



Queensland

# Queensland Independent Remuneration Tribunal Act 2013

Act No. 32 of 2013





Queensland

# Queensland Independent Remuneration Tribunal Act 2013

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Queensland

## **Queensland Independent Remuneration Tribunal Act 2013**

### **Act No. 32 of 2013**

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**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, to amend this Act, the Constitution of Queensland 2001, the Crime and Misconduct Act 2001, the Local Government Act 2009, the Local Government Regulation 2012, the Parliamentary Service Act 1988 and the Parliament of Queensland Act 2001 for particular purposes and to repeal the Parliament of Queensland Regulation 2012**

**[Assented to 13 August 2013]**

[s 1]

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**The Parliament of Queensland enacts—**

## **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 remuneration in connection with members and former members of the Assembly.

### **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.

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## **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 make determinations under this Act about remuneration mentioned in paragraph (a).

#### **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.

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## **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
  - (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.

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- (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.

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## **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.



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## **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.

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- (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.

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## **Part 3                      Tribunal's determinations**

### **Division 1                      Making determinations**

#### **27              Power to make determination**

The tribunal has the power to make determinations about remuneration in connection with members and former members of the Assembly.

#### **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.

#### **29              General principles for making determination**

- (1) In making a 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;

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- (d) other matters the tribunal considers appropriate.

*Example of a matter for paragraph (d)—*

the size of a member's electorate

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

### **30 Requirements for making determination**

In making a 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 55 are not taken into account.

### **31 When determination to be made**

- (1) The tribunal must make its first determination by 15 October 2013.
- (2) Each subsequent determination must be made within 1 year after the previous determination.

## **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 Determination creates entitlement to remuneration**

A person is entitled to the remuneration decided by the tribunal under a determination.

*Note—*

Also see part 4.

**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

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## **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.

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## 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 Misconduct Committee established under the *Crime and Misconduct 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 89 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

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- (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.



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## **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 determination.

### **42            Additional salary entitlement of some members**

(1) A member who holds any of the following offices may be entitled under a 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
- another office approved by resolution of the Assembly to be an office to which this section applies.

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- (2) A 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 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.

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#### 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.

[s 47]

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## **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

- 
- (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.

[s 51]

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- (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).

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## 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](http://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 determination.

### 55 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

[s 56]

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- (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

## 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—

- (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.

[s 59]

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## 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 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' 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.

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**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.

[s 64]

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**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—

[s 69]

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- (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.

*prescribed rate of interest* see section 53.

*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.

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**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.

**71 Transitional regulation-making power**

- (1) A regulation (a *transitional regulation*) may make provision of a saving or transitional nature about a matter for which—
  - (a) it is necessary to make provision to assist in the administration of, or to achieve the purposes of, this Act; and
  - (b) this Act does not make provision or sufficient provision.
- (2) A transitional regulation may have retrospective operation to a day that is not earlier than 9 August 2013.
- (3) A transitional regulation must declare it is a transitional regulation.
- (4) This section and any transitional regulation expire on 9 August 2014.

## **Part 7 Amendments and repeal of legislation**

### **Division 1 Amendment of this Act**

**72 Act amended**

This division amends this Act.

**73 Amendment of long title**

Long title, from 'Assembly, to amend'—

[s 74]

---

*omit, insert—*

Assembly

## **Division 2                   Amendment of Constitution of Queensland 2001**

### **74     Act amended**

This division amends the *Constitution of Queensland 2001*.

### **75     Amendment of s 20 (Separate appropriation for Legislative Assembly)**

Section 20(1), ‘*Parliament of Queensland Act 2001*’—

*omit, insert—*

*Queensland Independent Remuneration Tribunal Act  
2013*

## **Division 3                   Amendment of Crime and Misconduct Act 2001**

### **76     Act amended**

This division amends the *Crime and Misconduct Act 2001*.

### **77     Amendment of s 300 (Membership of parliamentary committee)**

Section 300, ‘Manager of Government Business’—

*omit, insert—*

Leader of the House



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**78 Amendment of sch 2 (Dictionary)**

- (1) Schedule 2, definition *Manager of Government Business*—  
*omit.*
- (2) Schedule 2—  
*insert—*

*Leader of the House* means the member who is recognised in the Legislative Assembly as the Leader of the House.

**Division 4 Amendment of Local Government Act 2009**

**79 Act amended**

This division amends the *Local Government Act 2009*.

**80 Amendment of s 183 (Establishing the tribunal)**

Section 183(2)(c)—  
*omit, insert—*

- (c) deciding the maximum amount of remuneration that is payable to the councillors in each of the categories; and

**81 Amendment of s 270 (Regulation-making power)**

Section 270(2)(a)—  
*omit, insert—*

- (a) the processes of the tribunal; or

**82 Insertion of new ch 9, pt 6**

Chapter 9—

[s 83]

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*insert—*

## **Part 6**                      **Transitional provision for Queensland Independent Remuneration Tribunal Act 2013**

### **301 Amendment of regulation does not affect powers of Governor in Council**

The amendment of the *Local Government Regulation 2012* by the *Queensland Independent Remuneration Tribunal Act 2013* does not affect the power of the Governor in Council to further amend the regulation or to repeal it.

## **Division 5**                      **Amendment of Local Government Regulation 2012**

### **83**                      **Regulation amended**

This division amends the *Local Government Regulation 2012*.

### **84**                      **Amendment of s 241 (Establishing categories of local governments)**

Section 241(2)—

*omit, insert—*

- (2) The purpose of establishing categories of local governments is to enable the tribunal to decide the maximum amounts of remuneration that are payable to mayors and other councillors in each of the categories.

---

**85 Amendment of s 244 (Deciding remuneration)**

(1) Section 244, heading, after ‘deciding’—

*insert—*

**maximum amounts of**

(2) Section 244(1)—

*omit, insert—*

(1) The tribunal must, before 1 December of each year, and for each category of local government, decide the maximum amount of remuneration payable from 1 July of the following year to a councillor, mayor or deputy mayor of a local government in each category.

(3) Section 244(3)—

*omit.*

(4) Section 244(5), ‘subsection (4)(b)’—

*omit, insert—*

subsection (3)(b)

(5) Section 244(1) to (5)—

*renumber* as section 244(1) to (4).

(6) Section 244(6)—

*omit.*

**86 Omission of s 245 (Varying remuneration)**

Section 245—

*omit.*

**87 Amendment of s 246 (Remuneration schedule)**

(1) Section 246(1)—

*omit, insert—*

[s 88]

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- (1) The tribunal must prepare a remuneration schedule after the tribunal makes a decision about maximum amounts of remuneration under section 244.
- (2) Section 246(2)(c), before ‘remuneration’—  
*insert—*  
maximum amount of

## **88 Replacement of ss 247 and 248**

Sections 247 and 248—

*omit, insert—*

### **247 Remuneration payable to councillors**

- (1) A local government must pay remuneration to each councillor of the local government.
- (2) The maximum amount of remuneration payable to a councillor under the remuneration schedule must be paid to the councillor, unless the local government, by resolution, decides the maximum amount is not payable to the councillor.
- (3) If the local government decides the maximum amount of remuneration is not payable to the councillor, the local government must, by resolution, decide the amount of remuneration payable to the councillor.
- (4) The amount of remuneration decided under subsection (3) for each councillor must not be more than the maximum amount of remuneration payable to the councillor under the remuneration schedule.
- (5) The amount of remuneration for each councillor, other than a mayor or deputy mayor, must be the same.
- (6) The local government must make a resolution under subsection (2) within 90 days after each

remuneration schedule is published in the gazette.

- (7) Subsections (4) and (5) are subject to section 248.

### **248 Submission to vary remuneration in exceptional circumstances**

- (1) This section applies if a local government considers that, having regard to exceptional circumstances, a councillor of its local government is entitled to an amount of remuneration that is more than the maximum amount of remuneration payable to the councillor under the remuneration schedule.
- (2) The local government may make a submission to the tribunal for approval to pay the councillor an amount of remuneration of more than the maximum amount (a *higher amount*).
- (3) The tribunal may, but is not required to, consider the submission.
- (4) If the tribunal is satisfied that, having regard to the exceptional circumstances, the councillor is entitled to be paid any higher amount, the tribunal may approve payment of that amount.

## **89 Insertion of new ch 12**

After chapter 11—

*insert—*

## **Chapter 12 Transitional provisions for Queensland Independent Remuneration Tribunal Act 2013**

### **329 Definitions for ch 12**

In this chapter—

*previous section 245* means section 245 as in force immediately before 9 August 2013.

*previous section 246* means section 246 as in force immediately before 9 August 2013.

*relevant period* means the period—

- (a) starting on 1 July 2013; and
- (b) ending on 30 June 2014.

### **330 Purpose of ch 12**

The purpose of this chapter is to stop any variation of a councillor's salary during the relevant period.

### **331 When omission of previous section 245 has effect**

For this chapter, the omission of previous section 245 under the *Queensland Independent Remuneration Tribunal Act 2013*, section 86 is taken to have effect on 1 July 2013.

---

### **332 Provision about remuneration during relevant period**

- (1) A person who is a councillor on or after 1 July 2013 is taken to have been entitled, during the relevant period, only to the remuneration payable to the councillor under the remuneration schedule published by the tribunal under previous section 246 and in effect as at 1 July 2013.
- (2) This section applies despite—
  - (a) previous section 245; and
  - (b) any other Act or law as in force before 9 August 2013.

### **333 Remuneration schedule published under previous section 246 after 1 July 2013 of no effect**

A remuneration schedule published by the tribunal under previous section 246 after 1 July 2013 is of no effect.

### **334 Decisions of tribunal in relation to new local governments to be established after de-amalgamations**

- (1) This section applies to the following decisions made by the tribunal under the *Local Government (De-amalgamation Implementation) Regulation 2013*, section 11(1)—
  - (a) for each new local government, the category of local government to which the new local government belongs;
  - (b) for each category decided under paragraph (a), the remuneration payable to a councillor, mayor or deputy mayor of a new local government in the category.

[s 90]

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- (2) The decisions are taken to be part of the remuneration schedule published by the tribunal under previous section 246 and in effect as at 1 July 2013.
- (3) To remove any doubt, it is declared that, for the period starting on 1 January 2014 and ending on 30 June 2014, a councillor, mayor or deputy mayor of a new local government is entitled only to the remuneration payable to the person under the decisions of the tribunal mentioned in subsection (1).
- (4) In this section—  
*new local government* means each of the following local governments that comes into existence on 1 January 2014—
  - (a) Douglas Shire Council;
  - (b) Livingstone Shire Council;
  - (c) Noosa Shire Council;
  - (d) Mareeba Shire Council.

## **Division 6                      Amendment of Parliamentary Service Act 1988**

### **90      Act amended**

This division amends the *Parliamentary Service Act 1988*.

### **91      Amendment of s 8 (Delegations)**

Section 8(1), ‘the chairperson of committees,’—  
*omit.*



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## **Division 7                      Amendment of Parliament of Queensland Act 2001**

### **92        Act amended**

This division amends the *Parliament of Queensland Act 2001*.

### **93        Amendment of s 13 (Voting)**

Section 13(b), ‘Chairperson of Committees’—

*omit, insert—*

Deputy Speaker

### **94        Amendment of s 16 (Deputy Speaker in particular circumstances)**

(1) Section 16(3), (4) and (5), ‘Chairperson of Committees’—

*omit, insert—*

Deputy Speaker

(2) Section 16(5), ‘Chairpersons of Committees’—

*omit, insert—*

Deputy Speakers

### **95        Replacement of ch 2, pt 4, hdg (Chairperson of Committees)**

Chapter 2, part 4, heading—

*omit, insert—*

## **Part 4                      Deputy Speaker**

### **96        Amendment of s 17 (Chairperson of Committees)**

(1) Section 17, ‘Chairperson of Committees’—

*omit, insert—*

[s 97]

---

Deputy Speaker

- (2) Section 17(4), ‘Chairperson of Committees’ death’—  
*omit, insert—*

Deputy Speaker’s death

**97 Amendment of s 18 (Chairperson of Committees continues to hold office on Assembly’s expiry or dissolution)**

Section 18, ‘Chairperson of Committees’—  
*omit, insert—*

Deputy Speaker

**98 Amendment of s 20 (How the proxy votes)**

Section 20(1), ‘Chairperson of Committees’—  
*omit, insert—*

Deputy Speaker

**99 Amendment of s 65 (Meaning of *paid public appointment* and related appointment)**

- (1) Section 65(3)(b), after ‘Act’—  
*insert—*

or resolution of the Assembly

- (2) Section 65(6), definition *reward*, paragraph (a), ‘chapter 7’—  
*omit, insert—*

the *Queensland Independent Remuneration Tribunal Act 2013*

**100 Amendment of s 70 (Meaning of *transacts business*)**

Section 70(5), definition *reward*, paragraph (a), ‘chapter 7’—

*omit, insert—*

the *Queensland Independent Remuneration Tribunal Act 2013*

**101 Amendment of s 81 (Membership)**

Section 81(1)(a), ‘Manager of Government Business’—

*omit, insert—*

Leader of the House

**102 Amendment of s 83 (Meetings)**

Section 83(2), ‘Manager of Government Business’—

*omit, insert—*

Leader of the House

**103 Amendment of s 91 (Membership and operation—less than 15% non-government membership of Assembly)**

Section 91(2)(a) and (3), ‘Manager of Government Business’—

*omit, insert—*

Leader of the House

**104 Amendment of s 91A (Membership and operation—at least 15% but less than 25% non-government membership of Assembly)**

Section 91A(2)(a) and (3), ‘Manager of Government Business’—

*omit, insert—*

Leader of the House

[s 105]

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- 105 Amendment of s 91B (Membership and operation—at least 25% but less than 50% non-government membership of Assembly)**  
Section 91B(2)(a) and (3), ‘Manager of Government Business’—  
*omit, insert—*  
Leader of the House
- 106 Amendment of s 91C (Membership and operation—at least 50% non-government membership of Assembly)**  
Section 91C(2)(a), ‘Manager of Government Business’—  
*omit, insert—*  
Leader of the House
- 107 Amendment of s 103 (Membership)**  
Section 103(a), ‘Manager of Government Business’—  
*omit, insert—*  
Leader of the House
- 108 Amendment of s 104 (Chairperson)**  
Section 104, ‘Manager of Government Business’—  
*omit, insert—*  
Leader of the House
- 109 Omission of ch 7 (Members’ salaries and allowances)**  
Chapter 7—  
*omit.*
- 110 Insertion of new ch 10, pt 7**  
Chapter 10—

*insert—*

## **Part 7**

# **Queensland Independent Remuneration Tribunal Act 2013**

### **177 Particular references to provisions of repealed ch 7**

- (1) This section applies to a provision of the *Superannuation (State Public Sector) Deed 1990* that includes a reference to either of the following in relation to a member of the Assembly—
  - (a) the *Parliament of Queensland Act 2001*, section 109;
  - (b) the *Parliament of Queensland Act 2001*, section 112.
- (2) The provision applies in relation to the member as if the reference were a reference to the *Queensland Independent Remuneration Tribunal Act 2013*.

### **178 Offices of Deputy Speaker and temporary Deputy Speaker**

- (1) The member holding office as Chairperson of Committees immediately before 9 August 2013 is taken to hold the office of Deputy Speaker.
- (2) A member holding office as a temporary Chairperson of Committees immediately before 9 August 2013 is taken to hold the office of a temporary Deputy Speaker.

[s 111]

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## **111 Amendment of schedule (Dictionary)**

- (1) Schedule, definitions, *Chairperson of Committees, Manager of Government Business* and *temporary Chairperson of Committees*—

*omit.*

- (2) Schedule—

*insert—*

*Deputy Speaker* means the Deputy Speaker of the Assembly.

*Leader of the House* means the member who is recognised in the Legislative Assembly as the Leader of the House.

*temporary Deputy Speaker* means a member appointed or recognised as a temporary Deputy Speaker under the standing rules and orders.

## **Division 8**

## **Repeal of Parliament of Queensland Regulation 2012**

### **112 Repeal**

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

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## Schedule 1      Dictionary

## section 5

*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.

*Deputy Speaker* means the Deputy Speaker of the Assembly.

*determination* means a determination of the tribunal under this Act.

*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*, for part 4, division 5, see section 53.

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

**remuneration**, in connection with a member or former member of the Assembly, means salary, allowances or entitlements in connection with the member or former member, other than accommodation, services or other entitlements mentioned in section 55.

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

**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.