



REMUNERATION ACT, 1985

No. 75 of 1985

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ANNO TRICESIMO QUARTO

ELIZABETHAE II REGINAE

A.D. 1985

No. 75 of 1985

An Act to establish a tribunal to determine the remuneration payable to members of the judiciary, members of Parliament and certain officers appointed by statute; and for other purposes.

[Assented to 6 June 1985]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I PRELIMINARY

1. This Act may be cited as the "Remuneration Act, 1985". Short title.
2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.
3. In this Act, unless the contrary intention appears— Interpretation.

"remuneration" includes—

 - (a) salary;
 - (b) allowances;
 - (c) fees;
 - (d) any other benefit of a pecuniary nature:

"the Tribunal" means the Remuneration Tribunal established under this Act.

PART II THE REMUNERATION TRIBUNAL

DIVISION I—ESTABLISHMENT OF THE TRIBUNAL

4. There shall be a tribunal entitled the "Remuneration Tribunal". Establishment of the Tribunal.
5. (1) The Tribunal shall consist of 3 members appointed by the Governor, on the nomination of the Minister. Membership of the Tribunal.

(2) In choosing nominees for appointment under this section, the Minister—

(a) shall seek to ensure that the members of the Tribunal collectively have knowledge and experience in the following fields:

(i) the determination of remuneration at an executive or senior level in commerce and industry;

(ii) the determination of remuneration for officers engaged in the service of the Crown at a senior level;

and

(iii) industrial relations;

and

(b) shall exclude from consideration as a possible nominee any person whose own remuneration could be affected directly or indirectly by a determination of the Tribunal.

(3) One member of the Tribunal shall be appointed by the Governor to be Chairman of the Tribunal.

(4) The validity of a determination of the Tribunal is not affected by an irregularity in the nomination or appointment of a member of the Tribunal.

Terms and
conditions on
which members
hold office.

6. (1) A member of the Tribunal shall be appointed for a term of office (not exceeding 7 years) specified in the instrument of his appointment.

(2) A person who has completed a term of office as a member of the Tribunal is not eligible for reappointment.

(3) The Governor may remove a member of the Tribunal from office on the ground of misconduct or neglect of duty.

(4) The office of a member of the Tribunal becomes vacant if—

(a) he dies;

(b) his term of office expires;

(c) he is appointed or elected to an office in relation to which the Tribunal has jurisdiction to make a determination under this Act;

(d) he resigns by notice in writing addressed to the Minister;

(e) he becomes mentally or physically incapable of satisfactorily carrying out his duties as a member of the Tribunal;

(f) he is removed from office under subsection (3).

Remuneration of
members.

7. A member of the Tribunal shall be entitled to such remuneration as is determined by the Governor.

Secretary to the
Tribunal.

8. There shall be a secretary to the Tribunal.

DIVISION II—PROCEDURES AND POWERS OF THE TRIBUNAL

Sittings of the
Tribunal.

9. (1) A sitting of the Tribunal may be convened by the Chairman of the Tribunal of his own motion or at the request of the Minister.

(2) The Tribunal shall sit at least once in each year for the purpose of determining, or reviewing previous determinations of, remuneration under this Act.

10. (1) Two members of the Tribunal constitute a quorum of the Tribunal. Quorum, etc.

(2) A decision in which any 2 members of the Tribunal concur is a decision of the Tribunal.

11. (1) The Tribunal is not bound by the rules of evidence but may inform itself in any manner it thinks fit. Evidence and submissions.

(2) Before the Tribunal makes a determination affecting the remuneration of a particular person, or persons of a particular class, the Tribunal shall allow that person, or the persons of that class, a reasonable opportunity to make submissions orally or in writing to the Tribunal.

(3) Before the Tribunal makes a determination affecting the remuneration of Ministers of the Crown, or members or officers of Parliament, the Tribunal shall—

(a) by notice published in a newspaper circulating generally throughout the State, invite written representations from members of the public who may desire to make representations on the subject;

and

(b) consider any written representations made in response to the invitation.

(4) A person may appear before the Tribunal personally, or by counsel or other representative.

(5) The Minister may intervene, personally or by counsel, in proceedings before the Tribunal for the purpose of introducing evidence, or making submissions, on any question relevant to the public interest.

12. (1) The Tribunal has the powers of a Royal Commission.

Tribunal to have powers of a Royal Commission.

(2) The provisions of the Royal Commissions Act, 1917, apply to and in relation to the Tribunal as if it were a Royal Commission.

13. Subject to this Act, the Tribunal may determine its own procedure.

Tribunal may determine its own procedure.

DIVISION III—PRINCIPLES TO BE APPLIED BY THE TRIBUNAL

14. (1) The Tribunal shall observe and apply the same general principles and guidelines in relation to the determination of remuneration as are observed and applied by the Industrial Commission of South Australia.

Principles to be applied by the Tribunal.

(2) The Tribunal shall, in determining the remuneration of members of the judiciary, have regard to the constitutional principle of judicial independence.

(3) The Tribunal shall, in determining the remuneration of members of the Parliament, have regard not only to their parliamentary duties but also to—

(a) their duty to be actively involved in community affairs;

and

(b) their duty to represent and assist their constituents in dealings with governmental and other public agencies and authorities.

DIVISION IV—JURISDICTION OF THE TRIBUNAL

Determination of
judicial
remuneration.

15. The Tribunal has jurisdiction to determine the remuneration payable to the following members of the judiciary:

- (a) the Chief Justice of the Supreme Court;
- (b) the Puisne Judges of the Supreme Court;
- (c) the Masters of the Supreme Court;
- (d) the President of the Industrial Court;
- (e) the other Judges of the Industrial Court;
- (f) the Senior District Court Judge;
- (g) the other District Court Judges;
- (h) the Chief Magistrate;
- (i) the Deputy Chief Magistrate;
- (j) the Supervising Magistrates;
- (k) the Senior Magistrates;
- (l) the Stipendiary Magistrates;
- (m) the other Magistrates;
- (n) the Supervising Industrial Magistrate;
- (o) the other Industrial Magistrates;
- (p) persons holding any other prescribed judicial office.

Determination of
parliamentary and
ministerial
remuneration.

16. (1) The Tribunal has jurisdiction to determine the remuneration payable to members of the Parliament and the additional remuneration payable to a member by virtue of being—

- (a) the Premier;
 - (b) the Deputy Premier;
 - (c) the Leader of the Government in the Legislative Council;
 - (d) a Minister of the Crown (other than those referred to above);
 - (e) the President of the Legislative Council;
 - (f) the Speaker of the House of Assembly;
 - (g) the Chairman of Committees in the House of Assembly;
 - (h) the Leader of the Opposition in the House of Assembly;
 - (i) the Deputy Leader of the Opposition in the House of Assembly;
 - (j) the Government Whip in the House of Assembly;
 - (k) the Opposition Whip in the House of Assembly;
 - (l) the Leader of the Opposition in the Legislative Council;
- or
- (m) the holder of any prescribed parliamentary office.

(2) Electorate allowances determined under subsection (1) may vary according to the nature, size and geographical location of the electorates.

(3) For the purposes of this section and any determination under this section—

(a) a former member of the Parliament shall be deemed to continue as a member of the Parliament until a successor is elected in his place;

and

(b) if, immediately before ceasing to be a member of the Parliament, the former member held a particular parliamentary office, the former member shall be deemed to continue in that office until—

(i) a successor is elected in his place;

or

(ii) the office is filled by someone other than the former member,

whichever first occurs.

17. The Tribunal has jurisdiction to determine the remuneration payable to the holder of any office (other than those previously referred to in this Division)—

Determination of remuneration in respect of statutory offices

(a) if an Act by or under which the office is established provides for the determination of remuneration by the Tribunal;

or

(b) if the regulations confer jurisdiction on the Tribunal to determine remuneration in respect of that office.

DIVISION V—GENERAL PROVISIONS AS TO DETERMINATIONS OF THE TRIBUNAL

18. (1) As soon as practicable after the Tribunal arrives at a determination, the Chairman of the Tribunal shall forward to the Minister a report setting out the terms of the determination and the grounds on which it was made.

Report, etc.

(2) The Minister shall, as soon as practicable after receipt of a report under this section, cause copies of the report to be laid before both Houses of Parliament.

(3) A determination of the Tribunal must be published in the *Gazette* within 7 days after it is made.

19. A determination of the Tribunal shall, if the Tribunal so determines, operate from a date antecedent to the date of the determination.

Retroactive operation of determinations.

20. A determination of the Tribunal is not subject to appeal.

Determinations not to be subject to appeal.

21. A determination of the Tribunal—

Effect of determinations.

(a) is binding on the Crown;

and

(b) is sufficient authority for the payment of the remuneration to which it relates from the General Revenue of the State.

PART III
MISCELLANEOUS

Salary of members of the judiciary not to be reduced by determination of the Tribunal.

Limitation on powers of Tribunal in fixing certain salaries.

22. Notwithstanding any other provision of this Act, no reduction shall be made under this Act in the salary payable to a member of the judiciary.

23. (1) The following provisions apply, subject to this section, in relation to the salaries of members of the judiciary:

(a) as from the 1st day of October, 1984—

- (i) the salary of the Chief Justice of the Supreme Court shall be 95 per cent of the average of the salaries of the Chief Justice of the Supreme Court of New South Wales, the Chief Justice of the Supreme Court of Victoria, the Chief Justice of the Supreme Court of Queensland and the Chief Justice of the Supreme Court of Western Australia as at the 1st day of October, 1984;
- (ii) the salary of a Puisne Judge of the Supreme Court shall be 95 per cent of the average of the salaries of a Puisne Judge of the Supreme Court of New South Wales, a Puisne Judge of the Supreme Court of Victoria, a Puisne Judge of the Supreme Court of Queensland and a Puisne Judge of the Supreme Court of Western Australia as at the 1st day of October, 1984;
- (iii) the salary of a Master of the Supreme Court shall be 85 per cent of the salary of a Puisne Judge of the Supreme Court;
- (iv) the salary of the President of the Industrial Court shall be the same as for a Puisne Judge of the Supreme Court;
- (v) the salary of a Judge of the Industrial Court (other than the President) shall be 85 per cent of the salary of a Puisne Judge of the Supreme Court;
- (vi) the salary of the Senior District Court Judge shall be the same as for a Puisne Judge of the Supreme Court;
- (vii) the salary of a District Court Judge (other than the Senior Judge) shall be 85 per cent of the salary of a Puisne Judge of the Supreme Court;
- (viii) the respective salaries of the Chief Magistrate, the Deputy Chief Magistrate, the Supervising Magistrates, the Senior Magistrates, the Stipendiary Magistrates, the Supervising Industrial Magistrate and the Industrial Magistrates shall be increased by 4.4 per cent;

(b) as from the 6th day of April, 1985, the salaries referred to in paragraph (a) shall be increased by 2.6 per cent;

and

(c) any salary to be fixed by the Tribunal in relation to a member of the judiciary not mentioned in paragraph (a) shall be fixed as an appropriate proportion of the salary of a member of the judiciary who is mentioned in that paragraph.

(2) As from the 6th day of April, 1985, the salaries of Ministers of the Crown and members and officers of the Parliament shall be increased by 2.6 per cent.

(3) Subject to section 22, where a general variation of remuneration payable to employees under awards is made by order of the Full Commission under section 36 of the Industrial Conciliation and Arbitration Act, 1972, there shall be a corresponding variation in the salaries payable to—

- (a) Ministers of the Crown;
- (b) members and officers of the Parliament;
- (c) members of the judiciary whose remuneration is subject to determination by the Tribunal under this Act;
- (d) officers whose remuneration is subject to determination by the Tribunal under this Act.

(4) For the purposes of other statutory provisions governing remuneration, salaries fixed under the foregoing provisions of this section shall be deemed to have been fixed by determination of the Tribunal.

(5) Notwithstanding any other provision of this Act, while this section remains in force, no determination of salary shall be made by the Tribunal except—

- (a) in relation to a member of the judiciary referred to in subsection (1) (c);

or

- (b) in respect of an office or position for which there is no determination of salary currently in force under this or any other Act.

(6) This section does not affect the power of the Tribunal to make a determination affecting remuneration other than salaries.

(7) This section shall expire on a date to be fixed by proclamation.

(8) The Governor shall not make a proclamation for the purposes of subsection (7) unless satisfied—

- (a) that the principles of wage fixation as adopted by the Full Commission in its decision published and dated the 11th day of October, 1983, no longer apply;

and

- (b) that no other principles, guidelines or conditions apply by virtue of a decision or declaration of the Full Commission that are of substantially similar effect to the principles referred to in paragraph (a).

(9) In this section—

“the Full Commission” means the Industrial Commission of South Australia sitting as the Full Commission.

24. This Act prevails over any inconsistent provision of any other Act relating to the determination of remuneration.

Interaction of this Act with other Acts.

Regulations.

25. (1) The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of subsection (1), the regulations may exclude from determination under this Act allowances of a specified nature payable to Ministers of the Crown, or members or officers of the Parliament.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor