

REDUCTION OF SALARIES (MEMBERS OF PARLIAMENT AND JUDGES) ACT 1986

No. 74 of 1986

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REDUCTION OF SALARIES (MEMBERS OF PARLIAMENT
AND JUDGES) ACT 1986

No. 74 of 1986

AN ACT to reduce temporarily in the public interest the remuneration payable to the members of the Parliament, and the Judges of the Supreme Court, of this State and to provide for related and incidental matters and to amend the Parliamentary Salaries and Allowances Act 1973 and the Statutory Salaries Act 1979.

[Royal Assent 11 November 1986]

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:—

PART I

PRELIMINARY

1—This Act may be cited as the *Reduction of Salaries (Members of Parliament and Judges) Act 1986*. Short title.

2—This Act shall commence on the day on which it receives the Royal assent. Commencement.

Powers of Governor in relation to provisions of Act.

3—(1) The Governor may from time to time, by proclamation, provide that all or any of the provisions of this Act which are for the time being in operation shall cease to be in operation on such day or days as is or are respectively fixed by proclamation.

(2) Nothing in subsection (1) enables or authorizes the continuing application of section 8 to the remuneration payable to any affected person after the end of the reduction period provided for in relation to the remuneration of the affected person in that section.

Interpretation.

4—(1) In this Act, unless the contrary intention appears—

“affected person” means a person to whom this Act applies by virtue of section 5;

“Auditor-General” has the meaning assigned to that expression by section 3 of the *Audit Act* 1918;

“commencement day” means the day on which this Act receives the Royal assent;

“contract” includes an agreement in the nature of a contract;

“reduction period”, in relation to an affected person, has the meaning assigned to that expression by section 8 (2) (b);

“remuneration” means—

(a) in the case of an affected person other than one to whom paragraph (b) applies, any salary payable to that person; or

(b) in the case of an affected person who is a member of either House of the Parliament of this State—

(i) the basic salary within the meaning of the *Parliamentary Salaries and Allowances Act* 1973 that is payable to him; and

(ii) the salary (if any) that is payable to him under Part II or III of Schedule 1 to that Act;

“tribunal” includes—

(a) the Supreme Court;

(b) a court held under the *Local Courts Act* 1896;

- (c) a court of summary jurisdiction within the meaning of the *Justices Act 1959*; and
- (d) a person on whom is conferred a power under an Act with respect to the remuneration payable to an affected person or any matter or thing arising out of, or in connection with, the payment of any remuneration payable to an affected person.

(2) Subject to subsections (3) to (5) inclusive, in this Act, “notional remuneration” means the rate of annual remuneration to which an affected person is entitled on the commencement day.

(3) In the case of a person who becomes an affected person after the commencement day, his notional remuneration shall be determined, so far as is practicable, by reference to the rate or rates of annual remuneration which would have been applicable in his case had he been an affected person on that day.

(4) If a doubt or dispute arises concerning the notional remuneration of an affected person, the Auditor-General shall determine the notional remuneration of that person according to the spirit of this Act and in an equitable manner after giving the person concerned the opportunity to make submissions in writing to the Auditor-General.

(5) A determination made under subsection (4) is final.

(6) Nothing in this Act affects or prejudices the right of the Auditor-General—

- (a) to make, during the reduction period, a determination under clause 3 (1) of Schedule 1 to the *Parliamentary Salaries and Allowances Act 1973*;
- (b) to adjust, as the result of making such a determination, the basic salary that is payable to an affected person to whom section 5 (a) applies; or
- (c) to make, during the reduction period, a determination under section 4 (3) of the *Statutory Salaries Act 1979*.

5—This Act applies to and in relation to a person—

Application
of Act.

- (a) who is a member of either House of the Parliament of this State; or
- (b) who is a Judge of the Supreme Court of this State, and who, but for this Act, would be entitled to notional remuneration payable at a rate of \$30 000 or more a year.

Crown bound
by Act.

6—This Act binds the Crown not only in right of Tasmania but also, so far as the legislative power of the Parliament of this State permits, binds the Crown in all of its other capacities.

Relationship
of this Act
to other
legislation,
&c.

7—Effect shall be given to this Act, notwithstanding anything, whether express or implied, in any other Act or in any proclamation, regulation, rule, by-law, or order or in any judgment, determination, decision, order, award, or authorization of any tribunal, or in any contract, whether oral or written, or in any deed or other instrument.

PART II

REDUCTION OF REMUNERATION

Temporary
reduction of
remuneration.

8—(1) Subject to this Act—

(a) a tribunal shall not authorize, order, award, or enforce the payment of; and

(b) there shall not, except as otherwise authorized under this Act, be paid or agreed to be paid to an affected person by way of remuneration for his personal service,

such portion of the remuneration which would otherwise be payable to him except for this section as is determined from time to time in accordance with this section and Schedule 1.

(2) This section—

(a) applies in respect of every instalment of the remuneration payable to a person who—

(i) is, on the commencement day, an affected person; or

(ii) becomes, after that day, an affected person; and

(b) has effect during the period commencing on the first day of the first full pay period of that person on or after the commencement day and ending on a day to be fixed by proclamation (in this Act referred to as “ the reduction period ”).

(3) For the purposes of subsection (2), the day to be fixed by proclamation under that subsection for the end of the reduction period in relation to an affected person shall not be later than a day

that is the end of the period of 52 weeks commencing on the day that is the first day of the first full pay period of that person as mentioned in subsection (2) (b).

(4) A proclamation under subsection (2) may fix different days for the end of the reduction period in relation to affected persons whose instalments of remuneration are payable on different days.

(5) Subject to subsection (6), this section applies with respect to the remuneration payable to an affected person whether the person is on duty or on leave during the reduction period.

(6) Notwithstanding subsection (2), this section shall not have effect so as to reduce the remuneration otherwise payable to or in respect of an affected person in respect of any accrued leave due to the person upon the termination of his service.

9—A tribunal may not at any time make any award, order, determination, or decision, or authorize a payment, of such a kind or to such an effect that, after section 8 ceases to apply to the remuneration payable to an affected person, any amount of money that is equivalent to all or part of the remuneration not paid to the affected person in accordance with that section is restored to that person.

Retrospective restoration prohibited.

PART III

REMUNERATION REDUCTION AND SUPERANNUATION BENEFITS

10—(1) During the reduction period, contributions that are required to be made by an affected person to—

Provisions with respect to contributions to Parliamentary superannuation funds and pensions, &c., payable out of those funds.

(a) the Parliamentary Superannuation Fund pursuant to the *Parliamentary Superannuation Act 1973*; or

(b) the Parliamentary Retiring Benefits Fund pursuant to the *Parliamentary Retiring Benefits Act 1985*,

are payable by that person at the same rate or level as they would have been payable if the remuneration of that person had not been the subject of reduction under this Act.

(2) For the purposes of determining the benefit payable—

(a) to an affected person under Division I of Part IV of the *Parliamentary Superannuation Act 1973*;

(b) to a person under Division II of that Part as the consequence of the death of an affected person; or

(c) in respect of a child under Division III of that Part as the consequence of the death of an affected person, the amount of that benefit shall be calculated under that Act as if the remuneration of that affected person had not been the subject of reduction under this Act.

(3) For the purposes of determining the benefit payable—

(a) to an affected person under Division 2, 4, or 5 of Part IV of the *Parliamentary Retiring Benefits Act* 1985; or

(b) to an affected person or his personal representatives under Division 3 of that Part,

the amount of that benefit shall be calculated under that Act as if the remuneration of that affected person had not been the subject of reduction under this Act.

Provisions with respect to contributions to judges' pensions scheme and determination of those pensions.

11—(1) During the reduction period, contributions that are required to be made by an affected person under the *Judges' Contributory Pensions Act* 1968 are payable by that person at the same rate or level as they would have been payable if the remuneration of that person had not been the subject of reduction under this Act.

(2) For the purposes of determining the pension payable to an affected person under the *Judges' Contributory Pensions Act* 1968, the amount of that pension shall be calculated under that Act as if the remuneration of that person had not been the subject of reduction under this Act.

PART IV

MISCELLANEOUS

Continuation of application of section 4 of *Governor of Tasmania Act* 1982 to rate of Governor's salary.

12—Section 4 of the *Governor of Tasmania Act* 1982 continues to apply to and in relation to the rate of salary payable to the Governor of Tasmania as if this Act had not been enacted.

13—Section 3 (1) of the *Parliamentary Salaries and Allowances Act 1973* is amended by omitting “ Schedule 1;” from the definition of “ basic salary ” and substituting “ Schedule 1, as reduced, as provided by the *Reduction of Salaries (Members of Parliament and Judges) Act 1986*, during the reduction period within the meaning of that Act;”.

Amendment of
*Parliamentary
Salaries and
Allowances
Act 1973* and
*Statutory
Salaries Act
1979*.

(2) Section 4 of the *Statutory Salaries Act 1979* is amended as follows:—

- (a) by inserting in subsection (1) “, subject to the *Reduction of Salaries (Members of Parliament and Judges) Act 1986*,” after “ shall ”;
 - (b) by omitting from subsection (2) “ Justice.” and substituting “ Justice referred to in subsection (1)”.
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SCHEDULE 1

Section 8 (1)

DETERMINATION OF AMOUNT OF REDUCTION IN REMUNERATION

1. In the case of every affected person whose notional remuneration is at a rate of or exceeding \$30 000 a year but less than the rate of \$40 000 a year, 3 per cent of that person's notional remuneration shall not be paid.
2. In the case of every affected person whose notional remuneration is at a rate of or exceeding \$40 000 a year but less than the rate of \$50 000 a year, 4 per cent of that person's notional remuneration shall not be paid.
3. In the case of every affected person whose notional remuneration is at the rate of or exceeding \$50 000 a year, 5 per cent of that person's notional remuneration shall not be paid.