

Chapter 31 Remuneration and Entitlements for Members

The first allowance for members was provided in 1889, when an Act was passed allocating £300 per annum to each member of the Legislative Assembly for expenses incurred by them in the discharge of their Parliamentary duties.¹ All members of the Legislative Assembly were to receive this allowance unless the member held the position of Speaker or Chairman of Committees and received an official salary in that capacity or the member held an office of profit under the Crown and would thereby be disqualified under the provisions of the Constitution Act then in force. From 1902 until the establishment of a Parliamentary Remuneration Tribunal in 1975, salaries and allowances for members of the New South Wales Parliament were provided for in the *Constitution Act 1902*² and various Parliamentary Allowances and Salaries Acts. This effectively meant that members of the Parliament of New South Wales fixed their own salaries and allowances.

Speakers considered that there was no pecuniary interest involved in relation to legislation regarding members' salary and allowances which would disqualify members from voting on such legislation. On 27 April 1922, Speaker Levy, ruled on the matter of pecuniary interest in considering the *Parliamentary Allowances and Salaries Bill* noting that a direct consequence of such an interpretation of the standing order would be that:

*[T]his House has no right to pass any measure relating to the salaries of Members of Parliament. That is a conclusion so repugnant to one's common sense that any construction of the standing orders which would lead to such a ruling is one which I cannot accept. I, therefore, rule that Honourable Members in voting on this bill have not the direct pecuniary interest which is contemplated by [the standing orders]. Consequently, I cannot sustain the point.*³

In 1975, the Parliament passed legislation establishing the Parliamentary Remuneration Tribunal and was no longer responsible for determining salaries and allowances for its members. This legislation provided that a judge of the Supreme Court be appointed as the Parliamentary Remuneration Tribunal with the task of determining the salaries and allowances of all members of Parliament, including Ministers and other office holders such as the Presiding Officers. The judge appointed to be the Parliamentary Remuneration Tribunal derived the power to make a determination of Parliamentary remuneration upon the handing down of a wages decision within the meaning of the *Industrial Arbitration Act 1940*.⁴ This created a number of difficulties in the 1980s as State wage cases were determined on grounds insufficient to empower the Tribunal to make such a determination. Given this, the *Parliamentary Remuneration Act* was passed in 1989 to link the payment of salaries of members in New South Wales to those in the Federal House of Representatives.

In 2011, an amendment to the *Parliamentary Remuneration Act 1989* removed the link between the salary paid to members of the New South Wales Parliament and the salary of members of the House of Representatives. Salaries are now determined by

¹ *Parliamentary Representatives Allowance Act 1889* 53 Vic No. 12.

² Section 28 of the *Constitution Act 1902* when enacted provided for an allowance for expenses incurred in the discharge of a member's parliamentary duty. The section was repealed by the *Parliamentary Remuneration Tribunal Act 1975* which was in turn replaced by the *Parliamentary Remuneration Act 1989*.

³ PD 27/04/1922, p. 148. For similar rulings see Ruling of Speaker Levy, PD 02/05/1922, p. 150; Ruling of Speaker Kelly, PD 25/11/1976, p. 3650; and Ruling of Speaker Rozzoli, PD 21/03/1990, p. 745.

⁴ This Act was repealed in 1991.

the Parliamentary Remuneration Tribunal. In making a determination fixing the basic salary of a member, the Tribunal can only approve salary increases for members of Parliament up to the amount prescribed in the Government wages policy.⁵

In addition to the basic salary, members who hold a recognised office receive a further salary and expense allowance component which is specified in Schedule 1 of the Act.

The Parliamentary Remuneration Tribunal now consists of a judicial member or a retired judicial member of the Industrial Relations Commission who is appointed for three years. This followed an amendment to the legislation in 1998 which also provided for the Tribunal to make binding determinations on a wide range of members' entitlements. A determination is made on an annual basis.

Since 2000, the Tribunal has determined that a Logistic Support Allocation (LSA) account be established for each member. This LSA is provided to members to fund the operational costs of undertaking their Parliamentary duties. It can be applied for many purposes, including transport, electronic and non-electronic communication and printing, stationery, and office supplies. The LSA cannot be used to purchase items or services already provided to members by the Parliament. The LSA entitlement is determined annually by the Tribunal.

The Presiding Officers may exercise their discretion in permitting expenditure. However, in doing so there must be sufficient funds in the member's Logistic Support Allocation, the items must not duplicate services already provided to members by the Parliament and the expenditure must be consistent with the guidelines and general conditions in the latest determination.

Allowances provided to members include an electoral allowance, a Sydney allowance and a committee allowance, if applicable.

The electoral allowance is based on the size of the electorate and other factors as determined from time to time by the Parliamentary Remuneration Tribunal. The allowance is provided to ensure that members can cover the costs associated with the performance of their parliamentary duties within their electorates.

The Sydney allowance is provided to members who reside in electorates away from Sydney to compensate for the additional costs associated with staying in Sydney to attend sittings of the House, meetings of parliamentary committees or other parliamentary business. In addition, members who reside in electorates outside of Sydney and office holders are entitled to have their travel expenses met for travel between their electorates and Sydney.

Committee allowances are paid to chairs of committees in recognition of the additional responsibilities of the office so long as the chair is not also a recognised office holder for purposes of the *Parliamentary Remuneration Act 1989*. For instance, the Deputy Speaker was the chair of the Legislative Assembly Standing Committee on Parliamentary Privilege and Ethics until the end of the 53rd Parliament

⁵ See section 4 of the *Parliamentary Remuneration Act 1989*.

and did not receive an additional allowance for his position as chair as he received an additional allowance in relation to his position as Deputy Speaker.

Every member of the Legislative Assembly is provided with an Electorate Mail-out Account which is to be used for the specific purpose of preparing and distributing letters/newsletters to constituents in their electorate.⁶

Each member of the Legislative Assembly is entitled to a fitted out, equipped and maintained electorate office to an appropriate standard. This means that all office equipment such as computers, photocopiers, faxes, copy printers, folding/inserting machines, shredders etc. are provided.

In 2001, legislation was passed to ensure that the Tribunal have regard to the financial implications of its determinations by requiring the Tribunal to seek the views of the Secretary of the Treasury and to take those views into account before making its determinations. This amendment ensures that the Tribunal is fiscally responsible.

The Parliamentary Remuneration Tribunal is also responsible for approving proposed amendments to the *Parliamentary Contributory Superannuation Act 1971*. (See section 20.8 of Part One for information on the certificates issued by the Parliamentary Remuneration Tribunal in relation to amendments to this legislation.)

Under the *Parliamentary Remuneration Act 1989* a person elected as a member of the Legislative Assembly is deemed to become a member on the date of election (i.e. polling day) and ceases to be a member if not elected, from polling day. As such, members continue to receive salary up to the day preceding polling day.

The Speaker continues to receive salary and allowances for the Office of the Speaker until the day prior to the election of his or her successor regardless of whether the position holder loses his or her seat or does not stand for re-election. This has been the case since 1884. There is also an argument that due to section 31A of the *Constitution Act 1902*, which provides for the Deputy Speaker to act in place of the Speaker when they are absent from the State, coupled with the absence of any legislation stating when the position of Deputy Speaker ceases, the Deputy Speaker continues until a new Deputy Speaker is elected and accordingly is paid until a successor is appointed.⁷ Other office holders such as the Assistant Speaker and committee chairs only receive the base salary of a private member once the House has been dissolved or the Parliament expires. Political office holders such as the Leader of the Opposition, and the party whips continue to be paid an expense allowance relating to their positions in addition to receiving the base salary of a private member up to and including the day prior to the appointment of their successors.

⁶ For further information on the allowances and entitlements received by members refer to the latest edition of the New South Wales Legislative Assembly, *Members' Handbook*.

⁷ See advice from the Crown Solicitor re: Remuneration of Deputy Speaker of the Legislative Assembly, dated 16 March 2007.

