

South Australia

Parliamentary Remuneration Act 1990

An Act to make provision in relation to the remuneration of members of Parliament; and for other purposes.

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Legislative history

The Parliament of South Australia enacts as follows:

1—Short title

This Act may be cited as the *Parliamentary Remuneration Act 1990*.

3—Interpretation

In this Act, unless the contrary intention appears—

basic salary means annual salary at a rate equal to \$42 000 less than the rate from time to time of Commonwealth basic salary;

benefits includes non-monetary benefits;

Commonwealth basic salary means the annual allowance by way of salary from time to time payable under the law of the Commonwealth to a member of the House of Representatives of the Parliament of the Commonwealth who is not entitled to any additional allowance for holding any office, or performing any function, in, or in relation to, that Parliament or that House;

non-participating member means a member of either House of Parliament who has made an election under section 7E of the *Parliamentary Superannuation Act 1974*;

PSS 3 means the scheme of superannuation known as PSS 3 under the *Parliamentary Superannuation Act 1974*.

4—Remuneration of members of Parliament

- (1) The remuneration of a member of Parliament comprises—
 - (a) the basic salary; and
 - (b) if the member holds an office specified in the Schedule—additional annual salary at a rate equal to the percentage of the basic salary specified in the Schedule in relation to that office; and
 - (c) such electorate allowances and other allowances, expenses and benefits as are determined from time to time by the Remuneration Tribunal.
- (2) A person who holds more than one office as a Minister of the Crown may be paid additional salary and receive allowances, expenses and benefits in respect of one only of those offices.
- (3) Additional salary must be calculated to the nearest dollar.
- (4) The Remuneration Tribunal must, in determining electorate allowances and other allowances, expenses and benefits for members of Parliament, have regard not only to their parliamentary duties but also to—
 - (a) their duty to be actively involved in community affairs; and
 - (b) their duty to represent and assist their constituents in dealings with governmental and other public agencies and authorities.
- (5) The electorate allowances and other allowances, expenses and benefits determined by the Remuneration Tribunal for members of Parliament may vary according to—
 - (a) the office held by a member; or
 - (b) the electorate represented by a member; or
 - (c) the place at which a member usually resides; or
 - (d) subject to section 4A(3), any other factor that the Tribunal considers relevant.

4A—Non-monetary benefits

- (1) A determination of the Remuneration Tribunal, in accordance with section 4, with respect to the provision of non-monetary benefits for members of Parliament may—
 - (a) provide for the provision (at the option of a member) of any article, motor vehicle, equipment or service to members; and
 - (b) specify the terms and conditions which are to apply to the provision and use of such articles, motor vehicles, equipment or services; and
 - (c) provide for the calculation and imposition of any contribution which the member is required to make towards the cost of providing the article, motor vehicle, equipment or service; and
 - (d) make any other provision necessary to give effect to the determination.

- (2) If the Remuneration Tribunal determines that a contribution is payable by a member of Parliament towards the cost of providing an article, motor vehicle, equipment or service, a member of Parliament may, in accordance with the determination of the Tribunal and despite any other provision of this Act, elect to pay the contribution by any of the following means, or by a combination of the following means:
 - (a) by way of a salary sacrifice by the member;
 - (b) by way of a reduction in the allowances and expenses that would otherwise be payable to the member;
 - (c) by a direct payment by the member to the Treasurer.
- (3) Except as provided by subsection (2), a determination of the Remuneration Tribunal must not provide for any reduction in the electorate allowances and other allowances and expenses payable to members of Parliament by reason of the provision of any non-monetary benefits to members.
- (4) In making a determination with respect to the provision of non-monetary benefits for members of Parliament, the Remuneration Tribunal must have regard to any non-monetary benefits provided under the law of the Commonwealth to senators or members of the House of Representatives of the Parliament of the Commonwealth, and to the terms and conditions on which such benefits are provided.
- (5) A determination of the Remuneration Tribunal with respect to the provision of motor vehicles to members of Parliament must specify a motor vehicle, or range of motor vehicles, that will constitute the standard motor vehicle to be provided to members in accordance with the determination.
- (6) A member of Parliament who is, in accordance with a determination of the Remuneration Tribunal, entitled to be provided with a motor vehicle may request the provision of a motor vehicle that is other than a standard motor vehicle specified in the determination, provided that any extra cost involved in the provision of such a motor vehicle is to be borne by the member in accordance with guidelines determined by the Remuneration Tribunal (and is payable in a manner determined under those guidelines).

4B—Salary sacrifice for superannuation purposes

- (1) In this section—

salary means basic salary and additional salary (if any).
- (2) A member of Parliament may elect to forego a percentage or amount of salary that would otherwise be paid to the member and instead have contributions made—
 - (a) in the case of a non-participating member—to the complying fund that applies in relation to the member under section 7E of the *Parliamentary Superannuation Act 1974*; and
 - (b) in any other case—to PSS 3,for superannuation purposes.
- (3) The election must—
 - (a) be made in writing; and
 - (b) be signed by the member; and

- (c) be furnished to the Treasurer.
- (4) The election must—
 - (a) subject to subsection (5), specify the percentage or amount of salary that is foregone; and
 - (b) specify the date from which the election is to have effect, being a date—
 - (i) that is at least 14 days after the date on which the notice is furnished to the Treasurer; and
 - (ii) that coincides with a date on which salary is actually due to be paid to the member; and
 - (c) contain such other information (if any) as is required by the Treasurer.
- (5) The amount that may be sacrificed under this section (whether by way of a percentage of salary or an amount of salary), when aggregated with any amount by way of salary sacrifice under section 4A or 6A(2) that applies in relation to the member, cannot exceed 50 per cent of the member's salary.
- (6) If an amount of salary is specified, it must be an amount of salary per pay period.
- (7) If a member has made an election under this section then, while the election has effect—
 - (a) the salary to which the member would otherwise be entitled under this Act is reduced in accordance with the terms of the election; and
 - (b) the Treasurer must make contributions of amounts representing the amount of reduction for the benefit of the member—
 - (i) in the case of a non-participating member—to the complying fund that applies in relation to the member under section 7E of the *Parliamentary Superannuation Act 1974*; and
 - (ii) in any other case—in accordance with section 14C(2) of the *Parliamentary Superannuation Act 1974*.
- (8) A member who has made an election under this section may vary the election from time to time in accordance with the regulations.
- (9) An election under this section will cease to have effect if—
 - (a) the member dies; or
 - (b) the member revokes the election by notice in writing furnished to the Treasurer in accordance with the regulations.
- (10) For the purposes of determining a percentage of salary under this section, other than under subsection (5), any amount that may be deducted from salary under section 4A or 6A(2) will be disregarded.
- (11) A member who has made an election under this section must—
 - (a) pay to the Treasurer an administrative charge of an amount fixed by the Treasurer at intervals, and in a manner, specified by the Treasurer; and
 - (b) if required by the Treasurer, enter into an arrangement specified by the Treasurer under which the member indemnifies the Crown with respect to—

- (i) any income tax or other taxation liability whatsoever (including any administrative penalty, fine or other amount) that may become payable pursuant to any relevant taxation legislation or ruling; and
- (ii) any other liability that may arise on account of the member's decision to sacrifice salary under this section.

5—Cessation of entitlement to remuneration

The entitlement of a member of Parliament to remuneration under this Act does not cease by reason of the fact that he or she has ceased to be a member—

- (a) on the dissolution of the House of which he or she is a member; or
- (b) on the expiry of the member's term by the effluxion of time,

but such entitlement does cease—

- (c) in the case of the additional salary and allowances, expenses and benefits in respect of an office specified in the Schedule—when the person ceases to hold that office; and
- (d) in the case of other remuneration—when a successor is elected as a member of Parliament in his or her place.

5A—Involuntary retirement payment

- (1) An eligible member who retires involuntarily following the commencement of this section is entitled to an involuntary retirement payment equal to 12 weeks of basic salary (which will be taken to be remuneration for the purposes of section 6).
- (2) A former member will be taken to have retired involuntarily for the purposes of subsection (1) if, and only if, the former member is taken to have retired involuntarily for the purposes of the *Parliamentary Superannuation Act 1974*.
- (3) However, a former member who is taken to have retired involuntarily for the purposes of the *Parliamentary Superannuation Act 1974* on the basis that, following the expiration of the member's term of office or his or her resignation, the member sought to be and was elected at an election for the Parliament of another State or the Commonwealth will not be taken to have retired involuntarily for the purposes of subsection (1).
- (4) In this section—

eligible member means—

- (a) a PSS 3 member; or
- (b) a non-participating member;

PSS 3 member means a member of PSS 3 under the *Parliamentary Superannuation Act 1974*, other than—

- (a) a person who is only a member of PSS 3 in order to establish—
 - (i) a rollover account under section 7F of that Act; or
 - (ii) a Government contribution account under section 7G of that Act,(or both); or
- (b) a person who is also a member pensioner (within the meaning of that Act).

6—Payment from Consolidated Account

A member of Parliament is entitled to the remuneration fixed by or under this Act and this section is sufficient authority for the payment from the Consolidated Account of the amounts required for that purpose.

6A—Ability to provide other allowances and benefits

- (1) This Act does not limit or affect the ability of the Parliament or the Crown to provide allowances and other benefits that are additional or supplementary to the awards of the Remuneration Tribunal under this Act.
- (2) If the Parliament or the Crown offers to provide any allowance or benefit to a member of Parliament under this section and it is a condition of that offer that the member pay a contribution towards the cost of providing the allowance or benefit—
 - (a) the provision of the allowance or benefit must be at the option of the member; and
 - (b) the member may, despite any other provision of this Act, elect to pay the contribution by any of the following means, or by a combination of the following means:
 - (i) by way of a salary sacrifice by the member;
 - (ii) by way of a reduction in the allowances and expenses that would otherwise be payable to the member;
 - (iii) by a direct payment by the member to the Treasurer.

7—Regulations

The Governor may make such regulations as are contemplated by this Act or as are necessary or expedient for the purposes of this Act.

Schedule—Additional salary

Office held	Percentage of basic salary
Premier	100
Deputy Premier	85
Leader of the Government in the Legislative Council	85
Minister of the Crown not referred to above—	
if a member of Executive Council	75
if not a member of Executive Council	41
President of the Legislative Council	75
Speaker of the House of Assembly	75
Chairman of Committees in the House of Assembly	37.5
Leader of the Opposition in the House of Assembly	75
Deputy Leader of the Opposition in the House of Assembly	60
Parliamentary Secretary to a Minister	20

Office held	Percentage of basic salary
Government Whip in the House of Assembly	18
Opposition Whip in the House of Assembly	18
Leader of the Opposition in the Legislative Council	60
Deputy Leader of the Opposition in the Legislative Council	10
Government Whip in the Legislative Council	10
Opposition Whip in the Legislative Council	10
Members of the Aboriginal Lands Parliamentary Standing Committee (other than the Presiding Member)	10
Presiding Member of the Economic and Finance Committee	17
Other members of the Economic and Finance Committee	12
Presiding Member of the Environment, Resources and Development Committee	17
Other members of the Environment, Resources and Development Committee	12
Presiding Member of the Legislative Review Committee	14
Other members of the Legislative Review Committee	10
Presiding Member of the Public Works Committee	14
Other members of the Public Works Committee	10
Presiding Member of the Social Development Committee	14
Other members of the Social Development Committee	10
Presiding Member of the Statutory Authorities Review Committee	14
Other members of the Statutory Authorities Review Committee	10
Presiding Member of the Natural Resources Committee (unless a Minister)	14
Other members of the Natural Resources Committee (unless a Minister)	10

Legislative history

Notes

- Amendments of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1990	14	<i>Parliamentary Remuneration Act 1990</i>	12.4.1990	19.4.1990 (<i>Gazette 19.4.1990 p1136</i>)
1991	50	<i>Parliamentary Committees Act 1991</i>	21.11.1991	11.2.1992 (<i>Gazette 5.12.1991 p1668</i>)
1994	18	<i>Parliamentary Committees (Miscellaneous) Amendment Act 1994</i>	12.5.1994	12.5.1994 (<i>Gazette 12.5.1994 p1188</i>)
1994	84	<i>Parliamentary Remuneration (Salary Rates Freeze) Amendment Act 1994</i>	8.12.1994	8.12.1994
1995	22	<i>Parliamentary Remuneration (Basic Salary) Amendment Act 1995</i>	20.4.1995	1.7.1995: s 2
1996	89	<i>Parliamentary Remuneration (Supplementary Allowances and Benefits) Amendment Act 1996</i>	12.12.1996	12.12.1996
1997	69	<i>Statutes Amendment (Ministers of the Crown) Act 1997</i>	11.12.1997	Pt 6 (s 11)—17.12.1997 (<i>Gazette 17.12.1997 p1639</i>)
2002	29	<i>Constitution (Parliamentary Secretaries) Amendment Act 2002</i>	7.11.2002	7.11.2002
2003	24	<i>Aboriginal Lands Parliamentary Standing Committee Act 2003</i>	24.7.2003	Sch (cl 5)—18.9.2003 (<i>Gazette 18.9.2003 p3599</i>)
2003	34	<i>Parliamentary Remuneration (Powers of Remuneration Tribunal) Amendment Act 2003</i>	31.7.2003	31.7.2003
2003	35	<i>River Murray Act 2003</i>	31.7.2003	Sch (cl 18)—24.11.2003 (<i>Gazette 20.11.2003 p4203</i>)
2004	39	<i>Parliamentary Remuneration (Non-monetary Benefits) Amendment Act 2004</i>	12.8.2004	12.8.2004
2004	47	<i>Parliamentary Remuneration (Restoration of Provisions) Amendment Act 2004</i>	9.12.2004	9.12.2004

2005	43	<i>Parliamentary Superannuation (Scheme for New Members) Amendment Act 2005</i>	21.7.2005	Pt 3 (ss 48 & 49)—15.9.2005 (<i>Gazette 15.9.2005 p3346</i>)
2010	15	<i>Statutes Amendment (Members' Benefits) Act 2010</i>	7.10.2010	Pt 2 (ss 4—6)—7.10.2010: s 2(1)
2011	47	<i>Parliamentary Remuneration (Basic Salary) Amendment Act 2011</i>	8.12.2011	8.12.2011
2012	15	<i>Parliamentary Remuneration (Basic Salary) Amendment Act 2012</i>	24.5.2012	1.7.2012: s 2
2013	56	<i>Aboriginal Lands Parliamentary Standing Committee (Presiding Member) Amendment Act 2013</i>	7.11.2013	Sch 1 (cl 1)—7.12.2013: s 2

Provisions amended

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
<i>s 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>31.7.2003</i>
s 3		
basic salary	substituted by 84/1994 s 2	8.12.1994
	substituted by 22/1995 s 3	1.7.1995
	substituted by 47/2011 s 3	8.12.2011
	substituted by 15/2012 s 4	1.7.2012
benefits	inserted by 34/2003 s 3	31.7.2003
non-participating member	inserted by 15/2010 s 4	7.10.2010
PSS 3	inserted by 15/2010 s 4	7.10.2010
s 4		
s 4(1)	amended by 34/2003 s 4(1)	31.7.2003
s 4(2)	amended by 34/2003 s 4(2)	31.7.2003
s 4(4)	amended by 34/2003 s 4(3)	31.7.2003
s 4(5)	substituted by 34/2003 s 4(4)	31.7.2003
s 4A	inserted by 34/2003 s 5	31.7.2003
s 4A(2)	amended by 47/2004 s 3(1)	9.12.2004
s 4A(3)	amended by 39/2004 s 3(1)	12.8.2004
	amended by 47/2004 s 3(2)	9.12.2004
s 4A(4)	amended by 39/2004 s 3(2)	12.8.2004
	amended by 47/2004 s 3(3)	9.12.2004
s 4A(5)	substituted by 39/2004 s 3(3)	12.8.2004
	substituted by 47/2004 s 3(4)	9.12.2004
s 4B	inserted by 39/2004 s 4	12.8.2004
	deleted by 47/2004 s 4	9.12.2004
	inserted by 43/2005 s 48	15.9.2005

s 4B(1)		
<i>eligible member</i>	<i>deleted by 15/2010 s 5(1)</i>	7.10.2010
<i>non-participating member</i>	<i>deleted by 15/2010 s 5(1)</i>	7.10.2010
<i>PSS 3</i>	<i>deleted by 15/2010 s 5(1)</i>	7.10.2010
<i>PSS 3 member</i>	<i>deleted by 15/2010 s 5(1)</i>	7.10.2010
s 4B(2)	amended by 15/2010 s 5(2), (3)	7.10.2010
s 4B(7)	amended by 15/2010 s 5(4)	7.10.2010
s 5	substituted by 34/2003 s 5	31.7.2003
s 5A	inserted by 15/2010 s 6	7.10.2010
s 6	amended by 34/2003 s 6	31.7.2003
s 6A		
s 6A(1)	s 6A inserted by 89/1996 s 2	12.12.1996
	s 6A redesignated as s 6A(1) by 47/2004 s 5	9.12.2004
s 6A(2)	inserted by 47/2004 s 5	9.12.2004
s 6A(3)	<i>inserted by 47/2004 s 5</i>	9.12.2004
	<i>deleted by 43/2005 s 49</i>	15.9.2005
Sch	amended by 50/1991 Sch Pt 2	11.2.1992
	amended by 18/1994 Sch cl 3	12.5.1994
	amended by 69/1997 s 11	17.12.1997
	amended by 29/2002 s 5	7.11.2002
	amended by 24/2003 Sch cl 5	18.9.2003
	amended by 35/2003 Sch cl 18	24.11.2003

Transitional etc provisions associated with Act or amendments

Parliamentary Remuneration (Supplementary Allowances and Benefits) Amendment Act 1996

3—Application of amendment

The amendment made to the principal Act by this Act operates both prospectively and retrospectively.

Parliamentary Remuneration (Powers of Remuneration Tribunal) Amendment Act 2003, Sch

2—Transitional provision

The President of the Remuneration Tribunal must, within two months after the commencement of this Act, convene a sitting of the Tribunal for the purpose of reviewing any determination of the Tribunal that is in force under the *Parliamentary Remuneration Act 1990* at the commencement of this Act.

***Parliamentary Remuneration (Non-monetary Benefits) Amendment Act 2004,
Sch 1—Transitional provisions***

The Remuneration Tribunal must, within 4 months after the commencement of this clause, make a determination in accordance with section 4A of the *Parliamentary Remuneration Act 1990* providing for the provision of a motor vehicle to each member of Parliament (at the option of each member).

***Parliamentary Remuneration (Restoration of Provisions) Amendment Act 2004,
Sch 1—Transitional provisions***

The requirement, under Schedule 1 of the *Parliamentary Remuneration (Non-monetary Benefits) Amendment Act 2004*, for the Remuneration Tribunal to make a determination, within 4 months after the commencement of that Act, as specified in that Schedule is revoked (and any determination made in accordance with that requirement is void and of no effect).

Parliamentary Superannuation (Scheme for New Members) Amendment Act 2005, Sch 1—Transitional provisions

2—Other provisions

- (1) The Governor may, by regulation, make additional provisions of a saving or transitional nature consequent on the enactment of this Act.
- (2) A provision of a regulation made under subclause (1) may, if the regulation so provides, take effect from the commencement of this Act or from a later day.
- (3) To the extent to which a provision takes effect under subclause (2) from a day earlier than the day of the regulation's publication in the Gazette, the provision does not operate to the disadvantage of a person by—
 - (a) decreasing the person's rights; or
 - (b) imposing liabilities on the person.
- (4) The *Acts Interpretation Act 1915* will, except to the extent of any inconsistency with the provisions of this Schedule (or regulations made under this Schedule), apply to any amendment effected by this Act.

Historical versions

Reprint No 1—11.2.1992

Reprint No 2—12.5.1994

Reprint No 3—8.12.1994

Reprint No 4—1.7.1995

Reprint No 5—12.12.1996

Reprint No 6—17.12.1996

Reprint No 7—7.11.2002

Reprint No 8—31.7.2003

Reprint No 9—18.9.2003

Reprint No 10—24.11.2003

12.8.2004

9.12.2004

15.9.2005

7.10.2010

8.12.2011