

Queensland



**PARLIAMENTARY
LEGISLATION
AMENDMENT BILL 1992**

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1992

A BILL

FOR

**An Act to amend the *Financial Administration and Audit Act 1977*, the
Parliamentary Members' Salaries Act 1988 and the *Parliamentary
Service Act 1988***

BE IT ENACTED by the Queen’s Most Excellent Majesty, by and with 1
the advice and consent of the Legislative Assembly of Queensland in 2
Parliament assembled, and by the authority of the same, as follows. 3

PART 1—PRELIMINARY 4

Short title 5

Clause1. This Act may be cited as the *Parliamentary Legislation* 6
Amendment Act 1992. 7

Commencement 8

Clause2. This Act commences on a day to be fixed by proclamation. 9

PART 2—AMENDMENT OF FINANCIAL 10 ADMINISTRATION AND AUDIT ACT 1977 11

Amendment of s.35 (Accountable officers) 12

Clause3.(1) Section 35(3)— 13

omit, insert— 14

‘(3) The chief executive of the Parliamentary Service is the accountable 15
officer for accounts relating to the Legislative Assembly, the Clerk of the 16
Parliament, the Parliamentary Service Commission and the Parliamentary 17
Service.’. 18

(2) Section 35(5)(a)— 19

omit, insert— 20

‘(a) the financial administration of the appropriations relating to the 21
Legislative Assembly, the Clerk of the Parliament, the 22
Parliamentary Service Commission and the Parliamentary 23
Service; and’. 24

PART 3—AMENDMENT OF PARLIAMENTARY MEMBERS’ SALARIES ACT 1988

Replacement of Part 5 (Amendment of Parliamentary Contributory Superannuation Act)

*Clause*4. Part 5—

omit, insert—

‘PART 5—ALLOWANCES

‘Meaning of allowances

‘16. In this Part—

“**allowances**” includes benefits of whatever description, whether in the
form of amounts, equipment, accommodation, services or otherwise.

‘Power of Governor in Council to determine allowances

‘17.(1) The Governor in Council may determine—

- (a) the allowances which a member or former member of the
Legislative Assembly is to receive; and
- (b) the procedure for authorisation and payment or provision of the
allowances.

‘(2) Without limiting subsection (1), the Governor in Council may—

- (a) determine matters relating to forfeiture of allowances as well as
matters relating to provision of allowances; and
- (b) provide for allowances in respect of persons other than a member
or former member, for example, a spouse travelling with a
member or former member; and
- (c) provide for review of decisions made in relation to allowances.’.

PART 4—AMENDMENT OF PARLIAMENTARY SERVICE ACT 1988

Amendment of s.4 (Interpretation)

Clause 5. Section 4—

insert—

- ‘**“chief executive”** means the chief executive of the Parliamentary Service, and includes an officer of the Parliamentary Service who performs the duties of the chief executive;’.

Amendment of s.7 (Functions of Parliamentary Service Commission)

Clause 6. Section 7(1)(d) and (e)—

omit, insert—

- ‘(d) to supervise the management and delivery of the services to be performed by the Parliamentary Service; and
- (e) to be the employing authority for officers of and employees in the Parliamentary Service, determining their remuneration and other terms and conditions of employment; and
- (f) to provide the Clerk with staff and administrative support services necessary to enable the Clerk to effectively and efficiently perform the Clerk’s functions of office.’.

Replacement of s.9 (The Clerk of the Parliament to constitute Parliamentary Service Commission in interim)

Clause 7. Section 9—

omit, insert—

‘Constitution of Commission in interim

‘**9.(1)** On the members of the Parliamentary Service Commission vacating office as provided by section 8(3) and (4), the Commission is constituted by the chief executive until the Legislative Assembly resolves to appoint members of the Legislative Assembly to the Commission.

‘(2) The chief executive then ceases to constitute the Commission.	1
‘(3) The Commission as constituted by the chief executive must not make any determination that conflicts with the policy determinations of the Commission that were in force immediately before the Commission was constituted by the chief executive.’.	2 3 4 5
Replacement of Part 3 (The Clerk of the Parliament)	6
<i>Clause 8. Part 3—</i>	7
<i>omit, insert—</i>	8
‘PART 3—CLERK OF THE PARLIAMENT	9
‘Office of Clerk of the Parliament	10
‘18. There is to be a Clerk of the Parliament.	11
‘Appointment of the Clerk	12
‘19.(1) The Clerk is to be appointed by the Governor in Council by commission.	13 14
‘(2) Before a person is selected for appointment as Clerk, the Speaker must cause press advertisements to be placed nationally calling for applications from suitably qualified persons to be considered for appointment.	15 16 17 18
‘(3) A person may be appointed as the Clerk only if—	19
(a) the advertisements mentioned in subsection (2) have been placed; and	20 21
(b) the Minister has consulted with the Speaker about the appointment of the person as the Clerk.	22 23
‘Clerk’s functions of office	24
‘20. The functions of the Clerk are—	25
(a) to note the proceedings of the Legislative Assembly; and	26

(b) to perform the functions and exercise the powers conferred on the Clerk by any Act or by the standing rules and orders, customs and practices of the Legislative Assembly; and	1 2 3
(c) to advise on the functions, powers and procedures of the Legislative Assembly.	4 5
‘Clerk responsible to Speaker	6
‘21. The Clerk is directly responsible to the Speaker for the performance of the Clerk’s functions of office.	7 8
‘Clerk’s terms and conditions of employment	9
‘22.(1) Subject to this Act, the Clerk is to be appointed on terms determined by the Governor in Council.	10 11
‘(2) The terms must not prejudice the performance of the Clerk’s functions of office.	12 13
‘(3) The Clerk is to be appointed for an indefinite tenure.	14
‘(4) Despite any other provision of this Act, the Clerk is taken to be—	15
(a) an officer of the Parliamentary Service for the purpose of sections 30 and 31 and the <i>Superannuation (State Public Sector) Act 1990</i> ; and	16 17 18
(b) an employee of the Commission for the purpose of the <i>Industrial Relations Act 1990</i> .	19 20
‘Clerk’s resignation	21
‘22A. The Clerk may resign by signed notice given to—	22
(a) the Speaker; or	23
(b) if there is no Speaker or the Speaker is absent from Queensland—the Governor.	24 25

‘Clerk’s removal or suspension	1
‘22B.(1) In this section—	2
“misconduct” means—	3
(a) disgraceful or improper conduct that shows unfitness to be or continue as Clerk; or	4 5
(b) behaviour that does not satisfy a standard of behaviour generally expected of a person who holds the office of Clerk.	6 7
(2) If the Clerk—	8
(a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit; or	9 10 11
(b) suffers physical or mental incapacity that prevents the Clerk from performing the duties of office; or	12 13
(c) engages in misconduct;	14
the Clerk may be—	15
(d) removed or suspended from office by the Governor on an address from the Legislative Assembly; or	16 17
(e) if the Legislative Assembly is not in session—suspended from office by the Governor.	18 19
‘(3) If the Governor suspends the Clerk under subsection (2)(e), the suspension must not continue longer than 2 months after the beginning of the next session of the Legislative Assembly.	20 21 22
 ‘Performance of Clerk’s functions in Clerk’s absence	 23
‘22C. During any period—	24
(a) when there is a vacancy in the office of Clerk; or	25
(b) when the Clerk is absent from duty;	26
the Clerk’s functions are to be performed and powers exercised by the most senior available officer of the Parliamentary Service who is required to sit at the Table.	27 28 29

‘Relationship of Clerk and chief executive

‘22D.(1) Subject to subsection (3), the Clerk is not subject to the directions of the chief executive in the performance of a function or exercise of a power as the Clerk.

‘(2) An officer of, or employee in, the Parliamentary Service who is assisting the Clerk in the performance of the Clerk’s functions is, in that capacity, subject to the directions of the Clerk.

‘(3) The Clerk is subject to the directions of the chief executive given in the performance by the chief executive of a function conferred on accountable officers under the *Financial Administration and Audit Act 1977*.’.

Amendment of s.23 (Parliamentary Service)

Clause9. Section 23(3)—

omit, insert—

‘(3) The Parliamentary Service consists of—

- (a) the chief executive; and
- (b) officers of the Legislative Assembly required to sit at the Table of the Legislative Assembly, other than the Clerk; and
- (c) the Parliamentary Librarian; and
- (d) the Chief Reporter of the Legislative Assembly; and
- (e) other officers of, and employees in, the Parliamentary Service.’.

Amendment of s.24 (Functions of Parliamentary Service)

Clause10. Section 24(1)—

omit ‘and to members and committees thereof’,

insert ‘, to its members and committees and the Clerk’.

Replacement of s.25 (Delegation by The Clerk of the Parliament as chief executive of Parliamentary Service)	1 2
<i>Clause</i> 11. Section 25—	3
<i>omit, insert—</i>	4
‘Office of chief executive	5
‘25. There is to be a chief executive of the Parliamentary Service.	6
‘Appointment of chief executive	7
‘25A.(1) The chief executive is to be appointed by the Governor in Council.	8 9
‘(2) The appointment is to be for a period of not more than 5 years.	10
‘(3) Before a person is selected for appointment as chief executive, the Commission must cause press advertisements to be placed nationally calling for applications from suitably qualified persons to be considered for appointment.	11 12 13 14
‘(4) A person may be appointed as the chief executive only if—	15
(a) the advertisements mentioned in subsection (3) have been placed; and	16 17
(b) the Minister has consulted with the Commission about the appointment of the person as the chief executive.	18 19
‘(5) The terms of the chief executive’s appointment—	20
(a) are to be as determined by the Commission and accepted by the chief executive; and	21 22
(b) are to be governed by a contract made between the chief executive and attested on behalf of the Commission by the Chairperson; and	23 24 25
(c) are not subject to any industrial award or industrial agreement or any determination or rule of an industrial tribunal.	26 27
‘Functions of chief executive	28
‘25B.(1) The functions of the chief executive are—	29

(a) to be responsible for the efficient and economical management of the Parliamentary Service; and	1 2
(b) to make recommendations to the Commission in relation to its functions; and	3 4
(c) to implement the policies and decisions of the Commission requiring action by the Parliamentary Service.	5 6
‘(2) The chief executive is subject to the directions of the Commission.	7
‘Acting chief executive	8
‘25C. The Commission may appoint an officer of the Parliamentary Service to act in the office of chief executive—	9 10
(a) during a vacancy in the office; or	11
(b) during any period, or all periods, when the chief executive is absent from duty or Australia or is, for another reason, unable to perform the functions of office.	12 13 14
‘Delegation by chief executive	15
‘25D. The chief executive may delegate the powers of chief executive to an officer of, or employee in, the Parliamentary Service.’.	16 17
Amendment of s.27 (Bases of employment of officers in Parliamentary Service)	18 19
<i>Clause</i> 12. Section 27(3)—	20
omit ‘, other than that of the Clerk,’.	21
Amendment of s.29 (Salaries and conditions of employment)	22
<i>Clause</i> 13. Section 29(1)—	23
omit ‘Clerk,’.	24

Amendment of s.37 (Retirement from Parliamentary Service)	1
<i>Clause14.</i> Section 37(1)—	2
<i>omit, insert—</i>	3
‘(1) An officer of, or an employee in, the Parliamentary Service may elect to retire from the Parliamentary Service on or at any time after turning 55.’.	4 5 6
Replacement of s.49 (Officers of and employees in Parliamentary Service are employees in industrial law)	7 8
<i>Clause15.</i> Section 49—	9
<i>omit, insert—</i>	10
‘Parliamentary Service officers and employees are employees in industrial law	11 12
‘49. The <i>Industrial Relations Act 1990</i> —	13
(a) applies to an officer of, or employee in, the Parliamentary Service who is in receipt of salary (otherwise than on a contract basis) or wages as an employee within the meaning of the Act; and	14 15 16
(b) applies to the Commission as the employer, within the meaning of the Act, of an officer of, or employee in, the Parliamentary Service.’.	17 18 19
Amendment of s.50 (Behaviour in Parliamentary precinct at discretion of Parliamentary Service Commission)	20 21
<i>Clause16.(1)</i> Section 50(2)—	22
<i>renumber</i> paragraphs (a) and (b) as subsections (2) and (2A) respectively.	23 24
(2) Section 50(2)(c)—	25
<i>omit, insert—</i>	26
‘(2B) A by-law is subordinate legislation.’.	27

Amendment of s.55 (Rules)	1
<i>Clause17.</i> Section 55(4)—	2
<i>omit, insert—</i>	3
‘(4) A rule is subordinate legislation.’	4
 Replacement of “Clerk” with “chief executive” generally	5
<i>Clause18.</i> Sections 7(2), 11, 13, 26(2), 28(4)(a), 34(1) and (2), 35(1), 37(2),	6
38, 40(1), (2) and (3), 41(2) and (3), 42(3), 43(6), 50(8)(b) and (c), 51(1)	7
and (2), 52—	8
<i>omit</i> ‘Clerk’ (wherever occurring),	9
<i>insert</i> ‘chief executive’.	10
 Replacement of s.56 (Amendment of Acts)	11
<i>Clause19.</i> Section 56—	12
<i>omit, insert—</i>	13
 ‘PART 7—TRANSITIONAL	14
 ‘Preservation of Clerk’s appointment	15
‘56. The person holding office as Clerk immediately before the	16
commencement of this section is taken, on the commencement—	17
(a) to have been appointed as Clerk; and	18
(b) subject to this Act, to have been appointed as Clerk on the same	19
terms as before.’	20
 Omission of Schedule	21
<i>Clause20.</i> The Schedule—	22
<i>omit.</i>	23
	24

