

Examined and certified by:


 Clerk of the Parliament

In the name and on behalf of Her Majesty Queen Elizabeth the Second I hereby assent to this Act this 13th day of March 2007



 Queen's Representative

ANALYSIS

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2007, No. 3

An Act to amend the Remuneration Tribunal Act 2005

1. Short Title - This Act may be cited as the Remuneration Tribunal Amendment Act 2007 and shall be read together with and deemed part of the Remuneration Tribunal Act 2005 ("the principal Act").

2. Functions of Tribunal - The principal Act is amended by repealing section 13 and substituting the following -

- "13. Functions of Tribunal - (1) The functions of the Tribunal shall be to -
- consider and make recommendations to the Minister as to the salaries and allowances of office holders listed in Schedule 1 of this Act; and
 - carry out such other functions as may be conferred or imposed on it by this Act or any other Act.

(2) In carrying out its functions under paragraph (a) of subsection (1), the Tribunal may make recommendations in respect of scales of salaries and allowances, or ranges of rates of remuneration or alternative forms of remuneration either generally or within a remuneration package for any position, and may recommend rules governing the application of any such scales of salaries or allowances."

3. Implementation of recommendations of Tribunal – The principal Act is amended by repealing section 15 and substituting the following –

“15. Recommendations of the Tribunal – (1) The Minister shall place before Cabinet every recommendation received by him either in its original form or as modified by the Minister as he considers necessary, and Cabinet shall forward the same to Executive Council for promulgation.

(2) The Minister may, in forwarding any recommendation to Cabinet, propose to Cabinet that the views of Parliament or, if Parliament so resolves, any Committee thereof, be ascertained.”

4. Obligation to consult before making determinations about Parliamentary salaries and allowances – The principal Act is amended by repealing section 17 and substituting the following –

“17. Obligation of Tribunal to consult - Before making any recommendation under section 13(1)(a) the Tribunal must –

- (a) consult with the Collector of Inland Revenue about the taxation consequences of the Tribunal’s proposed recommendation; and
- (b) consult with the Speaker of Parliament and with the Minister responsible for the Legislative Service regarding the services over which each of them has jurisdiction.”

5. Criteria for Tribunal – The principal Act is amended by repealing section 18 and substituting the following –

“18. Criteria for Tribunal - In making recommendations for any remuneration under section 13(1)(a) of this Act, the Tribunal shall have regard in particular to -

- (a) the need to achieve and maintain fair relativity with the levels of remuneration received elsewhere; and
- (b) the need to be fair both -
 - (i) to the persons or group of persons whose remuneration is being determined; and
 - (ii) to the taxpayer; and
- (c) the state of –
 - (i) the Cook Islands economy;
 - (ii) Government finances; and
- (d) the need to recruit and retain competent persons; and
- (e) the requirements of the position concerned; and
- (f) the conditions of service enjoyed by the persons whose remuneration is being determined and those enjoyed by the persons or members of the group of persons whose remuneration and conditions of employment are, in the opinion of the Tribunal, comparable with those of the persons or

members of the group of persons whose remuneration is being determined.”

6. Frequency of adjustments - The principal Act is amended by repealing section 19 and substituting the following -

“19. Frequency of adjustments - (1) The Tribunal shall meet to consider and make recommendations in respect of the salaries and allowances of office holders listed in Schedule 1 at such time or times as the Minister may direct and in any event, at intervals of not less than 3 years.”

7. Submissions to Tribunal - The principal Act is amended by repealing section 20 and substituting the following -

“20. Submissions to Tribunal - (1) Any person or any organisation shall be entitled to make written submissions to the Tribunal in relation to the exercise by the Tribunal of its functions under this Act.

(2) Where the Tribunal is considering whether to make a recommendation in relation to the remuneration of any persons or group of persons, the following persons and organisations shall be entitled to present submissions to the Tribunal, at a time and place and in a manner to be determined by the Tribunal -

- (a) either -
 - (i) the members of each category of persons whose remuneration is being considered; or
 - (ii) any recognised organisation representing the members of each category of persons whose remuneration is being considered;
- (b) any recognised organisation representing employers of persons whose remuneration is being considered;
- (c) each employer or employing Tribunal, or an authorised representative of each employer or employing Tribunal, of the persons whose remuneration is being considered.”

8. Remuneration of existing holder not to be reduced - The principal Act is amended by repealing section 21 and substituting the following -

“21. Remuneration of existing holder not to be reduced - Where any position is subject to a recommendation of the Tribunal under section 13(1)(a) of this Act the Tribunal shall not recommend any salary or allowances for that position at a rate that is lower than that which is being lawfully received by the holder of that position.”

9. Consequential amendment to the Civil List Act – Section 15 of the Civil List Act 2005 is amended, by deleting subsection (1) and substituting the following -

“(1) The Queen’s Representative shall by Order in Executive Council promulgated pursuant to section 15(1) of the Remuneration Tribunal Act 2005, fix the salaries and allowances to be paid to office holders and to other members of Parliament.”

10. Savings – Every determination made by the Tribunal before the coming into force of this Act shall be deemed a recommendation to the Minister as if made under section 13 of the principal Act as substituted by section 2 of this Act.

This Act is administered by the Ministry of Finance and Economic Management