



New South Wales

Parliamentary Remuneration Amendment (Salary Packaging) Bill 2009

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are to amend the *Parliamentary Remuneration Act 1989*, the *Parliamentary Contributory Superannuation Act 1971* and the *Constitution Act 1902* as follows:

- (a) to enable employment benefits to be provided to members of Parliament by way of salary sacrifice, on the same basis as those benefits are provided to members of the Government Service,
 - (b) to enable members of the Parliamentary Contributory Superannuation Scheme to make contributions by way of salary sacrifice to that Scheme and to make additional salary sacrifice superannuation contributions to other funds,
 - (c) to confer powers on the Parliamentary Remuneration Tribunal (the *Tribunal*) to determine matters relating to employment benefits for members of Parliament,
 - (d) to make it clear that the provision of employment benefits and the making of salary sacrifice superannuation contributions do not constitute a ground for disqualification from Parliament on the ground of entering a contract or agreement for or on account of the Public Service of New South Wales,
-

- (e) to make other minor and consequential amendments,
- (f) to enable regulations containing savings and transitional provisions to be made consequential on the proposed Act.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of Parliamentary Remuneration Act 1989 No 160

Employment benefits and superannuation contributions

Schedule 1 [3] inserts proposed Part 2A (proposed sections 6A–6C) into the *Parliamentary Remuneration Act 1989* (the **Remuneration Act**). Proposed section 6A confers on a member of Parliament an entitlement to be provided with employment benefits, if the member elects to have those benefits and the election is approved by the designated employer. An employment benefit is a benefit of a kind approved by the Tribunal and is to be paid for by reducing the member's potential remuneration by the cost of the benefit.

Proposed section 6B confers on the Tribunal functions with regard to employment benefits, including power to fix the type of benefits to be provided and to make provision for their costing. However, they must be benefits of a kind available to members of the Government Service.

Proposed section 6C enables the Minister to direct the Tribunal to make a special determination as regards employment benefits.

Schedule 1 [1] amends section 2A of the Remuneration Act to include a reference to employment benefits in the objects of that Act.

Schedule 1 [2] amends section 3 of the Remuneration Act to insert definitions as a consequence of the amendments made by Schedule 1 [3] and [13].

Schedule 1 [10] amends section 14C of the Remuneration Act to amend the definition of the **salary** of a member of Parliament for superannuation purposes to include the cost of employment benefits and salary sacrifice amounts paid for superannuation on behalf of the member.

Schedule 1 [11] amends Part 3A of the Remuneration Act to insert a Division heading. **Schedule 1 [9]** makes a consequential amendment.

Schedule 1 [12] inserts proposed section 14EA into the Remuneration Act to extend the provisions enabling members of Parliament to make additional superannuation contributions by way of salary sacrifice to members who are continuing members of the Parliamentary Contributory Superannuation Scheme.

Schedule 1 [13] and [16] amend section 14F of the Remuneration Act to recognise the role of the designated employer (rather than the Treasurer) in approving salary sacrifice contributions for superannuation by members of Parliament. **Schedule 1 [13]** also amends that section to bring it into line with the provisions of other public sector superannuation legislation that define salary sacrifice contributions for superannuation.

Schedule 1 [14] amends section 14F of the Remuneration Act to remove the limitation of 50% on the amount of salary that may be sacrificed by members of Parliament for superannuation.

Schedule 1 [15] amends section 14F of the Remuneration Act to require members of the Parliamentary Contributory Superannuation Scheme to nominate the superannuation fund or account into which additional salary sacrifice contributions are to be paid. **Schedule 1 [17]** makes a consequential amendment.

Schedule 1 [20] amends section 15 of the Remuneration Act to make it clear that employment benefits are subject to the provisions of any relevant determination of the Tribunal.

Schedule 1 [21] amends section 15 of the Remuneration Act to make it clear that the costs of employment benefits and salary sacrifice contributions are payable in the same way as salaries of members of Parliament.

Machinery and consequential amendments

As a consequence of the conferral of additional powers on the Tribunal by the proposed Act, provisions of the Remuneration Act have been rearranged so that the general provisions relating to the Tribunal have been removed from Part 3 (which currently relates to additional entitlements) and collected in a new Part 3B.

Schedule 1 [4] amends section 8 of the Remuneration Act to insert the general provisions relating to the Tribunal functions. This section is renumbered and removed to the new Part 3B by **Schedule 1 [19]**.

Schedule 1 [5] substitutes section 9 of the Remuneration Act to limit the operation of that provision to the conferral of functions on the Tribunal relating to additional entitlements.

Schedule 1 [6] and [7] make amendments to sections 10 and 12A of the Remuneration Act consequential on the extension of the Tribunal's powers.

Schedule 1 [18] inserts a heading for the new Part 3B of the Remuneration Act.

Schedule 1 [19] renumbers provisions relating to the general functions of the Tribunal so that they will be located in the new Part 3B. **Schedule 1 [8] and [22]** make consequential amendments.

Schedule 1 [23] amends Schedule 3 to the Remuneration Act to enable regulations containing savings and transitional provisions to be made consequentially on the enactment of the proposed Act.

Schedule 1 [24] amends Schedule 3 to the Remuneration Act to preserve existing elections to make additional superannuation contributions.

Schedule 2 Amendment of other Acts

Schedule 2.1 Constitution Act 1902 No 32

Schedule 2.1 amends the *Constitution Act 1902* to make it clear that a member of Parliament who elects or agrees to be provided with, or receives, employment benefits (including salary sacrifice contributions for superannuation) is not affected by the prohibition in section 13 of that Act, which disqualifies members who benefit from public contracts.

Schedule 2.2 Parliamentary Contributory Superannuation Act 1971 No 53

Schedule 2.2 [4] inserts proposed section 18AA into *Parliamentary Contributory Superannuation Act 1971* (the *Superannuation Act*). The proposed section enables the contributions that are required to be made from a member of Parliament's salary for superannuation under that Act to be paid instead as salary sacrifice contributions. The amount of the superannuation contributions, together with the amount necessary to meet any tax payable by the trustees of the Parliamentary Contributory Superannuation Scheme for the salary sacrifice contributions, is to be foregone as remuneration by the member. A member who wishes to have salary sacrifice contributions made must make an election to, and have it approved by, the designated employer and the trustees.

Schedule 2.2 [1] amends section 3 of the Superannuation Act to insert definitions of *designated employer* and *salary sacrifice contribution*.

Schedule 2.2 [2] amends section 3 of the Superannuation Act to include as salary for the purposes of the Superannuation Act (and as part of the basis of determining the benefits of a member) the cost of any employment benefits and the amount of any salary sacrifice contributions.

Schedule 2.2 [3] amends section 6 of the Superannuation Act to provide that salary sacrifice contributions are to be paid into the Parliamentary Contributory Superannuation Fund.

Schedule 2.2 [5] amends Schedule 1 to the Superannuation Act to enable regulations containing savings and transitional provisions to be made consequentially on the enactment of the proposed Act.