

South Australia

# Remuneration Act 1990

An Act to establish a tribunal to determine the remuneration payable to members of the judiciary and the remuneration or part of the remuneration payable in respect of certain other offices; and for other purposes.

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## Contents

### Part 1—Preliminary

- 1 Short title
- 3 Interpretation

### Part 2—Remuneration Tribunal

#### Division 1—Establishment of Tribunal

- 4 Establishment of Tribunal
- 5 Membership of Tribunal
- 6 Terms and conditions on which members hold office
- 7 Remuneration of members

#### Division 2—Procedures and powers of Tribunal

- 8 Sittings of Tribunal
- 9 Constitution of Tribunal etc
- 10 Evidence and submissions
- 11 Tribunal to have powers of a Royal Commission
- 12 Tribunal may determine its own procedure

### Part 3—Determination of remuneration

- 13 Determination of remuneration of judges, magistrates and certain others
- 14 Additional jurisdiction as conferred by other Acts or by proclamation
- 15 Tribunal to have regard to principle of judicial independence
- 16 Report etc
- 17 Retroactive operation of determinations
- 18 Determinations not to be subject to appeal
- 19 Effect of determinations

### Part 4—Miscellaneous

- 20 Regulations

### Legislative history

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**The Parliament of South Australia enacts as follows:**

## **Part 1—Preliminary**

### **1—Short title**

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

### **3—Interpretation**

In this Act—

*remuneration* includes—

- (a) salary; and
- (b) allowances; and
- (c) expenses; and
- (d) fees; and
- (e) any other benefit of a pecuniary nature;

*the Tribunal* means the Remuneration Tribunal established under Part 2.

## **Part 2—Remuneration Tribunal**

### **Division 1—Establishment of Tribunal**

#### **4—Establishment of Tribunal**

The *Remuneration Tribunal* is established.

#### **5—Membership of Tribunal**

- (1) The Tribunal is to consist of three members appointed by the Governor on the nomination of the Minister.
- (2) The Minister must, in choosing nominees for appointment under this section, exclude from consideration any person whose own remuneration could be affected directly or indirectly by a determination of the Tribunal.
- (3) One member of the Tribunal must be appointed by the Governor to be the President of the Tribunal.
- (4) The validity of a determination of the Tribunal is not affected by an irregularity in the nomination or appointment of a member of the Tribunal.

#### **6—Terms and conditions on which members hold office**

- (1) A member of the Tribunal may be appointed for a term of office (not exceeding seven years) specified in the instrument of appointment.
- (2) A person who has completed a term of office as a member of the Tribunal is eligible for reappointment.
- (3) The Governor may remove a member of the Tribunal from office on the ground of misconduct or neglect of duty.

- (4) The office of a member of the Tribunal becomes vacant if the member—
- (a) dies;
  - (b) completes a term of office;
  - (c) is appointed to an office in relation to which the Tribunal has jurisdiction to make a determination under this Act;
  - (d) resigns by notice in writing addressed to the Minister;
  - (e) becomes mentally or physically incapable of satisfactorily carrying out the duties of the office;
  - (f) is removed from office under subsection (3).

### **7—Remuneration of members**

A member of the Tribunal is entitled to such remuneration as is determined by the Governor.

## **Division 2—Procedures and powers of Tribunal**

### **8—Sittings of Tribunal**

- (1) A sitting of the Tribunal may be convened by the President of the Tribunal of his or her own motion or at the request of the Minister.
- (2) The Tribunal must sit at least once in each year for the purpose of determining, or reviewing previous determinations of, remuneration under this Act.

### **9—Constitution of Tribunal etc**

- (1) The Tribunal may be constituted of two or three of its members for the purpose of making a determination under this Act.
- (2) A decision in which any two members of the Tribunal concur is a decision of the Tribunal.

### **10—Evidence and submissions**

- (1) The Tribunal is not bound by the rules of evidence but may inform itself in any manner it thinks fit.
- (2) Before the Tribunal makes a determination affecting the remuneration of a particular person, or persons of a particular class, the Tribunal must allow that person, or the persons of that class, a reasonable opportunity to make submissions orally or in writing to the Tribunal.
- (3) A person may appear before the Tribunal personally, or by counsel or other representative.
- (4) The Minister may intervene, personally or by counsel or other representative, in proceedings before the Tribunal for the purpose of introducing evidence, or making submissions, on any question relevant to the public interest.

### **11—Tribunal to have powers of a Royal Commission**

- (1) The Tribunal has the powers of a Royal Commission.

- (2) The provisions of the *Royal Commissions Act 1917* apply to and in relation to the Tribunal as if it were a Royal Commission.

## **12—Tribunal may determine its own procedure**

Subject to this Act, the Tribunal may determine its own procedure.

## **Part 3—Determination of remuneration**

### **13—Determination of remuneration of judges, magistrates and certain others**

The Tribunal has jurisdiction to determine the remuneration payable to—

- (a) the Chief Justice of the Supreme Court;
- (b) the President of the Court of Appeal;
- (ba) the Puisne Judges of the Supreme Court that are appointed to the Court of Appeal;
- (bb) the other Puisne Judges of the Supreme Court;
- (c) the President of the Industrial Court;
- (d) the Deputy Presidents of the Industrial Court;
- (e) the Senior District Court Judge;
- (f) the other District Court Judges;
- (g) the Chief Magistrate;
- (m) the other Magistrates;
- (n) the Supervising Industrial Magistrate;
- (o) the other Industrial Magistrates;
- (p) the State Coroner;
- (q) the Deputy State Coroners;
- (r) the Commissioners of the Industrial Commission;
- (s) the full-time Commissioners of the Planning Appeal Tribunal.

### **14—Additional jurisdiction as conferred by other Acts or by proclamation**

- (1) The Tribunal has, in addition, jurisdiction to determine the remuneration, or a specified part of the remuneration, payable in respect of any office (other than those previously referred to in this Part) if such jurisdiction is conferred on the Tribunal—
- (a) by any other Act; or
  - (b) by the Governor by proclamation.
- (2) The Governor may, by proclamation—
- (a) confer on the Tribunal jurisdiction to determine the remuneration, or a specified part of the remuneration, payable in respect of a specified office; or
  - (b) vary or revoke a proclamation under this section.

- (3) If—
- (a) power to determine remuneration in respect of an office is vested by a provision of any other Act (whether enacted before or after the commencement of this Act) in some person or body other than the Tribunal; and
  - (b) pursuant to this section jurisdiction is conferred on the Tribunal to determine the remuneration, or a specified part of the remuneration, payable in respect of that office,

the power so vested in that other person or body is correspondingly reduced.

### **15—Tribunal to have regard to principle of judicial independence**

The Tribunal must, where appropriate in determining remuneration under this Act, have regard to the constitutional principle of judicial independence.

### **16—Report etc**

- (1) The Tribunal must, as soon as practicable after arriving at a determination, forward to the Minister a report setting out the terms of the determination and the grounds on which it was made.
- (2) The Minister must, as soon as practicable after receipt of a report under this section, cause copies of the report to be laid before both Houses of Parliament.
- (3) A determination of the Tribunal must be published in the Gazette within seven days after it is made.

### **17—Retroactive operation of determinations**

A determination of the Tribunal is, if the Tribunal so determines, to be taken to have operated from a date fixed by the Tribunal that is antecedent to the date of the determination or the date of commencement of this Act.

### **18—Determinations not to be subject to appeal**

A determination of the Tribunal is not subject to appeal.

### **19—Effect of determinations**

A determination of the Tribunal—

- (a) is binding on the Crown; and
- (b) is sufficient authority for the payment from the Consolidated Account of the remuneration to which it relates.

## **Part 4—Miscellaneous**

### **20—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.

## Legislative history

### Notes

- 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](http://www.legislation.sa.gov.au).

### Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1990	19	<i>Remuneration Act 1990</i>	19.4.1990	19.4.1990 ( <i>Gazette 19.4.1990 p1136</i> )
2013	26	<i>Magistrates (Miscellaneous) Amendment Act 2013</i>	27.6.2013	Sch 1 (cl 4)—4.7.2013 ( <i>Gazette 4.7.2013 p2970</i> )
2017	70	<i>Statutes Amendment (Attorney-General's Portfolio No 3) Act 2017</i>	12.12.2017	Pt 9 (s 19)—8.7.2018: s 2(3)
<b>2019</b>	<b>45</b>	<b><i>Supreme Court (Court of Appeal) Amendment Act 2019</i></b>	<b>19.12.2019</b>	<b>Sch 1 (cll 77 &amp; 90)—1.1.2021 (<i>Gazette 10.12.2020 p5638</i>)</b>

### Provisions amended

New entries appear in bold.

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

Provision	How varied	Commencement
Pt 1		
s 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	
Pt 3		
s 13	(i)—(l) deleted by 26/2013 Sch 1 cl 4 (h) deleted by 70/2017 s 19 <b>amended by 45/2019 Sch 1 cl 77</b>	4.7.2013 8.7.2018 <b>1.1.2021</b>

## **Transitional etc provisions associated with Act or amendments**

### ***Supreme Court (Court of Appeal) Amendment Act 2019, Sch 1 Pt 2—Transitional provisions etc***

#### **90—Initial remuneration**

Despite section 13 of the *Remuneration Act 1990*, the Governor may determine the initial remuneration payable to—

- (a) the person appointed as President of the Court of Appeal on the commencement of Part 2 of this Act; and
- (b) the puisne judges who are, on the commencement of Part 2 of this Act, appointed to the Court of Appeal,

(but nothing prevents the Remuneration Tribunal making subsequent determinations in relation to the remuneration of such persons).

#### **Historical versions**

4.7.2013

8.7.2018