

Legislative Council—No 115A

As reported with amendments, recommitted, reported with a further amendment, reports adopted, Standing Orders suspended and passed remaining stages, 24 September 2009

South Australia

Statutes Amendment (Council Allowances) Bill 2009

A BILL FOR

An Act to amend the *Local Government Act 1999* and the *City of Adelaide Act 1998*.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

Part 2—Amendment of *Local Government Act 1999*

- 4 Substitution of section 76
76 Allowances

Part 3—Amendment of *City of Adelaide Act 1998*

- 5 Substitution of section 24
24 Allowances
-

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Statutes Amendment (Council Allowances) Act 2009*.

2—Commencement

- 5 This Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Local Government Act 1999*

10 4—Substitution of section 76

Section 76—delete the section and substitute:

76—Allowances

- 15 (1) Subject to this section, a member of a council is entitled to the allowance determined by the Remuneration Tribunal in relation to the member's office and indexed in accordance with this section.
- (2) The Remuneration Tribunal must make determinations under this section on a 4 yearly basis before the designated day in relation to each set of periodic elections held under the *Local Government (Elections) Act 1999*.

- 5
- 10
- 15
- 20
- 25
- 30
- 35
- 40
- (3) The Remuneration Tribunal must, in making a determination under this section, have regard to the following:
 - (a) the role of members of council as members of the council's governing body and as representatives of their area;
 - (b) the size, population and revenue of the council, and any relevant economic, social, demographic and regional factors in the council area;
 - (c) the fact that an allowance under this section is not intended to amount to a salary for a member;
 - (d) the fact that an allowance under this section should reflect the nature of a member's office;
 - (e) the provisions of this Act providing for the reimbursement of expenses of members.
 - (4) For the purposes of the proceedings before the Remuneration Tribunal but without derogating from the operation of subsection (3), the allowances to be determined under this section will be taken to be in the nature of a fee under the definition of *remuneration* in the *Remuneration Act 1990*.
 - (5) Without limiting section 10 of the *Remuneration Act 1990*, the Remuneration Tribunal must—
 - (a) allow persons who are entitled to be enrolled on the voters roll for an area a reasonable opportunity to make submissions orally or in writing to the Tribunal in relation to a determination under this section that relates to the members of the council for that area; and
 - (b) allow the LGA a reasonable opportunity to make submissions orally or in writing to the Tribunal in relation to any determination under this section.
 - (6) Nothing in subsection (5) requires the Remuneration Tribunal, for the purposes of making all determinations required under this section in any 4 year period, to hold more than 1 hearing to receive any oral submissions that persons may care to make (and the Tribunal is not required to hold any hearing if it appears to the Tribunal that no one is seeking to make oral submissions).
 - (7) The rates of allowances may vary from office to office, and from council to council.
 - (8) An allowance determined under this section will, in relation to the members of a particular council, take effect from the first ordinary meeting of the council held after the conclusion of the relevant periodic election.
 - (9) An allowance determined under this section is to be adjusted on the first, second and third anniversaries of the relevant periodic elections to reflect changes in the Consumer Price Index under a scheme prescribed by the regulations.

- (10) Sections 17 and 19 of the *Remuneration Act 1990* do not apply in relation to a determination under this section.
- (11) A member of a council who holds an office for part only of the period in respect of which an allowance is payable is entitled to the proportion of the allowance that the period for which the member held the office bears to the total period.
- (12) An allowance under this section is to be paid in accordance with any requirement set out in the regulations (unless the member declines to accept payment of an allowance).
- (13) Despite any other Act or law, the reasonable costs of the Remuneration Tribunal in making a determination under this section are to be paid by the LGA under an arrangement established by the Minister from time to time after consultation with the President of the LGA and the President of the Tribunal.
- (14) Regulations made for the purposes of this section may make different provision according to the offices or classes of council to which they are expressed to apply.
- (15) In this section—

Consumer Price Index means the Consumer Price Index (All groups index for Adelaide) published by the Australian Bureau of Statistics;
designated day, in relation to particular periodic elections, means the day that is 14 days before the day on which nominations close for those elections.

Part 3—Amendment of *City of Adelaide Act 1998*

5—Substitution of section 24

Section 24—delete the section and substitute:

24—Allowances

- (1) Subject to this section, a member of the Council is entitled to the allowance determined by the Remuneration Tribunal in relation to the member's office and indexed in accordance with this section.
- (2) The Remuneration Tribunal must make determinations under this section on a 4 yearly basis before the designated day in relation to each periodic election for the City of Adelaide held under the *Local Government (Elections) Act 1999*.
- (3) The Remuneration Tribunal must, in making a determination under this section, have regard to the following:
- (a) the role of members of the Council as members of the Council's governing body and as representatives of their area;
 - (b) the size, population and revenue of the Council, and any relevant economic and social factors in the council area;

- 5
- (c) the fact that an allowance under this section is not intended to amount to a salary for a member;
- (d) the fact that an allowance under this section should reflect the nature of a member's office;
- (e) the provisions of this Act providing for the reimbursement of expenses of members.
- 10 (4) For the purposes of the proceedings before the Remuneration Tribunal but without derogating from the operation of subsection (3), the allowances to be determined under this section will be taken to be in the nature of a fee under the definition of *remuneration* in the *Remuneration Act 1990*.
- 15 (5) Without limiting section 10 of the *Remuneration Act 1990*, the Remuneration Tribunal must allow persons who are entitled to be enrolled on the voters roll for the City of Adelaide, and the LGA, a reasonable opportunity to make submissions orally or in writing to the Tribunal in relation to any determination under this section.
- 20 (6) Nothing in subsection (5) requires the Remuneration Tribunal, for the purposes of making all determinations required under this section in any 4 year period, to hold more than 1 hearing to receive any oral submissions that persons may care to make (and the Tribunal is not required to hold any hearing if it appears to the Tribunal that no one is seeking to make oral submissions).
- (7) The rates of allowances may vary from office to office.
- 25 (8) An allowance determined under this section will take effect from the first ordinary meeting of the Council held after the conclusion of the relevant periodic election.
- (9) An allowance determined under this section is to be adjusted on the first, second and third anniversaries of the determination to reflect changes in the Consumer Price Index under a scheme prescribed by the regulations.
- 30 (10) Sections 17 and 19 of the *Remuneration Act 1990* do not apply in relation to a determination under this section.
- 35 (11) A member of the Council who holds an office for part only of the period in respect of which an allowance is payable is entitled to the proportion of the allowance that the period for which the member held the office bears to the total period.
- (12) An allowance under this section is to be paid in accordance with any requirement set out in the regulations (unless the member declines to accept payment of an allowance).
- 40 (13) Despite any other Act or law, the reasonable costs of the Remuneration Tribunal in making a determination under this section are to be paid by the LGA under an arrangement established by the Minister from time to time after consultation with the President of the LGA and the President of the Tribunal.

(14) Regulations made for the purposes of this section may make different provisions according to the offices to which they are expressed to apply.

(15) In this section—

5

Consumer Price Index means the Consumer Price Index (All groups index for Adelaide) published by the Australian Bureau of Statistics;

designated day, in relation to a particular periodic election, means the day that is 14 days before the day on which nominations close for that election.