an election is called, members of the Assembly are still entitled to be paid their parliamentary salaries, and allowances and benefits until the polling day.

Clause 7: Apportionment

This Clause confirms that the *Apportionment Act 1871* applies to the periodical payments made under this Bill and so such payments are considered to be accruing from day to day, and are accordingly apportionable in respect of time.

Clause 8: Appropriation

This Clause provides that the Consolidated Fund will be appropriated to the extent necessary to meet payment of the salaries and allowances and benefits due under the *Parliamentary Salaries, Superannuation and Allowances Act 2012*.

Clause 9: Further amendment of regulations not prevented

The Act amends certain provisions of some regulations as part of the consequential amendments in Schedule 7. This Clause confirms that this action does not prevent those provisions or indeed any other provisions in those regulations from being amended or rescinded by later regulations in the normal way.

Clause 10: Administration of Act

The Act, apart from those provisions related to superannuation, will be assigned to the Premier and administered by the Department of Premier and Cabinet. The parts of the Act that relate to superannuation entitlements are assigned to the Treasurer and administered by the Department of Treasury and Finance.

Clause 11: Consequential Amendments

This Act consequentially amends certain provisions in those enactments specified in Schedule 7. The consequential amendments mainly replace references to the *Parliamentary Salaries, Superannuation and Allowances Act 1973* with *Parliamentary Salaries, Superannuation and Allowances Act 2012*.

Clause 12: Legislation Repealed

This Act will repeal and replace the *Parliamentary Salaries, Superannuation and Allowances Act 1973*.

SCHEDULE 1 – SALARIES PAYABLE TO MEMBERS OF PARLIAMENT

PART 1 – BASIC SALARY

This Part of Schedule 1 provides each member of Parliament with an entitlement to be paid the basic salary and specifies how the amount of the basic salary is to be determined.

Clause 1: Member to be paid basic salary

This Clause provides each member of Parliament with an entitlement to be paid the basic salary.

Subclause (2) provides a mechanism by which a member may elect to receive a salary less than the basic salary.

Also if a member so elects he or she is entitled withdraw from that election by written notice (subclause(3)) and so receive the basic salary.

Clause 2: Basic salary

This Clause specifies how the basic salary is determined.

The basic salary for MPs is determined to be 95.734% of the salary rate applicable to salary rate applicable to Level 1 in Range 1 of Band 9 of the General Stream of the Tasmanian State Service Award, which is defined to be the “reference salary”.

On commencement of the Act this equates to the current basic salary (\$133,866 per annum).

This determination means that when the reference salary is adjusted the basic salary is to be adjusted as well.

Clause 3: Auditor-General to determine amount of basic salary

This Clause provides for the Auditor-General to determine the amount of the basic salary each time the reference salary is adjusted.

The results of the Auditor-General’s determination are required to be published by notice in the Gazette not later than 14 days after any adjustment to the reference salary.

The adjustment to the basic salary is determined to take effect on and from the date the relevant adjustment to the reference salary takes effect.

Any notice under subclause (1) is not a statutory rule (subclause (3)).

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

This Part of Schedule 1 provides members of Parliament who hold certain specified offices with an entitlement to be paid salary additional to the basic salary and specifies the amount of such additional salary.

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

In 1996 the Tasmanian Industrial Commission was asked to determine the additional salary payable to members of Parliament holding certain offices.

Each amount of additional salary determined by the Commission was expressed as percentage of the amount of the basic salary.

The Commission published its determination by notice in the Gazette dated 15 May 1997, of which the relevant provisions are set out in Schedule 4.

Also in 1996, a Committee of Review was asked to determine, among other matters, the additional salary (as an allowance) that should be payable to the Leader of a recognised non-government party other than the Opposition.

The amount of additional salary determined by the Committee was expressed as percentage of the amount of the basic salary.

The Committee published its determination by notice in the Gazette dated 15 May 1997, of which the relevant provision is set out in Schedule 5.

Subclause 1(1) provides that 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).

Subclause 1(2) confirms that the amounts of additional salary payable to the holders of the offices specified in Table 1 continue as determined by the Tasmanian Industrial Commission and published in the Gazette of 15 May 1997.

Subclause 1(3) confirms that the additional salary payable to the holder of the office specified in Table 2 continues in line with the allowance determined by the Committee of Review and published in the Gazette of 15 May 1997.

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

This Clause provides that if a member of Parliament holds more than one of the offices specified in Clause 1, then he or she may only be paid additional salary for one of those offices, not more than one.

Subclause (2) confirms that a member in these circumstances may be paid the highest of the amount of additional salary applicable to the various offices held by the member.

PART 3 – GENERAL PROVISIONS RELATING TO SALARIES

This Part of Schedule 1 makes some general provisions relating to the payment of salaries to members of Parliament.

Clause 1: Salary to be paid in equal instalments on certain dates

This Clause provides that salaries are paid to members of Parliament in equal instalments twice a month on the 15th of each month and the last day of each month.

Clause 2: Member of Parliament may elect to salary sacrifice

This Clause is identical to and replicates the provisions that currently exist in the *Parliamentary Salaries, Superannuation and Allowances Act 1973*.

It provides the mechanism by which a member of Parliament may request that some of his or her salary is paid as superannuation contributions.

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

Clause 1: Allowances and benefits to which members of Parliament are entitled

In 2006, a second Committee of Review established by an order-in-council dated 1 June 2006 (the Second Committee) was asked to determine the allowances and benefits to which members of Parliament are entitled.

The determination of the Second Committee was published by notice in the Gazette dated 23 August 2006, of which the relevant provisions are set out in Schedule 6.

The amounts of some of the allowances and benefit determined by the Second Committee were expressed as a percentage of the amount of the basic salary or a specific monetary amount.

The Second Committee determined that the allowances and benefits set as a monetary amount are to be adjusted by the same percentage movement that applies to the basic salary on and from the same date that the adjustment to the basic salary was operative.

Paragraph 13.1 of the determination of the Second Committee required the Auditor-General to determine (annually) the adjusted amount of each allowance and benefit that is expressed as a monetary amount, and publish those amounts in the Gazette.

Subclause (1) confirms that the allowances and benefits as determined by the Second Committee continue to apply to members of parliament.

Subclause (2) provides that the amount of the allowances and benefits payable to members of Parliament at the commencement of this Act are set out in Schedule 6.

Subclause (3) confirms that the allowances and benefits that are specified as monetary amounts will continue to be adjusted at the same time as and by the same percentage movement that apply to the basic salary.

Subclause (4) provides for the Auditor-General to determine, by reference to the provisions of subclause (3), the adjusted amounts of each allowance and benefit specified as a monetary amount and cause a notice to be published in the Gazette specifying the amounts so determined.

Subclause (5) provides that the adjusted amounts have effect on and from the date the adjustment to the basic salary is operative.

Subclause (6) provides that the notice published in the Gazette on behalf of the Auditor-General is not a statutory rule.

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

Section 7(3) of the *Parliamentary Salaries, Superannuation and Allowances Act 1973* provides for some allowances and benefits that were not part of the determination of the Second Committee.

This Clause preserves those entitlements and replicates section 7(3) of the *Parliamentary Salaries, Superannuation and Allowances Act 1973*.

SCHEDULE 3 – SUPERANNUATION FOR MEMBERS ELECTED AFTER 1 JULY 1999

The clauses in this Schedule are identical to and merely replicate the provisions that currently exist in Schedule 3 of the *Parliamentary Salaries, Superannuation and Allowances Act 1973*.

Clause 1: Superannuation entitlements of members elected after
1 July 1999

This Clause provides for the superannuation entitlements of members who were elected to either house of Parliament after 1 July 1999.

Specifically it provides that the superannuation entitlements of members of Parliament elected after 1 July 1999 are to be subject the *Parliamentary Salaries, Superannuation and Allowances Act 2012*.

Those members of Parliament elected before 1 July 1999 are subject to the *Retirement Benefits (Parliamentary Superannuation) Regulations 2002*.

In particular, a member of Parliament first elected as a member before 12 November 1985 and who was a was a member on 1 July 1999 is covered by the *Parliamentary Superannuation Scheme 1973*, and a member of Parliament first elected as a member on or after 12 November 1985 and before 1 July 1999 who was a was a member on 1 July 1999 is covered by the *Parliamentary Retiring Benefits 1985 Scheme*.

Clause 2: Voluntary contributions and spouse contributions

This Clause allows members of Parliament to make voluntary contributions or spouse contributions to the Tasmanian Accumulation Scheme established under the *Public Sector Superannuation Reform Act 1999*.

Clause 3: Lump sum benefit may be taken as allocated pension

This Clause allows a member or his or her surviving partner who is entitled to a lump sum benefit, to elect to transfer all or part of that benefit to the Tasmanian Accumulation Scheme or an allocated pension account established by the regulations under the *Retirement Benefits Act 1993*.

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

Clause 1: Additional Salary

This Clause replicates relevant provisions of the notice in the Gazette dated 15 May 1997 by which the Tasmanian Industrial Commission published its determination in relation to the additional salary payable to a member of Parliament holding the office of Premier, Deputy Premier, Minister of the Crown, and Secretary to Cabinet and other specified officers of the Parliament.

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

Clause 1: Additional salary

This Clause replicates relevant provisions of the notice in the Gazette dated 15 May 1997 by which the Committee of Review published its determination in relation to the additional salary payable to a member of Parliament who was the Leader of a recognised non-government party, other than the Opposition.

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

This Schedule sets out the amount of the allowances and benefits to which members of Parliament are entitled at the time of the commencement of this Act to members of Parliament by virtue of the determination of the Second Committee published in the Gazette dated 23 August 2006.

Clause 1: Motor Vehicle Allowance

This Clause sets out the current amount of the Motor Vehicle Allowance payable to members of Parliament who do not take up an entitlement to a funded motor vehicle, and provides for that amount to be adjusted by the same percentage movement and from the same operative date as applies to the basic salary.

Clause 2: Electorate Allowance

This Clause sets out current amounts of the Electorate Allowances payable to members of Parliament, and provides for those amounts to be adjusted by the same percentage movement and from the same operative date as applies to the basic salary.

Clause 3: Committee Sitting Fees

This Clause replicates the relevant provision (ie paragraph 7) of the notice in the Gazette dated 23 August 2006 by which the Second Committee of Review published its determination in relation to the allowances and benefits payable to members of Parliament.

Clause 4: Telecommunications Allowance

This Clause replicates the relevant provision (ie paragraph 9) of the notice in the Gazette dated 23 August 2006 by which the Second Committee of Review published its determination in relation to the allowances and benefits payable to members of Parliament.

Clause 5: Entertainment Allowance

This Clause replicates the relevant provision (ie paragraph 10) of the notice in the Gazette dated 23 August 2006 by which the Second Committee of Review published its determination in relation to the allowances and benefits payable to members of Parliament.

Clause 6: Away From Home Travelling Allowance

This Clause replicates the relevant provision (ie paragraph 11) of the notice in the Gazette dated 23 August 2006 by which the Second Committee of Review published its determination in relation to the allowances and benefits payable to members of Parliament.

Clause 7: Bass Strait Islands Travelling Allowance

This Clause provides for the entitlement due by virtue of the relevant recommendation (ie paragraph 5) of the notice in the Gazette dated 23 August 2006 by which the Second Committee of Review published its determination in relation to the allowances and benefits payable to members of Parliament.

Clause 8: Taxi Allowance

This Clause provides for the entitlement due by virtue of the relevant recommendation (ie paragraph 6) of the notice in the Gazette dated 23 August 2006 by which the Second Committee of Review published its determination in relation to the allowances and benefits payable to members of Parliament.

SCHEDULE 7 – CONSEQUENTIAL AMENDMENTS

Judicial Review Act 2000

A reference in Schedule 2 of the *Judicial Review Act 2000* to the *Parliamentary Salaries, Superannuation and Allowances Act 1973* is no longer required.

Public Sector Superannuation Reform Act 1999

A reference to “Schedule 2 of the *Parliamentary Salaries, Superannuation and Allowances Act 1973*” in Section 3AA(2)(e) of the *Public Sector Superannuation Reform Act 1999* is replaced by a reference to “Schedule 2 of the *Parliamentary Salaries, Superannuation and Allowances Act 2012*”.

Retirement Benefits (Parliamentary Superannuation) Regulations 2002

In Regulation 3 of the *Retirement Benefits (Parliamentary Superannuation) Regulations 2002* references in the definitions of additional and basic salary to the “*Parliamentary Salaries, Superannuation and Allowances Act 1973*” are replaced by a references to the “*Parliamentary Salaries, Superannuation and Allowances Act 2012*”.

In Regulation 21(10) of the *Retirement Benefits (Parliamentary Superannuation) Regulations 2002* a reference is now made to the “*Parliamentary Salaries, Superannuation and Allowances Act 1973*” to ensure payments made under this Act are considered as well as those under the *Parliamentary Salaries, Superannuation and Allowances Act 2012* for the purposes of calculating the superannuation entitlements of members of Parliament.

In Regulation 81(1)(c) of the *Retirement Benefits (Parliamentary Superannuation) Regulations 2002* a reference to the “item 7C of Part III of Schedule 1 to the *Parliamentary Salaries, Superannuation and Allowances Act 1973*” is replaced by a reference to the “Part 2 of Schedule 1 of the *Parliamentary Salaries, Superannuation and Allowances Act 2012*”.

SCHEDULE 8 – LEGISLATION REPEALED

The *Parliamentary Salaries, Superannuation and Allowances Act 1973* which previously provided for the matters covered by this Bill is repealed.