

Departmental Disclosure Statement

Remuneration Authority (Members of Parliament Remuneration) Amendment Bill (No 2)

The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry of Business, Innovation and Employment (MBIE).

MBIE certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

16 August 2019.

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Part One: General Policy Statement

This Bill is an omnibus Bill introduced under Standing Order 263(a) (dealing with an interrelated topic that can be regarded as implementing a single broad policy).

The Bill implements the Government's decision to amend the method and frequency requirements for reviews and determinations made by the Remuneration Authority to set the salaries of Members of Parliament (**MPs**).

The Bill amends the *Remuneration Authority Act 1977* and the *Members of Parliament (Remuneration and Services) Act 2013*. Specifically,–

- *Part 1* amends the Remuneration Authority Act 1977 to restore the Remuneration Authority's discretion when determining the salaries of MPs. In making its determination, the Authority will be guided by the criteria set out in sections 18 and 18A of the Remuneration Authority Act 1977. The Bill also links the frequency of adjustments to the electoral cycle so that the Authority would conduct one review after each General Election, and would set MPs' pay for the entire term of parliament on a year-by-year basis.
- *Part 2* amends the Members of Parliament (Remuneration and Services) Act 2013 to restore the requirement for the Remuneration Authority to consider the value of the personal benefit of entitlements when setting MPs' salaries.

The Schedule contains a transitional provision that requires the Remuneration Authority to issue a determination for salaries and allowances for the period 1 July 2019 to the polling date for the next general election.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	NO

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO

Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	NO
An exemption was provided as the proposal has no or only minor impacts on business, individuals or not-for-profit entities.	

Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO

2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	NO
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	NO
(b) the nature and level of regulator effort put into encouraging or securing compliance?	NO

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?

MBIE assessed that there were no international obligations that apply to the Bill and no further steps were undertaken.

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

MBIE has undertaken an internal consideration and is satisfied that the Bill is consistent with the principles of the Treaty of Waitangi.

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?

YES

Advice provided to the Attorney-General by the Ministry of Justice, or a section 7 report of the Attorney-General, is generally expected to be available on the Ministry of Justice's website upon introduction of a Bill. Such advice, or reports, will be accessible on the Ministry's website at:

<http://www.justice.govt.nz/policy/constitutional-law-and-human-rights/human-rights/bill-of-rights/>

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:

(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?

NO

(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?

NO

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?

NO

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
<p>MBIE has consulted the Remuneration Authority on the proposals given that the Remuneration Authority is responsible for implementing the Bill.</p> <p>The Bill is intended to be introduced as matter of urgency, which has not allowed for greater external consultation.</p> <p>However, there will be a truncated Select Committee process of two months to allow a short period of public consultation.</p>	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	YES
<p>MBIE has tested the proposals with the relevant government departments and statutory bodies, including the Treasury, the Department of Prime Minister and Cabinet, the Department of Internal Affairs, the Parliamentary Service, the Ministry of Justice, the States Services Commission, and Stats NZ.</p> <p>MBIE has also consulted on the draft Bill with the Remuneration Authority to ensure the provisions are workable and complete.</p>	

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO

Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO

Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	YES
<p>The Bill will have a retrospective as it will change the existing right of MPs to have their salaries determined in accordance with the formula set out in the Remuneration Authority Act from 1 July 2019. The Bill would affect this right by changing the process for how the Authority reviews and determines MPs' salaries from 1 July 2019.</p> <p>In addition, the Bill will provide for a transitional provision to revoke any determination made for 2019/20 under the current Act, and require the Authority to issue a new determination under the new approach provided in the Bill. The transitional provisions also provide for a mechanism to reconcile amounts paid under another determination against what would have been paid had the new determination been made on 1 July 2019, and requires adjustments to be made to pay any underpayment and recover any overpayment.</p>	

Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO

Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	YES
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The Bill amends current sections 18, 18A and 18B of the Remuneration Authority Act so that Remuneration Authority has the discretion, guided by the criteria, to determine the salaries of Members of Parliament. The criteria the Remuneration Authority will use is currently provided in the Remuneration Authority Act, was previously used by the Remuneration Authority to determine the salaries of Members of Parliament, and already applies to other clients of the Remuneration Authority (eg elected local government officials, judges).

The current formula to determine the salaries of Members of Parliament will be repealed.

The Bill also amends current section 16 of the Members of Parliament (Remuneration and Services) Act 2013 to restore the requirement for the Remuneration Authority to consider the value of the personal benefit arising out of entitlements when setting MPs salaries.

These amendments effectively return the Remuneration Authority Act to its pre-2015 position (at least in regard to the method of determination) so that the Authority has the discretion to assess changes to salaries.

The Bill also amends section 19 so that that the Authority would conduct one review after each General Election, and would set MPs' pay for the entire term of parliament on a year-by-year basis.

There are no changes to the independence of the Remuneration Authority or the statutory process it uses to determine salaries.

Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO

4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO

Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO