

Remuneration Authority (COVID-19 Measures) Amendment Bill

Government Bill

Explanatory note

General policy statement

The Remuneration Authority (COVID-19 Measures) Amendment Bill (the **Bill**) will, for a short period, permit the Remuneration Authority to reduce the remuneration for certain roles within certain limits.

Purpose

The general purpose of the Bill is to allow leaders in the public sector to—

- show leadership in the public sector during the COVID-19 outbreak; and
- show solidarity with those in the private sector who are losing their jobs or facing significant pay reductions.

The Bill does so in such a manner as to respect the underlying policy behind the Remuneration Authority Act 1977.

Legislative regime

The remuneration of certain individuals in senior positions in the public sector is set according to the Remuneration Authority Act 1977 and, in respect of local government members, the Local Government Act 2002. The underlying policy for the current arrangements is to de-politicise the setting of this remuneration.

Under the existing legislative regime,—

- the Remuneration Authority is not usually permitted to make a determination that reduces an individual's pay; and
- the organisations making the payments must pay according to the Remuneration Authority's determination.

The Bill overrides the current legislative regime by permitting a capped reduction of up to 20% of current remuneration for up to a 6-month period which must commence on or before 30 July 2020.

The Remuneration Authority will apply its existing criteria to determine whether a reduction is appropriate and, if so, how much it will be and for how long (up to the caps). The existing criteria include the prevailing adverse economic conditions (*see* section 18A of the Remuneration Authority Act 1977) and fairness to both the person whose remuneration is being determined and the taxpayer or ratepayer (*see* section 18 of the Remuneration Authority Act 1977 and clause 7 of Schedule 7 of the Local Government Act 2002).

The Remuneration Authority's decision will be set out in a temporary reduction determination. The Bill permits the Remuneration Authority to amend an original determination on which the temporary reduction determination is based, provided it does so in accordance with the enactment under which it was made. The temporary reduction determination can also be consequentially amended.

Remuneration for some roles, including those of the Governor-General, the judiciary, and some semi-judicial roles, is not included in the Bill because of constitutional and fairness considerations.

Timing

These amendments are intended to have only short-term effect so as to limit the impact on individuals. The section inserted into the Remuneration Authority Act 1977 by the Bill will be repealed on 31 January 2021.

Departmental disclosure statement

The State Services Commission is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2020&no=266>

Regulatory impact assessment

The Treasury has determined that this is a direct COVID-19 response and has suspended the RIA requirements (in accordance with CAB-20-MIN-0138).

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 relates to commencement. The Bill comes into force on the day after the date on which it receives the Royal assent.

Clause 3 provides that the Bill amends the Remuneration Authority Act 1977 (the **principal Act**).

Clause 4 inserts *new section 19A* which enables the Remuneration Authority to make temporary reduction determinations that will temporarily reduce the remuneration payable to the office holders listed in *new Schedule 4A*.

Each temporary reduction determination—

- must be made on or before 30 June 2020;
- may not reduce the remuneration payable to an office holder by more than 20%;
- may not be in force for longer than 6 months.

A temporary reduction determination requires the determination that applies to an office holder listed in *new Schedule 4A* (the **original determination**) to be read as if it specified the remuneration set out in the temporary reduction determination. When a temporary reduction determination expires, the office holder's remuneration will revert to the amount payable under the original determination.

Because some existing determinations will expire, or may otherwise need to be amended, during the period when a temporary reduction determination is in place, *new section 19A* makes it clear that the existence of a temporary reduction determination does not prevent an original determination being amended or replaced. If that happens, it will be possible for the temporary reduction determination to also be amended to ensure that the same percentage reduction applies. A temporary reduction determination could also be amended for any of the reasons set out in section 19(4) of the principal Act.

New section 19A is temporary and will be repealed on 31 January 2021. That date is the day after the last date on which a temporary reduction determination might still be in force (because the last date to make a temporary reduction determination is 30 June 2020, and each determination must come into force no later than 30 days after the date on which it is made, and must expire no later than 6 months after that).

Clause 5 inserts *new Schedule 4A*, which lists the office holders to whom a temporary reduction determination may apply.

Hon Chris Hipkins

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Remuneration Authority (COVID-19 Measures) Amendment Act **2020**.
- 2 Commencement** 5
This Act comes into force on the day after the date on which it receives the Royal assent.
- 3 Principal Act**
This Act amends the Remuneration Authority Act 1977 (the **principal Act**).

4 New section 19A inserted (Temporary reduction determinations (COVID-19))

After section 19, insert:

19A Temporary reduction determinations (COVID-19)

- (1) The Authority may make a determination adjusting the remuneration of an office holder listed in **Schedule 4A** for the purpose of temporarily reducing the remuneration payable to that person (a **temporary reduction determination**). 5
- (2) No temporary reduction determination may be made after 30 June 2020.
- (3) A temporary reduction determination may not reduce the remuneration payable to a person by more than 20%. 10
- (4) A temporary reduction determination must—
- (a) specify the date on which it comes into force (which must be no later than 30 days after the date on which it is made); and
 - (b) specify the determination to which it applies (the **original determination**); and 15
 - (c) specify the adjusted remuneration payable to the person; and
 - (d) require the remuneration specified in the original determination to be read as the adjusted remuneration specified in the temporary reduction determination until the date on which the temporary reduction determination expires; and 20
 - (e) specify the date on which it expires (which must be no later than 6 months after the date on which it comes into force).
- (5) A temporary reduction determination is a determination for the purposes of the enactment under which the original determination was made, and the provisions of that enactment that relate to the making of a determination apply to the making of a temporary reduction determination. 25
- (6) This section overrides sections 18A(3), 19(1) and (2), and 24.
- (7) The existence of a temporary reduction determination does not prevent the amendment or replacement of an original determination in accordance with the enactment under which the original determination was made. 30
- (8) If the original determination to which a temporary reduction determination applies is amended or replaced, the Authority may amend the temporary reduction determination to specify—
- (a) the replacement determination to which the temporary reduction determination applies: 35
 - (b) the adjusted remuneration payable (which must implement a percentage adjustment that is the same as the percentage adjustment that was made when the temporary reduction determination came into force).

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- (9) **Subsection (8)** applies in addition to section 19(4).
 - (10) This section and **Schedule 4A** are repealed on 31 January 2021.

5 New Schedule 4A inserted

After Schedule 4, insert the **Schedule 4A** set out in the **Schedule** of this Act.

Schedule
New Schedule 4A inserted

s 5

Schedule 4A
**Office holders in respect of whom temporary reduction
determination may be made**

s 19A

The Chief Censor of Film and Literature and the Deputy Chief Censor of Film and Literature	5
The Chief Executive of the Parliamentary Service	10
The Chief of Air Force	
The Chief of Army	
The Chief of Defence Force	
The Chief of Navy	
The Chief Parliamentary Counsel	15
The Children's Commissioner	
The Clerk of the House of Representatives	
The Commissioner of Police and the Deputy Commissioner of Police	
The Controller and Auditor-General and the Deputy Controller and Auditor-General	
The Health and Disability Commissioner	20
Māori Trustee	
Mayors, Deputy Mayors, Chairpersons, Deputy Chairpersons, and members of local authorities	
Members and alternate members of the Human Rights Commission and the Director of Human Rights Proceedings or the Director's alternate	25
Members and associate members of the Commerce Commission	
Members and associate members of the Financial Markets Authority	
Members of the Broadcasting Standards Authority	
Members of the Climate Change Commission	
Members of the Criminal Cases Review Commission	30
Members of Drug Free Sport New Zealand	
Members of the Electoral Commission	
Members of the Electricity Authority	
Members of the External Reporting Board	
Members of the Law Commission	35

Members of the New Zealand Productivity Commission	
Members of Parliament	
Members of the Takeovers Panel	
Members of the Transport Accident Investigation Commission	
The Mental Health Commissioner and the Deputy Health and Disability Commissioners	5
Ombudsmen (including the Chief Ombudsman)	
The Parliamentary Commissioner for the Environment	
The Privacy Commissioner and the Deputy Privacy Commissioner	
The Retirement Commissioner	10
The Solicitor-General	
The State Services Commissioner and the Deputy State Services Commissioner	