

Remuneration Authority (Members of Parliament Remuneration) Amendment Bill

Government Bill

Explanatory note

General policy statement

This Bill is an omnibus Bill introduced under Standing Order 263(a) (dealing with an interrelated topic that can be regarded as implementing a single broad policy).

Part 1 amends the Remuneration Authority Act 1977 (the **Act**) to provide a sole criterion for the Remuneration Authority to consider when reviewing the remuneration of members of Parliament. This criterion is the Quarterly Employment Survey (**QES**) for the public sector average ordinary time weekly earnings for full-time equivalent employees (**FTE**) using the change for the average for the year to June compared with the average for the previous year to June. Using this measure means that the remuneration of members of Parliament will increase in line with the average public sector salary. The average annual percentage change will be applied to smooth any sudden increases or decreases due to fluctuations in employment movements. To ensure that this process works, the Bill provides that the indexing of the salaries of members of Parliament to the QES must be done on an annual basis. Currently, the Act requires the Authority to make determinations for each position within its jurisdiction at least every 3 years (section 19(5)). The Bill provides for the current Parliamentary

Salaries and Allowances Determination 2015 to be revoked as far as it applies to salaries. To ensure that members of Parliament continue to receive their salary, the Bill reinstates the Parliamentary Salaries and Allowances Determination 2013 (as it relates to salaries) until such time as the Remuneration Authority is able to gazette a new determination using the new criterion under the amended Act.

Part 2 amends the Members of Parliament (Remuneration and Services) Act 2013 to make amendments to the basis on which assessments of personal benefit under section 16 of that Act are taken into account by the Remuneration Authority when reviewing the remuneration of members of Parliament.

Departmental disclosure statement

The Ministry of Business, Innovation, and Employment 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=2015&no=10>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 provides that the Bill comes into force on the day after the date on which it receives the Royal assent.

Clause 3 provides that *Part 1* amends the Remuneration Authority Act 1977 (the **principal Act**).

Clause 4 inserts *new section 3A* into the principal Act, which gives effect to the transitional provisions set out in *new Schedule 1AA*.

Clause 5 amends section 18 of the principal Act, which sets out criteria for the Authority when determining remuneration. A *new subsection (3)* is inserted, which provides that these criteria apply when the Authority is determining the allowances of members of Parliament, but not when it is determining their salaries.

Clause 6 amends section 18A of the principal Act, which requires the Authority to take into account countervailing economic conditions. A *new subsection (5)* is inserted, which provides that this section ap-

plies when the Authority is determining the allowances of members of Parliament, but not when it is determining their salaries.

Clause 7 inserts *new section 18B*, which provides that, for the purpose of any determination under section 12(1)(a)(i) of the principal Act (which relates to determining the salaries and allowances of members of Parliament (which includes Ministers)), the Authority must fix the salaries in accordance with this section.

New section 18B(2) is a formula for fixing the salaries of members of Parliament so that the salaries and the superannuation subsidy as a combination can only move up in line with the movement in the average ordinary time weekly earnings for full-time equivalent employees in the public sector as shown by the Quarterly Employment Survey, and any change in the value of personal benefits of a member of Parliament, arising from changes in entitlements to services, is taken into account.

New section 18B(3) defines terms used in *new section 18B(2)*. *New section 18B(4)* deals with rounding of certain numbers used in the calculation of the formula in *new section 18B(2)*.

New section 18B(5) provides that if the change in the Quarterly Employment Survey index is a number less than 1, the Authority must fix salaries as if the change in the index were 1. The effect is that the Authority is still required to take any relevant amount in relation to personal benefit (as provided in section 16(2) of the Members of Parliament (Remuneration and Services) Act 2013) into account in the fixing of salaries. *New section 18B(6)* provides that *new section 18B(5)* does not limit section 24 of the principal Act, which sets out the circumstances in which the remuneration of existing holders cannot be reduced.

New section 18B(7) deals with the fixing of a salary for a new position where there will not be a salary rate from the previous 12-month period to index against.

Clause 8 amends section 19 of the principal Act, which deals with the frequency of adjustments. A *new subsection (5)* is substituted, which provides that the Authority must review and issue a determination in respect of the salaries of members of Parliament at intervals of 12 months (for each period ending on 30 June). For allowances, the existing minimum interval of 3 years is not changed.

Clause 9 provides for the content of the *Schedule* of the Bill (*new Schedule 1AA*) to be inserted into the principal Act.

Clause 10 provides that *Part 2* amends the Members of Parliament (Remuneration and Services) Act 2013.

Clause 11 amends section 16 of the Members of Parliament (Remuneration and Services) Act 2013. The amendments have the effect that in fixing salaries of members of Parliament the Remuneration Authority is no longer required to take into account the valuation of the personal benefit or potential personal benefit of existing entitlements to services. However, if the entitlements change, the Authority is required to take into account the value of any change in personal benefit or potential personal benefit arising from that change in entitlements when fixing salaries. Currently the Authority is required to take into account when fixing salaries not only any change in personal benefit arising from changes to entitlements, but also any changes in the value of the personal benefit to members and their families of existing entitlements.

The Schedule inserts *new Schedule 1AA* into the Remuneration Authority Act 1977, which contains transitional, savings, and related provisions relating to this amendment Bill. *Clause 1* provides that the provisions of the Parliamentary Salaries and Allowances Determination 2015 (the **2015 determination**) that determine salaries have no effect and are revoked. *Clause 2* provides that the provisions of the Parliamentary Salaries and Allowances Determination 2013 that determined salaries are deemed to continue in effect. *Clause 3* provides that no act done in accordance with the 2015 determination before this Bill comes into force is unlawful solely because of its partial revocation by *clause 1*, and no omission to act in accordance with any provision of the determination before that revocation is unlawful. *Clause 4* requires the Authority to make a determination of salary rates for members of Parliament for the period 1 July 2014 to 30 June 2015 in accordance with the amendments made by this Bill.

Hon Michael Woodhouse

**Remuneration Authority
(Members of Parliament
Remuneration) Amendment Bill**

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Schedule
New Schedule 1AA inserted

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Remuneration Authority (Members of Parliament Remuneration) Amendment Act **2015**.
- 2 Commencement** 5
This Act comes into force on the day after the date on which it receives the Royal assent.
- Part 1**
**Amendments to Remuneration Authority
Act 1977** 10
- 3 Principal Act**
This **Part** amends the Remuneration Authority Act 1977 (the **principal Act**).
- 4 New section 3A inserted (Transitional, savings, and related provisions)** 15
After section 3, insert:
“3A Transitional, savings, and related provisions
The transitional, savings, and related provisions set out in **Schedule 1AA** have effect according to their terms.”
- 5 Section 18 amended (Criteria of Authority)** 20
After section 18(2), insert:
“(3) This section—
“(a) applies to the Authority when determining the allowances of members of Parliament under section 12(1)(a)(i); but 25
“(b) does not apply to the Authority when determining the salaries of members of Parliament under section 12(1)(a)(i).”

6 Section 18A amended (Countervailing economic conditions)

After section 18A(4), insert:

- “(5) This section—
- “(a) applies to the Authority when determining the allowances of members of Parliament under section 12(1)(a)(i); but
 - “(b) does not apply to the Authority when determining the salaries of members of Parliament under section 12(1)(a)(i).”

7 New section 18B inserted (Fixing salaries of members of Parliament)

After section 18A, insert:

“18B Fixing salaries of members of Parliament

- “(1) For the purpose of any determination under section 12(1)(a)(i), the Authority must fix the salaries of members of Parliament in accordance with this section.
- “(2) A salary rate for a 12-month period from 1 July to 30 June (the **relevant 12-month period**) must be fixed so that—

$$S_r + Su_r = (S_p + Su_p) \times (a \div b) - P_r \quad 20$$

where—

- S_r is the salary rate for the relevant 12-month period
- Su_r is the amount of the superannuation subsidy that will be payable (in accordance with the determination made under section 12(1)(b) and (ba)) in the relevant 12-month period 25
- S_p is the salary rate for the 12-month period immediately before the relevant 12-month period (the **previous 12-month period**)
- Su_p is the amount of the superannuation subsidy that was payable (in accordance with the determination made under section 12(1)(b) and (ba)) in the previous 12-month period 30
- a is the average ordinary time weekly earnings for FTE employees in the public sector as determined by the Quarterly Employment Survey for each of the 4 quarters 35

- of the previous 12-month period, added together and divided by 4
- b is the average ordinary time weekly earnings for FTE employees in the public sector as determined by the Quarterly Employment Survey for each of the 4 quarters of the 12-month period immediately before the 12-month period referred to in item a, added together and divided by 4
- P_r is the amount of any change in the personal benefit or potential personal benefit that the Authority is required to take into account under **section 16(2)(b)** of the Members of Parliament (Remuneration and Services) Act 2013.
- “(3) In **subsection (2)**,—
- “FTE means full-time equivalent as used in the Quarterly Employment Survey, being a measure of hours of work per week
- “Quarterly Employment Survey means the Quarterly Employment Survey published by Statistics New Zealand or, if that survey ceases to be published, any measure certified by the Government Statistician as being equivalent to that survey.
- “(4) For the purposes of applying the formula in **subsection (2)**, the number resulting from dividing variable a by variable b must be rounded up or down to 4 decimal places (with 0.00005 or greater being rounded up).
- “(5) If the result of the calculation $a \div b$, as those variables are defined in **subsection (2)**, is less than 1, the Authority must fix the rates of salaries for the relevant 12-month period as if the result of the calculation $a \div b$ were equal to 1.
- “(6) Nothing in **subsection (5)** limits section 24.
- “(7) If the Authority is fixing a salary rate for the first time for a position for which there is no previous determination, the Authority must fix the rate consistently with a comparable position or positions for members of Parliament.”
- 8 Section 19 amended (Frequency of adjustments)**
Replace section 19(5) with:

- “(5) Notwithstanding any term included in any determination, the Authority must review and issue a determination for each position that is subject to its jurisdiction,—
- “(a) in the case of the salaries of members of Parliament, at intervals of not more than 12 months in respect of each period of 12 months ending on 30 June; and 5
- “(b) in the case of the allowances of members of Parliament, at intervals of not more than 3 years; and
- “(c) in any other case, at intervals of not more than 3 years.”
- 9 New Schedule 1AA inserted 10**
- Insert the **Schedule 1AA** set out in the **Schedule** of this Act as the first schedule to appear after the last section of the principal Act.

Part 2

Amendments to Members of Parliament (Remuneration and Services) Act 2013 15

- 10 Principal Act**
- This **Part** amends the Members of Parliament (Remuneration and Services) Act 2013 (the **principal Act**).
- 11 Section 16 amended (Principles) 20**
- (1) Replace section 16(1)(c) with:
- “(c) that, if changes to services provided increase or decrease any element of remuneration or other private benefit, the value of that increase or decrease should be taken into account by the Remuneration Authority in determining salaries under Part 2:” 25
- (2) After section 16(2)(a)(ii), insert:
- “(iii) include in the determination or direction a statement of the value assessed under subparagraph (ii); and” 30
- (3) Replace section 16(2)(b) and (c) with:
- “(b) when fixing salaries for a relevant 12-month period (as that term is defined in **section 18B(2)** of the Remuneration Authority Act 1977), the Remuneration Au-

thority must take into account only the value of any change in personal benefit or potential personal benefit that has arisen because of a change in entitlements compared with entitlements included in the previous determination or direction; and

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“(c) the Remuneration Authority must include in its determination of the salaries and allowances under section 8 a statement that sets out how it has taken values assessed under this subsection into account in determining salaries.”

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Schedule	s 9
New Schedule 1AA inserted	
Schedule 1AA	s 3A
Transitional, savings, and related provisions	
Part 1	5
Provisions relating to Remuneration Authority (Members of Parliament Remuneration) Amendment Act 2015	
1 Parliamentary Salaries and Allowances Determination 2015 has no effect in relation to salaries	10
Clause 5 and Schedule 1 of the Parliamentary Salaries and Allowances Determination 2015—	
(a) are deemed not to have come into force on the date specified in clause 2 of that determination; and	
(b) are revoked.	15
2 Parliamentary Salaries and Allowances Determination 2013 has effect in relation to salaries	
(1) Clause 5 and Schedule 1 of the Parliamentary Salaries and Allowances Determination 2013 (the determination)—	
(a) are deemed to have continued to have effect on and from 1 July 2014; and	20
(b) continue to apply as if the expiry date specified in clause 3 of the determination were 30 June 2015.	
(2) For the purposes of section 69(2) of the Members of Parliament (Remuneration and Services) Act 2013, clause 5 and Schedule 1 of the determination are deemed not to have been superseded by the Parliamentary Salaries and Allowances Determination 2015.	25
3 No acts or omissions unlawful	
(1) No act done in accordance with the Parliamentary Salaries and Allowances Determination 2015 (the determination) is unlawful solely because of the revocation of clause 5 and Schedule 1 of the determination.	30

Schedule 1AA—*continued*

Part 1—*continued*

- (2) No omission to act in accordance with any provision of the determination before the date of the revocation of clause 5 and Schedule 1 of the determination is unlawful.

4 Authority to make new determination in relation to salaries

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- (1) The Authority must make a determination of salary rates for members of Parliament for the period 1 July 2014 to 30 June 2015.

- (2) The determination must be made in accordance with this Act and the Members of Parliament (Remuneration and Services) Act 2013, as amended by the Remuneration Authority (Members of Parliament Remuneration) Amendment Act **2015**.

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- (3) For the purposes of **section 18B(2)**, the salary rates for the previous 12-month period (as defined in that section) are those in Schedule 1 of the Parliamentary Salaries and Allowances Determination 2013.

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- (4) To avoid doubt, the determination required by **subclause (1)** may be made before or after 30 June 2015 and with effect for the period described in **subclause (1)**, despite the expiry date specified in **clause 2(1)(b)** and the requirement in section 19(2) that a determination must continue in force at least until the close of its expiry date.

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