

Legislative Statement: Remuneration Authority Legislation Bill – Third Reading

Presented to the House of Representatives in accordance with Standing Order 272

Introduction

- 1 The Remuneration Authority Legislation Bill transfers responsibility for determining the remuneration of certain judicial and statutory officers to the Remuneration Authority to recognise the judicial nature of the positions.

Background

- 2 The remuneration of statutory and judicial officers is determined under both the Cabinet Fees Framework and the Remuneration Authority. The Remuneration Authority is an independent statutory body that determines the remuneration for judicial and statutory officers who need to have, and to be seen to have, independence from Government.
- 3 An independent principles-based review was undertaken to determine whether the Cabinet Fees Framework or the Remuneration Authority is the most appropriate mechanism for setting the remuneration of statutory and judicial officers administered by the Ministry of Justice. The review concluded that the principal difference between the Remuneration Authority and the Cabinet Fees Framework is the degree of independence from Government of remuneration decisions.
- 4 The review concluded that Community Magistrates, Disputes Tribunal Referees, Environment Commissioners and Deputy Environment Commissioners are judicial decision-makers, and their remuneration should be determined independently of Government by the Remuneration Authority.
- 5 The review also concluded that the Human Rights Review Tribunal jurisdiction is comparable to that of a judge because the tribunal has the power to declare legislation to be inconsistent with the New Zealand Bill of Rights Act 1990. The Bill transfers responsibility for determining the remuneration of the legally qualified members of the Human Rights Review Tribunal, the Chairperson and the Deputy Chairpersons, to the Authority.
- 6 The Government has concluded that the remuneration of the Immigration and Protection Tribunal and the Tenancy Tribunal also needs to be determined independently of Government by the Remuneration Authority.

Provisions of the Remuneration Authority Legislation Bill

- 7 The Remuneration Authority Legislation Bill amends the Remuneration Authority Act 1977 and six other Acts to transfer responsibility for determining the remuneration for the following judicial officers from the Cabinet Fees Framework to the Remuneration Authority:
 - a) Disputes Tribunal Referees;
 - b) Community Magistrates of the District Court;
 - c) Chairperson and Deputy Chairpersons of the Human Rights Review Tribunal;
 - d) Deputy Chairpersons and Members of the Immigration and Protection Tribunal;
 - e) Environment Commissioners and Deputy Environment Commissioners of the Environment Court; and

f) Tenancy Tribunal Adjudicators.

- 8 The remuneration of these officers will remain the same until the Authority makes its first determination. This determination is expected to be backdated to the commencement date of this Act.

The Bill establishes five new Permanent Legislative Authorities

- 9 A Permanent Legislative Authority (PLA) is created when an Act authorises payments to be made from public money without a specific appropriation from Parliament. PLAs are needed because the remuneration for these officers is to be determined independently of Government.
- 10 The Bill establishes five new PLAs to fund the remuneration of the following officers:
- a) Disputes Tribunal Referees (Disputes Tribunal Act 1988);
 - b) Human Rights Review Tribunal Chairperson and Deputy Chairpersons (Human Rights Act 1993);
 - c) Immigration and Protection Tribunal Deputy Chairpersons and Members (Immigration Act 2009);
 - d) Tenancy Tribunal Adjudicators (Residential Tenancies Act 1986); and
 - e) Environment Commissioners and Deputy Environment Commissioners (Resource Management Act 1991).
- 11 A new PLA is not required to fund Community Magistrates because they are already funded through a PLA in the District Court Act 2016.

Select Committee has not recommended any changes to the Bill

- 12 The Justice Committee reviewed the Bill and considered submissions. The Committee did not recommend any changes to the Bill.

Amendments set out in a Government Supplementary Order Paper (SOP) were agreed during the Committee of the whole House Stage

- 13 The SOP corrected cross-referencing errors and replaced the transitional provisions in the six Schedules to better align with the policy intent of the Bill. These Schedules still require the remuneration of the affected officers to remain the same from the commencement date until the Remuneration Authority makes its first determination.