

# **Parliament of Queensland Amendment Bill 2007**

## **Explanatory Notes**

### **Short Title of the Bill**

Parliament of Queensland Amendment Bill 2007

### **Objectives of the Bill**

The Bill amends the *Parliament of Queensland Act 2001* to provide that former Members of Parliament are liable to repay the pro rata amounts of Parliamentary allowances paid to them in advance if they stop being a Member.

The Bill specifically requires former Members of Parliament who were not returned at the 9 September 2006 general election to repay any overpaid allowances.

### **Reasons for the Bill**

Prior to the September 2006 general election, the Government committed to recouping Parliamentary allowances paid in advance to former Members of Parliament for the six month period from 1 July 2006.

The *Members' Entitlements Handbook*, which sets out the benefits afforded Members and former Members of Parliament, has been amended to state that former Members must repay certain Parliamentary allowances paid in advance if they cease to be a Member; however, provisions of the Handbook are not legally enforceable.

While the majority of former Members have voluntarily repaid the pro rata amount of the allowances, a number of former Members have indicated that they do not intend to repay the allowances unless legally required to do so.

### **Achievement of the Objectives**

The Bill will amend the *Parliament of Queensland Act 2001* to create a legal authority for the State, through the Clerk of the Parliament, to recoup

any Parliamentary allowances overpaid to former Members in a court of competent jurisdiction.

The Bill provides that former Members of Parliament will be liable to repay the pro rata amount of any Parliamentary allowances paid in advance, from the time the person ceased to be a Member. The Bill provides specifically for the repayment of the allowances by those former Members who were not returned at the 9 September 2006 general election, as well as creating an authority to recover any amounts overpaid in the future.

For Members who were not returned at the September election, any amounts owing as at 30 June 2007 will attract interest at the Reserve Bank of Australia cash rate plus 50 basis points calculated daily. In future situations, former Members will have a period of six months to repay the pro rata amount of the allowances prior to the sum attracting interest.

The Clerk of the Parliament would be authorised to issue a certificate with respect of any amounts overpaid to former Members of Parliament which may be used as evidence in court proceedings of the debt owing to the State. This certificate would also include details of any interest which may have accrued on the outstanding amount.

### **Estimated Administrative Cost to Government**

The Bill seeks to ensure that public monies overpaid to former Members of Parliament are repaid to the State. If legal action needs to be pursued to recoup overpaid allowances, such action would also seek reimbursement of any legal expenses incurred by the Parliamentary Service.

### **Consistency with Fundamental Legislative Principles**

The Bill could be considered to infringe fundamental legislative principles as it imposes an obligation on former Members of Parliament to repay Parliamentary allowances which did not exist at the time they were paid.

However, the payment of Parliamentary allowances over a period when a person is no longer a Member of Parliament is seen as contrary to principles of accountability in the expenditure of public monies. The allowances are paid to Members of Parliament to support Members in the performance of their duties. Once a person has ceased to be a Member of Parliament, they also cease to have an entitlement to receive payment for holding that position.

In addition, the Premier's intention to seek recovery of the amounts was well-publicised during the election campaign. The then Leader of the

Opposition similarly expressed his intention to seek repayment of the allowances.

Accordingly, it is considered that there is an over-riding public interest in ensuring these public monies are repaid by all former Members of Parliament that justifies any perceived negative impact on a small number of people.

## **Consultation**

Consultation has been undertaken with the Clerk of the Parliament and the Crown Solicitor on the Bill.

## **Notes On Clauses**

Clause 1 sets out the short title of the Bill.

Clause 2 states that this Bill amends the *Parliament of Queensland Act 2001*.

Clause 3 changes the heading of chapter 7 from “Members’ Salaries” to “Members’ Salaries and Allowances”

Clause 4 inserts a new Part 5 “Allowances”.

The new section 123D provides definitions for “advance allowance”, “Members’ Entitlements Handbook”, “prescribed rate of interest”, “pro rata amount” and “handbook” for Part 5.

The new section 123E provides that former Members of Parliament are liable to repay the pro rata amount of any overpaid Parliamentary allowances. The overpaid amount will be subject to interest if it remains unpaid at the end of six months from the date the person ceased to be a Member. The Clerk of the Parliament is able to recover any outstanding debts to the State through a court of competent jurisdiction, with the approval of the Premier.

The new section 123F applies to former Members who were not returned at the 9 September 2006 general election. Former Members who have not repaid Parliamentary allowances overpaid for the six month period from 1 July 2006, are liable to repay the amount, which will attract interest on any part of the amount which remains unpaid after 30 June 2007.

The new section 123G authorises the Clerk of the Parliament to issue certificates stating the amount of any overpaid allowances still owing to the State (with associated accrued interest), which may be used as evidence in court proceedings.