



Queensland Independent Remuneration Tribunal Act 2013

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Queensland

Queensland Independent Remuneration Tribunal Act 2013

Contents

		Page
Part 1	Preliminary	
1	Short title	5
2	Commencement	5
3	Main purpose of Act	5
4	Act binds all persons	6
5	Definitions	6
Part 2	Queensland Independent Remuneration Tribunal	
Division 1	Establishment of tribunal	
6	Establishment	6
7	Functions	6
8	Powers	6
9	Independence of tribunal and tribunal members	7
Division 2	Membership of tribunal	
10	Membership	7
11	Eligibility for appointment	7
12	Term of appointment	8
13	Conditions of appointment	8
14	Chairman of tribunal	9
15	Report about criminal history	9
16	Disclosure of changes in criminal history	10
17	Disclosure of interests	10
18	Termination of appointment	11
19	Vacation of office	11
20	Casual vacancy in tribunal member's office	12
Division 3	Tribunal's business and meetings	
21	Conduct of business	12

Contents

22	Tribunal meetings	12
23	Quorum	13
24	Minutes	13
Division 4	Miscellaneous	
25	Assistance for tribunal	13
26	Annual report	14
Part 3	Tribunal's determinations	
Division 1	Making determinations	
Subdivision 1	General	
27	Power to make determination	14
28	Procedures for making determination	14
Subdivision 2	Determinations about remuneration	
28A	Application of subdivision	15
29	General principles for making remuneration determinations	15
30	Requirements for making remuneration determinations	16
31	When remuneration determinations to be made	16
31A	Remuneration determinations about salary entitlements following public service salary decisions	16
31B	Particular remuneration determinations about additional salary entitlements	17
Subdivision 3	Determinations about entitlements of cross bench members to additional staff members	
31C	Application of subdivision	18
31D	General matters about additional staff member determinations .	18
31E	General principles for making additional staff member determinations 19	
31F	Requirement to consult with Clerk	20
31G	When additional staff member determinations to be made	20
Division 2	Effect of determinations	
32	When determination has effect	21
33	Effect of determination	21
Division 3	Tabling and publication of determinations and reasons for determinations	
34	Determination and reasons to be tabled	21
35	Determination and reasons to be published	22
Division 4	Other provisions	
36	Ruling about determination	22

37	Limitation of review and appeal	22
Part 4	Members' remuneration	
Division 1	Preliminary	
38	Definitions for pt 4	23
39	Meaning of recognised political party	23
40	Purpose of pt 4	24
Division 2	Annual salary and additional salary	
41	Annual salary entitlement of member	25
42	Additional salary entitlement of some members	25
43	Amount of additional salary	26
44	Additional salary of Deputy Speaker	26
45	Additional salary of temporary Deputy Speaker	27
46	Additional salary of acting Minister	27
Division 3	Payment of salaries	
47	Application of div 3	28
48	When salary is paid	28
49	When additional salary is paid	28
50	Apparent vacation of seat when Assembly not sitting	29
Division 4	Salary sacrifice	
51	Member may salary sacrifice	30
52	Variation or revocation of election	30
Division 5	Allowances and entitlements	
53	Definition for div 5	31
54	Member's allowances and entitlements	31
56	Liability of former members to repay advance allowance	31
57	Liability of member to repay allowance	32
58	Clerk's certificate	32
Division 6	Other provision	
59	Annual reversion to treasury of undrawn amounts	33
Part 4A	Additional staff members for cross bench members	
59A	Purpose of part	33
59B	Clerk to give effect to entitlement to additional staff members	33
59C	When entitlement to additional staff members ceases	34
59D	Act does not affect other entitlements	34
Part 5	Other matters	
60	Members' handbook	35

Contents

61	Regulation-making power	36
Part 6	Transitional provisions	
Division 1	Preliminary	
62	Definition for pt 6	36
Division 2	Provisions about members of the Assembly	
63	Purpose of div 2	36
64	Provision about members' remuneration from 1 September 2009 to 30 June 2013	37
65	Members' salary notice has no effect	37
66	Provision about members' remuneration from 9 August 2013 to making of first determination	38
67	When first determination has effect	38
68	Liability to repay overpayment	38
Division 3	Other provisions	
69	Provision about members' handbook	40
70	Term of appointment of first tribunal members	40
Division 4	Revocation and transitional provisions for Parliament of Queensland and Other Acts Amendment Act 2015	
71	Definitions for div 4	40
72	Retrospective revocation of Determination 7/2015	41
73	Liability to repay overpayment	41
74	Determination about salary entitlements in response to particular decision before commencement	42
75	Determination about salary entitlements in response to Directive 16/13 42	
Part 7	Amendments and repeal of legislation	
Division 8	Repeal of Parliament of Queensland Regulation 2012	
112	Repeal	43
Schedule 1	Dictionary	44

Queensland Independent Remuneration Tribunal Act 2013

An Act to establish a tribunal to review and decide matters relating to remuneration in connection with members and former members of the Legislative Assembly and matters relating to entitlements of cross bench members to additional staff members

Part 1 Preliminary

1 Short title

This Act may be cited as the *Queensland Independent Remuneration Tribunal Act 2013*.

2 Commencement

This Act commences, or is taken to have commenced, on 9 August 2013.

3 Main purpose of Act

The main purpose of this Act is to establish the Queensland Independent Remuneration Tribunal to review and decide—

- (a) remuneration in connection with members and former members of the Assembly; and
- (b) entitlements of cross bench members to additional staff members.

4 Act binds all persons

This Act binds all persons, including the State.

5 Definitions

The dictionary in schedule 1 defines particular words used in this Act.

Part 2 Queensland Independent Remuneration Tribunal

Division 1 Establishment of tribunal

6 Establishment

The Queensland Independent Remuneration Tribunal is established.

7 Functions

The tribunal has the following functions—

- (a) to review remuneration in connection with members and former members of the Assembly;
- (b) to review entitlements of cross bench members to additional staff members;
- (c) to make determinations under this Act about the matters mentioned in paragraphs (a) and (b).

8 Powers

- (1) The tribunal has the powers necessary or convenient to perform the tribunal's functions.
- (2) The tribunal also has the other powers given to the tribunal under this Act or another Act.

9 Independence of tribunal and tribunal members

- (1) In performing or exercising its functions or powers, the tribunal—
 - (a) must act independently, impartially and fairly; and
 - (b) is not subject to direction or control by any entity, including any Minister.
- (2) A tribunal member, in performing or exercising the member's functions or powers, is not subject to direction or control by any entity, including any Minister.

Division 2 Membership of tribunal

10 Membership

The tribunal consists of 3 persons appointed by the Governor in Council.

11 Eligibility for appointment

- (1) A person is eligible for appointment as a tribunal member only if the person—
 - (a) has extensive knowledge of, and experience in, 1 or more of the following—
 - (i) State government;
 - (ii) community affairs;
 - (iii) human resource management;
 - (iv) industrial relations;
 - (v) law;
 - (vi) public administration;
 - (vii) public finance;
 - (viii) public sector ethics; or

[s 12]

- (b) has other knowledge and experience the Governor in Council considers appropriate.
- (2) However, a person is not eligible for appointment as a tribunal member if the person—
- (a) is a member or former member of the Assembly or a spouse of a member or former member; or
 - (b) is a candidate for election as a member of the Assembly; or
 - (c) is employed under the *Public Service Act 2008* or the *Parliamentary Service Act 1988*; or
 - (d) is a member of the Parliament of the Commonwealth or another State or a Territory; or
 - (e) is a candidate for election as a member of the Parliament of the Commonwealth or another State or a Territory; or
 - (f) is a councillor of a local government, or a candidate for election as a councillor; or
 - (g) accepts an appointment as a councillor; or
 - (h) is an employee of a local government; or
 - (i) is a member or employee of a political party; or
 - (j) is an insolvent under administration under the Corporations Act, section 9; or
 - (k) has a conviction, other than a spent conviction, for an indictable offence.

12 Term of appointment

- (1) A tribunal member is appointed for 3 years.
- (2) A tribunal member may be reappointed.

13 Conditions of appointment

- (1) A tribunal member—
 - (a) is appointed on a part-time basis; and

- (b) is entitled to be paid the remuneration and allowances decided by the Governor in Council; and
 - (c) holds office on the conditions not provided for in this Act that are decided by the Governor in Council.
- (2) A tribunal member is appointed under this Act and not the *Public Service Act 2008*.

14 Chairman of tribunal

- (1) The Governor in Council must appoint 1 tribunal member to be the chairman of the tribunal.
- (2) A person may be appointed as the chairman at the same time as the person is appointed as a tribunal member.
- (3) The chairman holds office for the term of the chairman's appointment as a tribunal member.

15 Report about criminal history

- (1) This section applies to the following persons—
 - (a) a tribunal member;
 - (b) a person being considered for appointment as a tribunal member (a *prospective member*).
- (2) The Minister may ask the commissioner of the police service for—
 - (a) a written report about the person's criminal history; and
 - (b) a brief description of the circumstances of a conviction mentioned in the criminal history.
- (3) However, if the request relates to a prospective member, the Minister may make the request only if the person has given the Minister written consent for the request.
- (4) The commissioner of the police service must comply with the request.

- (5) However, subsection (4) applies only in relation to information in the commissioner's possession or to which the commissioner has access.
- (6) The Minister must ensure a report given to the Minister under this section is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.

16 Disclosure of changes in criminal history

- (1) If there is a change in the criminal history of a tribunal member, the member must, unless the member has a reasonable excuse, immediately disclose the change to the Minister.
- (2) To comply with subsection (1), the information disclosed about a conviction for an offence in the tribunal member's criminal history must include the following—
 - (a) the existence of the conviction;
 - (b) when the offence was committed;
 - (c) enough details to identify the offence;
 - (d) whether or not a conviction was recorded;
 - (e) the sentence imposed on the member.

17 Disclosure of interests

- (1) This section applies to a tribunal member if—
 - (a) the member has a direct or indirect interest, financial or otherwise, in a matter being considered or about to be considered by the tribunal; and
 - (b) the interest could conflict with the proper performance of the member's duties for considering the matter.
- (2) As soon as practicable after the relevant facts come to the tribunal member's knowledge, the member must disclose the nature of the interest at a meeting of the tribunal.

-
- (3) The tribunal member must not take part, or take further part, in any consideration of, or decision about, the matter without the consent of the other members.
 - (4) If—
 - (a) because of this section, a tribunal member is not present at a meeting of the tribunal for consideration of, or decision about, the matter; and
 - (b) there would be a quorum if the member were present; the remaining members present are a quorum of the tribunal for considering or deciding the matter at the meeting.
 - (5) A disclosure under subsection (2) must be recorded in the tribunal's minutes.
 - (6) Subsection (4) applies despite section 23.

18 Termination of appointment

The Governor in Council may at any time remove a tribunal member from office if the member—

- (a) is physically or mentally incapable of satisfactorily performing the member's functions; or
- (b) ceases to be eligible for appointment under section 11; or
- (c) has engaged in conduct that would warrant dismissal from the public service if the member were a public service officer; or
- (d) contravenes section 16(1) or 17(2) or (3).

19 Vacation of office

The office of a tribunal member becomes vacant if the member—

- (a) resigns the member's office by signed notice of resignation given to the Minister; or
- (b) is removed from office under section 18; or

- (c) completes a term of office but is not reappointed.

20 Casual vacancy in tribunal member's office

- (1) If a vacancy happens in the office of a member (the *vacating member*) during the currency of the member's term of appointment, another person (the *new member*) must be appointed by the Governor in Council to fill the vacancy.
- (2) Despite section 12(1), the new member's appointment continues only for the remainder of the vacating member's term of appointment.
- (3) The new member must be eligible for appointment under section 11.

Division 3 Tribunal's business and meetings

21 Conduct of business

Subject to this Act, the tribunal may conduct its business, including its meetings, in the way it considers appropriate.

22 Tribunal meetings

- (1) Meetings of the tribunal are to be held at the times and places the chairman decides.
- (2) The chairman must preside at all meetings at which the chairman is present.
- (3) If the chairman is absent from a meeting, another tribunal member nominated by the chairman must preside.
- (4) A meeting of the tribunal may be held using any technology allowing reasonably contemporaneous and continuous communication between tribunal members.

Example of use of technology—

teleconferencing

- (5) A tribunal member who takes part in a meeting under subsection (4) is taken to be present at the meeting.
- (6) A decision, including a determination or ruling, is validly made by the tribunal even if it is not made at a tribunal meeting, if—
 - (a) notice of the decision is given under procedures approved by the tribunal; and
 - (b) the decision is made by the quorum required for the decision under section 23.

23 Quorum

- (1) For making a determination or ruling, a quorum is 3 tribunal members.
- (2) For deciding a matter at a meeting of the tribunal, other than making a determination or ruling, a quorum is 2 tribunal members.

24 Minutes

- (1) The tribunal must keep minutes of its meetings.
- (2) The minutes must include a record of all decisions, including determinations and rulings, of the tribunal.

Division 4 Miscellaneous

25 Assistance for tribunal

The chief executive must make available to the tribunal the staff assistance and resources the tribunal needs to effectively perform its functions.

26 Annual report

- (1) The tribunal must prepare and give to the Clerk a written report about the operations of the tribunal during each financial year.
- (2) The tribunal must give the report to the Clerk as soon as practicable after the end of the financial year, but within a period that will allow the report to be tabled in the Assembly within 3 months after the end of the financial year to which the report relates.
- (3) On receiving the report, the Clerk must table a copy of it in the Assembly.

Part 3 Tribunal's determinations

Division 1 Making determinations

Subdivision 1 General

27 Power to make determination

The tribunal has the power to make determinations about the following matters—

- (a) remuneration in connection with members and former members of the Assembly;
- (b) entitlements of cross bench members to additional staff members.

28 Procedures for making determination

In making a determination, the tribunal—

- (a) may inquire into, and inform itself, of anything in the way it considers appropriate; and

- (b) may seek and receive written or oral statements from any entity it considers appropriate; and
- (c) may act with as little formality as it considers appropriate; and
- (d) must have regard to effective and efficient processes in carrying out its functions; and
- (e) is not bound by the rules of evidence.

Subdivision 2 Determinations about remuneration

28A Application of subdivision

This subdivision applies in relation to a determination about remuneration in connection with members and former members of the Assembly (a *remuneration determination*).

29 General principles for making remuneration determinations

- (1) In making a remuneration determination, the tribunal may have regard to the following—
 - (a) the value to the community of a member of the Assembly carrying out the member's role, functions and responsibilities;
 - (b) the importance of a member being appropriately remunerated for carrying out the member's role, functions and responsibilities;
 - (c) relevant laws applying to members;
 - (d) other matters the tribunal considers appropriate.

Example of a matter for paragraph (d)—

the size of a member's electorate

- (2) A remuneration determination may provide for different remuneration in connection with different members and different former members of the Assembly.

30 Requirements for making remuneration determinations

In making a remuneration determination, the tribunal must—

- (a) consult with, and consider the views of, the Clerk; and
- (b) ensure that any allowances to be paid to a member of the Assembly reflect the amount of reasonable expenses incurred by a member in servicing the member's electorate; and
- (c) ensure allowances mentioned in paragraph (b) are not a substitute for other remuneration; and
- (d) ensure that accommodation, services or other entitlements mentioned in section 59D are not taken into account.

31 When remuneration determinations to be made

- (1) The tribunal must make its first remuneration determination by 15 October 2013.
- (2) Each subsequent remuneration determination must be made within 1 year after the previous remuneration determination.
- (3) Subsection (2) does not apply to a remuneration determination about a member's salary entitlement.

31A Remuneration determinations about salary entitlements following public service salary decisions

- (1) The tribunal may not make a remuneration determination about a member's salary entitlement unless a public service salary decision is made.
- (2) Within 90 days after a public service salary decision is made, the tribunal must make a remuneration determination about members' salary entitlements.
- (3) The remuneration determination may not increase a member's salary entitlement by a rate that is higher than the rate of increase to the salary or wage of a departmental employee under the public service salary decision.

(4) If the remuneration determination increases a member's salary entitlement, the determination must provide for the increase to take effect, or to have taken effect, on the same day the increase to the salary or wage of a departmental employee takes or took effect under the public service salary decision.

(5) In this section—

departmental employee means a public service employee employed to work in the administrative stream in the department.

directive see the *Public Service Act 2008*, schedule 4.

industrial instrument see the *Public Service Act 2008*, schedule 4.

public service salary decision means an industrial instrument or directive that includes provision about the salary or wage of a departmental employee.

salary entitlement means an entitlement to—

- (a) an annual salary under section 41; or
- (b) an additional salary under section 42.

31B Particular remuneration determinations about additional salary entitlements

- (1) The tribunal may make a remuneration determination about the additional salary entitlement for an office if—
- (a) it is the first remuneration determination about the entitlement since the office was approved by resolution of the Assembly to be an office to which section 42 applies; or
 - (b) the tribunal is satisfied—
 - (i) there has been a change to the role, functions or responsibilities of a member holding the office; and
 - (ii) the current additional salary entitlement for the office, relative to the current additional salary

[s 31C]

entitlements for other offices to which section 42 applies, is no longer appropriate.

(2) Section 31A does not apply to a remuneration determination under subsection (1).

(3) In this section—

additional salary entitlement, for an office, means the entitlement of a member holding the office to an additional salary under section 42.

Subdivision 3 Determinations about entitlements of cross bench members to additional staff members

31C Application of subdivision

This subdivision applies in relation to a determination about entitlements of cross bench members to additional staff members (an *additional staff member determination*).

31D General matters about additional staff member determinations

(1) An additional staff member determination may provide for additional staff members for—

- (a) all cross bench members; or
- (b) 1 or more stated classes of cross bench members; or
- (c) 1 or more stated cross bench members; or
- (d) a combination of 1 or more stated classes of cross bench members and 1 or more stated cross bench members.

(2) An additional staff member determination may provide for—

- (a) the same entitlement to additional staff members for all cross bench members, or classes of cross bench members, for whom the determination is made; or

- (b) different entitlements to additional staff members for cross bench members, or classes of cross bench members, for whom the determination is made.
- (3) An additional staff member determination may state 1 or more of the following matters for an additional staff member for a cross bench member—
- (a) the role of the staff member;
 - (b) the classification level of, including, for example, the level of salary for, the staff member;
 - (c) the location where the staff member is to perform the staff member's functions for the cross bench member.

31E General principles for making additional staff member determinations

- (1) In making an additional staff member determination, the tribunal may have regard to the following—
- (a) parliamentary resources provided to cross bench members and other members of the Assembly;
 - (b) the composition of the Assembly and how the composition of the Assembly affects cross bench members;
 - (c) the workload and duties of the cross bench members for whom the tribunal is considering to make the determination;
 - (d) whether the cross bench members for whom the tribunal is considering to make the determination are members of political parties;
 - (e) relevant laws applying to members of the Assembly;
 - (f) other matters the tribunal considers appropriate.
- (2) In this section—

composition of the Assembly means the extent to which the Assembly is made up of the following members of the Assembly—

[s 31F]

- (a) members of a political party recognised in the Assembly as being in government;
- (b) members of a political party recognised in the Assembly as being in opposition;
- (c) cross bench members.

parliamentary resources, for a member of the Assembly, means services and support, including, for example, general staff members, provided to the member, in the parliamentary precinct or elsewhere, to help the member to carry out the member's duties.

31F Requirement to consult with Clerk

In making an additional staff member determination, the tribunal must consult with, and consider the views of, the Clerk.

31G When additional staff member determinations to be made

- (1) Subject to subsection (2), the tribunal may decide the frequency of additional staff member determinations.
- (2) The tribunal must make an additional staff member determination within 3 months after each of the following days—
 - (a) the day the Assembly is next summoned under the *Constitution of Queensland 2001*, section 15(1);
 - (b) if a person becomes, or ceases to be, a cross bench member during a term of the Assembly—the day the person becomes, or ceases to be, a cross bench member.
- (3) In this section—

term, of the Assembly, means the period—

 - (a) starting on the day the Assembly is summoned under the *Constitution of Queensland 2001*, section 15(1); and
 - (b) ending on the day the Assembly is next dissolved or expires.

Division 2 Effect of determinations

32 When determination has effect

- (1) A determination has effect on the day stated in the determination.
- (2) A determination may have effect on a day before it is made.

33 Effect of determination

- (1) If the tribunal makes a remuneration determination, a member or former member is entitled to the remuneration decided by the tribunal under the determination.

Note—

Also see part 4.

- (2) If the tribunal makes an additional staff member determination, a cross bench member is entitled to the additional staff members, decided by the tribunal for the member, under the determination.

Note—

Also see part 4A.

Division 3 Tabling and publication of determinations and reasons for determinations

34 Determination and reasons to be tabled

- (1) The chairman must give the following documents to the Clerk—
 - (a) a copy of each determination;
 - (b) written notice of the reasons for the determination.
- (2) The Clerk must table the documents in the Assembly immediately after receiving the documents.

35 Determination and reasons to be published

As soon as practicable after a determination is made, the chairman must make the determination and the reasons for the determination publicly available.

Example of making a determination and reasons publicly available—
publication on a website

Division 4 Other provisions

36 Ruling about determination

- (1) The Clerk may, by written notice, ask the tribunal to give a ruling on the interpretation or application of a determination.
- (2) Unless the request is withdrawn, the tribunal must give the ruling to the Clerk as soon as practicable after the request is made.

37 Limitation of review and appeal

- (1) Unless the Supreme Court decides that a tribunal decision is affected by jurisdictional error, the decision—
 - (a) is final and conclusive; and
 - (b) can not be challenged, appealed against, reviewed, quashed, set aside or called in question in any other way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, or another court, a tribunal or another entity); and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.
- (2) In this section—
tribunal decision means a determination or ruling.

Part 4 Members' remuneration

Division 1 Preliminary

38 Definitions for pt 4

In this part—

annual salary, of a member, means the annual salary the member is entitled to under section 41.

committee means—

- (a) a statutory committee within the meaning of the *Parliament of Queensland Act 2001*; or
- (b) the Parliamentary Crime and Corruption Committee established under the *Crime and Corruption Act 2001*.

member means a member of the Assembly.

recognised political party see section 39.

39 Meaning of **recognised political party**

(1) A **recognised political party** is—

- (a) a registered political party of which at least 10% of the number of Assembly members provided for under the *Constitution of Queensland 2001*, section 11 (rounded up to the nearest whole number) are members; or

Note—

Constitution of Queensland 2001, section 11 (Number of members of Legislative Assembly)—

The Legislative Assembly is to consist of 93 members.

- (b) a registered political party if—
 - (i) at least 3 Assembly members are party members and were party members at the most recent election at which the party member was elected as an Assembly member; and

[s 40]

- (ii) for the most recent general election, the total number of first preference votes for all candidates who were party members was at least 10% of the total number of first preference votes for all candidates.
- (2) However, a political party is not a recognised political party if an Assembly member who is a party member is also a Minister.
- (3) A political party stops being a recognised political party under subsection (1)(b) if the total number of Assembly members who are party members is not at least 90% of the total number of Assembly members who were party members for the most recent general election (rounded up to the nearest whole number).
- (4) Subsection (3) does not limit another way a political party may stop being a recognised political party.
- (5) In this section—

Assembly member means a member of the Assembly.

first preference vote see the *Electoral Act 1992*, section 2.

party member, in relation to a political party, means a member of the political party.

registered political party means a political party registered under the *Electoral Act 1992*, part 6.

40 Purpose of pt 4

The purpose of this part is to provide for particular matters about the annual salary, and any additional salary or allowances in connection with members.

Division 2 Annual salary and additional salary

41 Annual salary entitlement of member

A member is entitled to an annual salary decided by the tribunal under a remuneration determination.

42 Additional salary entitlement of some members

(1) A member who holds any of the following offices may be entitled under a remuneration determination to be paid salary in addition to the salary the member is entitled to under section 41—

- Minister
- Assistant Minister and Leader of the House
- Assistant Minister
- Speaker
- Deputy Speaker
- Leader of the Opposition
- Deputy Leader of the Opposition
- Manager of Opposition Business
- leader in the Assembly of a recognised political party, other than the Leader or Deputy Leader of the Opposition
- chief government whip
- senior government whip
- government deputy whip
- opposition whip
- chairperson of a committee
- member of a committee

[s 43]

- another office approved by resolution of the Assembly to be an office to which this section applies.
- (2) A remuneration determination about additional salary may provide for different additional salaries for different Ministers having regard to the responsibilities of the Ministers.
- (3) In this section—
- member*, of a committee, includes, for the Committee of the Legislative Assembly, a member of the Assembly who is performing the role of a member of the committee as an alternate under the *Parliament of Queensland Act 2001*, section 81.

43 Amount of additional salary

- (1) The amount of any additional salary of a member under section 42 is the additional salary for that member decided by the tribunal under a remuneration determination.
- (2) However, a member is entitled to be paid only 1 additional salary.
- (3) If, but for subsection (2), a member would be entitled to be paid more than 1 additional salary, the member is entitled to be paid the higher or highest of the additional salaries.

44 Additional salary of Deputy Speaker

- (1) This section applies if—
- (a) the Deputy Speaker acts as the Speaker for a continuous period of 30 days or more; and
 - (b) the Speaker is entitled to an additional salary under section 42.
- (2) For the whole of the period the Deputy Speaker acts, the Deputy Speaker is to be paid an additional salary at the rate for the time being applicable to the office of the Speaker, instead of any additional salary payable to him or her as the Deputy Speaker.

45 Additional salary of temporary Deputy Speaker

- (1) This section applies if—
 - (a) a temporary Deputy Speaker acts in the office of the Deputy Speaker for a continuous period of 30 days or more; and
 - (b) the Deputy Speaker is entitled to an additional salary under section 42.
- (2) For the whole of the period the temporary Deputy Speaker acts, the temporary Deputy Speaker is to be paid an additional salary at the rate for the time being applicable to the office of the Deputy Speaker.
- (3) In this section—

temporary Deputy Speaker means a member appointed or recognised as a temporary Deputy Speaker under the standing rules and orders adopted under the *Parliament of Queensland Act 2001*, section 11.

46 Additional salary of acting Minister

- (1) If a member acts as a Minister for a continuous period of 30 days or more, for the whole of the period the member acts, the member is to be paid any additional salary at the rate for the time being applicable to the office of the Minister.
- (2) Subsection (3) applies if—
 - (a) a Minister (the *first Minister*) acts in another Minister's office for a continuous period of 30 days or more; and
 - (b) a higher additional salary under section 42 is payable for the other Minister's office.
- (3) For the whole of the period the first Minister acts, the first Minister is to be paid the higher additional salary at the rate for the time being applicable to the other Minister's office.

Division 3 Payment of salaries

47 Application of div 3

This division only applies for the purpose of deciding the period for which an annual salary or additional salary for a member is payable.

48 When salary is paid

- (1) A person is entitled to salary as a member from the day of the poll at which the person is elected as a member until the day the person stops being a member.
- (2) For subsection (1), if the person is a member on the expiry or dissolution of the Assembly—
 - (a) the person does not stop being a member on the expiry or dissolution; and
 - (b) if the person is not elected at the general election held after the expiry or dissolution, the person stops being a member on the polling day for the general election.

49 When additional salary is paid

- (1) A member who is entitled to additional salary under section 42 for holding an office is entitled to be paid the additional salary from the day of—
 - (a) for an office holder appointed by the Assembly—the appointment; or
 - (b) otherwise—notification of the appointment to the Speaker or the Assembly;until the day the person stops holding the office.
- (2) For subsection (1), the person stops holding the office on—
 - (a) for the Speaker—the day the person's appointment as Speaker ends under the *Parliament of Queensland Act 2001*, section 14(3) or 15; or

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- (b) for the Deputy Speaker—the day the person's appointment as Deputy Speaker ends under the *Parliament of Queensland Act 2001*, section 17(3) or 18; or
 - (c) for a Minister—the day the person's appointment as Minister ends under the *Constitution of Queensland 2001*, section 34; or
 - (d) for an Assistant Minister—the day the person's appointment as Assistant Minister ends under the *Constitution of Queensland 2001*, section 26; or
 - (e) for a member who is a chairperson or a member of a committee on the expiry or dissolution of the Assembly—the polling day for the general election held after the expiry or dissolution; or
 - (f) for another person holding office—
 - (i) the day the person resigns the office; or
 - (ii) the day the person stops being a member; or
 - (iii) the day a successor is appointed to the office and, if the successor is not appointed by the Assembly, the Assembly or Speaker is notified of the appointment of the successor.

50 Apparent vacation of seat when Assembly not sitting

- (1) This section applies if at any time when the Assembly is not sitting the seat of any member has become vacant for any cause.
- (2) The Speaker, or if the member concerned is the Speaker, the Deputy Speaker, may direct the Treasurer to retain the amounts that would be payable to the member for the interval between the happening of the cause and the next sitting or session of the Assembly.
- (3) If the Assembly declares the seat to have been vacated, no payment is to be made to the member for the time that has elapsed since the happening of the cause.

- (4) However, if the seat is not declared to have been vacated, the amounts retained by the Treasurer are to be immediately paid to the member.

Division 4 Salary sacrifice

51 Member may salary sacrifice

- (1) A member may elect that the annual salary and any additional salary of the member—
- (a) be provided in part by the payment of salary to the member and in part by the payment of—
- (i) superannuation contributions for the member; or
- (ii) an amount under an arrangement about salary packaging that is the same as an arrangement about salary packaging applying to a public service employee; or
- (b) be provided entirely by the payment of superannuation contributions for the member.
- (2) If the member elects that part or all of the member's annual salary and any additional salary is to be provided by payment of superannuation contributions under subsection (1), the election must be made by written notice given to the Clerk.
- (3) Despite part or all of the annual salary or any additional salary of the member being paid under subsection (1), the member is taken to have received the annual salary and any additional salary the member is entitled to.
- (4) In this section—
- additional salary*, of a member, means salary the member is entitled to under sections 42 to 46.

52 Variation or revocation of election

A member may, by written notice given to the Clerk, vary or revoke a notice of election mentioned in section 51(2).

Division 5 Allowances and entitlements

53 Definition for div 5

In this division—

prescribed rate of interest means interest at the Reserve Bank of Australia cash rate plus 50 basis points, calculated daily.

Editor's note—

The cash rate is published on the Reserve Bank of Australia website at <www.rba.gov.au>.

54 Member's allowances and entitlements

A member is entitled to the allowances and entitlements decided by the tribunal under a remuneration determination.

56 Liability of former members to repay advance allowance

- (1) If a member is paid an advance allowance and then stops being a member before the end of the period in relation to which the allowance is paid, the member is liable to repay the pro rata amount of the allowance relating to the remainder of the period (the ***overpayment***).
- (2) If any part of the overpayment is unpaid after the day (the ***relevant day***) that is 6 months after the day the member stops being a member, the prescribed rate of interest is payable on the unpaid amount on and from the day after the relevant day.
- (3) The overpayment together with any interest payable under subsection (2) is a debt owing to the State and may be recovered by the Clerk, with the approval of the Premier, in a court of competent jurisdiction.
- (4) In this section—

advance allowance means an allowance of a particular type payable to a member under the members' handbook in relation to a period and in advance for the period.

pro rata amount, of an advance allowance relating to the remainder of a period, means the proportion of the amount of the allowance that is the same proportion that the remainder of the period bears to the whole period.

57 Liability of member to repay allowance

- (1) This section applies if—
 - (a) a member is paid an allowance on condition that the member accounts for the member's expenditure of the allowance to the Clerk; and
 - (b) the Clerk considers the member has not satisfactorily accounted for the expenditure of the allowance or part of the allowance.
- (2) The member is liable to repay the overpayment.
- (3) The Clerk may deduct the overpayment from any further allowance to which the member is entitled.
- (4) If any part of the overpayment has not been deducted under subsection (3) or is unpaid after the day (the *relevant day*) that is 6 months after the day the member stops being a member, the prescribed rate of interest is payable on the unpaid amount on and from the day after the relevant day.
- (5) The overpayment together with any interest payable under subsection (4) is a debt owing to the State and may be recovered by the Clerk, with the approval of the Premier, in a court of competent jurisdiction.
- (6) In this section—

overpayment means the amount of an allowance for which the Clerk considers the member has not satisfactorily accounted.

58 Clerk's certificate

A certificate signed by the Clerk stating any of the following is evidence of the matter stated—

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- (a) that a person was a member who had received an allowance of a stated amount, including a stated amount in relation to a stated period;
 - (b) that under section 56 or 57 the person is liable to repay a stated amount of the allowance and any accrued interest;
 - (c) that the person at a stated date had not paid a stated amount the person is liable to repay under section 56 or 57.

Division 6 Other provision

59 Annual reversion to treasury of undrawn amounts

- (1) If amounts payable to a member under this part have not been drawn by the member by the end of 7 days after 1 July in each year, the amounts are to revert to the treasury and become part of the consolidated fund.
- (2) The member is no longer entitled to payment of the amounts.

Part 4A Additional staff members for cross bench members

59A Purpose of part

The purpose of this part is to provide for particular matters about additional staff members for cross bench members.

59B Clerk to give effect to entitlement to additional staff members

- (1) This section applies in relation to a cross bench member if the member is entitled to additional staff members under an additional staff member determination.

[s 59C]

- (2) The cross bench member may request the Clerk provide additional staff members to the cross bench member in accordance with the additional staff member determination.
- (3) The Clerk must give effect to a cross bench member's request under subsection (2) in a way—
 - (a) the Clerk considers appropriate; and
 - (b) that ensures the member's request is fulfilled to the greatest practicable extent without exceeding the member's entitlement under the additional staff member determination.
- (4) The Clerk's functions under this section are to be carried out as part of the Clerk's functions under the *Parliamentary Service Act 1988* as the chief executive of the parliamentary service established under that Act.

Note—

See the *Parliamentary Service Act 1988*, part 5 for matters about the management of the parliamentary service established under that Act.

59C When entitlement to additional staff members ceases

- (1) A person's entitlement under an additional staff member determination ceases if—
 - (a) the person ceases to be a cross bench member; or
 - (b) for an entitlement that is conditional on the person being part of a class of cross bench members—the person ceases to be part of the class.
- (2) This section does not limit the ways in which a person's entitlement under an additional staff member determination may cease.

59D Act does not affect other entitlements

This Act does not prevent a person from receiving—

-
- (a) accommodation and services in the parliamentary precinct under the *Parliamentary Service Act 1988*, section 5(a); or
 - (b) accommodation and services supplied elsewhere under the *Parliamentary Service Act 1988*, section 5(b); or

Examples of accommodation and services for paragraph (b)—

electorate offices, office furniture and fixed telephones, staffing support, computers, printing and copying hardware and other information technology infrastructure and major items of office equipment

- (c) entitlements under the Queensland Ministerial Handbook or Queensland Opposition Handbook published by the department in which the *Constitution of Queensland 2001* is administered; or
- (d) entitlements under the Guidelines for the Financial Management of the Office of the Speaker; or
- (e) entitlements arising out of a national or international arrangement.

Example of entitlement for paragraph (e)—

expenses and travel entitlements for participation in a trade mission or a Commonwealth Parliamentary Association function

Part 5 Other matters

60 Members' handbook

- (1) The Clerk must keep a document (the *Members' Remuneration Handbook*) that includes details of—
 - (a) current remuneration in connection with members of the Assembly; and
 - (b) services and support provided to members for the members' electorate and parliamentary offices.
- (2) As soon as practicable after tabling a copy of a determination about members of the Assembly under section 34(2), the Clerk must publish a current copy of the Members'

[s 61]

Remuneration Handbook on the website of the Queensland Parliament.

(3) In this section—

current copy, of the Members' Remuneration Handbook in relation to a determination, means a copy of the handbook that includes the details of all current remuneration in connection with members as provided for under the determination.

member includes a former member of the Assembly.

61 Regulation-making power

The Governor in Council may make regulations under this Act.

Part 6 Transitional provisions

Division 1 Preliminary

62 Definition for pt 6

In this part—

Members' Entitlements Handbook means the Members' Entitlements Handbook setting out benefits in connection with members and former members of the Assembly approved by the Governor in Council.

Division 2 Provisions about members of the Assembly

63 Purpose of div 2

The purpose of this division is to—

- (a) affirm the remuneration paid in connection with members of the Assembly between 1 September 2009 and 30 June 2013; and
- (b) stop the effect of changes to remuneration from 1 July 2013 and, until the first determination is made, return remuneration in connection with members to the 30 June 2013 rates; and
- (c) apply the first determination from 1 July 2013, and recover any overpayments since that date.

64 Provision about members' remuneration from 1 September 2009 to 30 June 2013

- (1) A person who was a member of the Assembly in the relevant period is taken to have been entitled only to the remuneration approved by the Governor in Council and stated in schedules A and F, and section 3.12, of the Members' Entitlements Handbook as in effect from time to time during the relevant period.
- (2) This section applies despite the *Parliament of Queensland Act 2001*, chapter 7, and any other Act or law, as in force before 9 August 2013.
- (3) In this section—
relevant period means the period starting 1 September 2009 and ending 30 June 2013.

65 Members' salary notice has no effect

- (1) The *Parliamentary Members' Salary Notice (No. 1) 2013* made by the Governor in Council on 4 July 2013 has no effect and is taken never to have had effect.
- (2) Subsection (1) does not invalidate or otherwise affect anything done under the notice before 9 August 2013.
- (3) Subsection (2) is subject to section 68.

66 Provision about members' remuneration from 9 August 2013 to making of first determination

- (1) For the relevant period, a member of the Assembly is entitled to the remuneration approved by the Governor in Council and stated in schedules A and F of the Members' Entitlements Handbook as in effect on 30 June 2013.
- (2) For this section—
 - (a) a reference in schedules A and F of the Members' Entitlements Handbook to the Chairperson of Committees is taken to be a reference to the Deputy Speaker; and
 - (b) the reference in schedule A of the Members' Entitlements Handbook to the Assistant Minister and Manager of Government Business is taken to be a reference to the Assistant Minister and Leader of the House.
- (3) This section applies despite part 4.
- (4) In this section—

relevant period means the period starting on 9 August 2013 and ending on the day the tribunal makes its first determination.

67 When first determination has effect

Despite section 32, the first determination in connection with members and former members of the Assembly has effect on 1 July 2013.

68 Liability to repay overpayment

- (1) A person who was a member of the Assembly on 1 July 2013 is liable to repay an overpayment received by the member.
- (2) The Clerk may recover the overpayment by deducting the amount, or the amount in instalments, from the fortnightly salary payable to the member.

- (3) If a member stops being a member after 1 July 2013 and any part of the overpayment is unpaid after the day (the **relevant day**) that is 6 months after the day the member stops being a member, the prescribed rate of interest is payable on the unpaid amount on and from the day after the relevant day.
- (4) The overpayment together with any interest payable under subsection (3) is a debt owing to the State and may be recovered by the Clerk, with the approval of the Premier, in a court of competent jurisdiction.
- (5) A certificate signed by the Clerk stating any of the following is evidence of the matter stated—
 - (a) that a person was a member who had received an overpayment of a stated amount in relation to a stated period;
 - (b) that under this section the person is liable to repay a stated amount of the overpayment and any accrued interest;
 - (c) that the person at a stated date had not paid a stated amount the person is liable to repay under this section.
- (6) In this section—

overpayment, for a member of the Assembly, means any amount of remuneration received by the member from 1 July 2013 to the day the tribunal makes its first determination that is more than the amount of remuneration the member is entitled to receive for that period under the first determination.

remuneration means any salary, additional salary or expense of office allowance payable in relation to the member under the *Parliamentary Members' Salary Notice (No. 1) 2013* made by the Governor in Council on 4 July 2013.

Division 3 Other provisions

69 Provision about members' handbook

(1) The handbooks are taken to be the Members' Remuneration Handbook.

(2) In this section—

handbooks means the following documents as in effect immediately before 9 August 2013—

- (a) the Members' Entitlements Handbook;
- (b) the Members' Office Support Handbook setting out electorate and Parliament House office support for members of the Assembly approved by the Governor in Council.

70 Term of appointment of first tribunal members

Despite section 12(1), the term of appointment for the first tribunal members appointed under that section ends on 15 July 2016.

Division 4 Revocation and transitional provisions for Parliament of Queensland and Other Acts Amendment Act 2015

71 Definitions for div 4

In this division—

member means a member of the Assembly.

public service salary decision see section 31A(5).

72 Retrospective revocation of Determination 7/2015

Determination 7/2015 made by the tribunal on 5 March 2015 is of no effect and is taken to have never had effect.

73 Liability to repay overpayment

- (1) The purpose of this section is to enable the recovery of any overpayments made to members for the period from 6 April 2015 until the day this section commences (the *transitional period*), consequent on the retrospective revocation of Determination 7/2015 under section 72.

Note—

Determination 7/2015 stated that it took effect on 6 April 2015.

- (2) For this section—
- (a) a member's *actual remuneration* is the amount of remuneration received by the member for the transitional period; and
 - (b) a member's *entitlement* is the amount of remuneration to which the member was entitled, under this Act as affected by section 72, for the transitional period; and
 - (c) an *overpayment* is an amount by which a member's actual remuneration is more than the member's entitlement.
- (3) A person who was a member at any time during the transitional period is liable to repay any overpayment received by the person.
- (4) The Clerk may recover the overpayment by deducting the amount, or the amount in instalments, from the fortnightly salary payable to the person.
- (5) If the person stopped or stops being a member on or after 6 April 2015 and any part of the overpayment is unpaid after the day (the *relevant day*) that is 6 months after the day the person stopped or stops being a member, the prescribed rate of interest is payable on the unpaid amount on and from the day after the relevant day.

[s 74]

- (6) The overpayment together with any interest payable under subsection (5) may, with the Premier's approval, be recovered by the Clerk as a debt owing to the State.
- (7) A certificate signed by the Clerk stating any of the following is evidence of the matter stated—
 - (a) that a person was a member who had received an overpayment of a stated amount in relation to a stated period;
 - (b) that under this section the person is liable to repay a stated amount of the overpayment and any accrued interest;
 - (c) that the person at a stated date had not paid a stated amount the person is liable to repay under this section.

74 Determination about salary entitlements in response to particular decision before commencement

- (1) This section applies if a public service salary decision was made on or after the introduction day and before the day this section commences.
- (2) The tribunal must make a determination about members' salary entitlements under section 31A as if the public service salary decision were made on the day this section commences.
- (3) In this section—

introduction day means the day on which the Bill for the *Parliament of Queensland and Other Acts Amendment Act 2015* was introduced into the Assembly.

75 Determination about salary entitlements in response to Directive 16/13

- (1) This section applies if Directive 16/13 is still in effect on 1 December 2015.
- (2) The tribunal must make a determination about members' salary entitlements under section 31A as if Directive 16/13 were made on 1 December 2015.

(3) For subsection (2), any provision of Directive 16/13 for a salary increase that applies to a period before 1 December 2015 is to be disregarded.

(4) In this section—

Directive 16/13 means the directive of that name made under the *Public Service Act 2008*, section 54(1).

Part 7 **Amendments and repeal of legislation**

Division 8 **Repeal of Parliament of Queensland Regulation 2012**

112 **Repeal**

The Parliament of Queensland Regulation 2012, SL No. 142 is repealed.

Schedule 1 Dictionary

section 5

additional staff member determination see section 31C.

additional staff members, for a cross bench member, means persons—

- (a) appointed under the *Parliamentary Service Act 1988*, part 5; and
- (b) provided to the member to help the member to carry out the member's duties in addition to general staff members for the member.

annual salary, for part 4, see section 38.

Assembly means the Legislative Assembly.

chairman means the chairman of the tribunal appointed under section 14.

Clerk means the Clerk of the Parliament.

committee, for part 4, see section 38.

conviction means a finding of guilt or acceptance of a plea of guilty by a court, whether or not a conviction is recorded.

criminal history, of a person, means the person's criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986* to the extent the criminal history relates to indictable offences, other than spent convictions.

cross bench member means a member of the Assembly who is neither—

- (a) a member of a political party recognised in the Assembly as being in government; nor
- (b) a member of a political party recognised in the Assembly as being in opposition.

Deputy Speaker means the Deputy Speaker of the Assembly.

determination means a determination of the tribunal under this Act.

general staff members, for a member of the Assembly, means persons—

- (a) appointed, under the *Parliamentary Service Act 1988*, part 5, and provided to the member other than under an additional staff member determination; or
- (b) employed, under the *Ministerial and Other Office Holder Staff Act 2010*, part 2, as staff members in the member's office.

indictable offence means an offence for which a charge may be laid by indictment or an equivalent process, whether that is the only or an optional way to lay a charge of the offence.

member, for part 4, see section 38.

members' handbook means the Members' Remuneration Handbook.

Members' Remuneration Handbook see section 60(1).

political party see the *Electoral Act 1992*, section 2.

prescribed rate of interest see section 53.

recognised political party, for part 4, see section 39.

remuneration, in connection with a member or former member of the Assembly—

- (a) means salary, allowances or entitlements in connection with the member or former member, other than accommodation, services or other entitlements mentioned in section 59D; and
- (b) for a cross bench member—does not include an entitlement to additional staff members under an additional staff member determination.

remuneration determination see section 28A.

ruling means a ruling of the tribunal given under section 36.

salary entitlement see section 31A(5).

Speaker means the Speaker of the Assembly.

spent conviction means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11 of that Act.

tribunal means the Queensland Independent Remuneration Tribunal established under section 6.

tribunal member means a person appointed as a member of the tribunal under section 10.