

## A BRIEF HISTORY OF PARLIAMENTARY REMUNERATION

The Australian Parliament was established by an Act of the British Parliament, the *Australian Constitution Act 1900*. Section 48 of the Constitution provides that all members of the Parliament (MPs) would receive an 'allowance' of 400 pounds per annum, until the Parliament decided otherwise.

This means that from the time that Parliament first had the power to make laws it had the power to determine the remuneration of its members. The constitution set a single rate of pay for all members of both Houses, including for MPs of widely varying electorates. This is a convention that has been followed ever since – while allowances, which provide funding assistance for MPs to do their jobs, can vary from electorate to electorate to take into account differences in expenses, the base salary of MPs themselves is the same across Australia.

From the commencement of the Australian Parliament in 1901 until the early 1970s parliamentary pay was set by the Parliament itself – for instance from 1952 the 'allowance' was set in the *Parliamentary Allowances Act 1952*, which was amended to adjust the quantum of the allowance a number of times.

In order to examine the issues relating to parliamentary pay, and to consider whether amendments were appropriate, the Governments of the day commissioned inquiries in 1952, 1955, 1959 and in 1971. The 1971 review, conducted by Mr Justice Kerr, recommended, among other things, the formation of a standing Tribunal to conduct inquiries into parliamentary pay.

While the previous *ad hoc* inquiries had done valuable work, and there was some common membership in the inquiry teams in the 1950s, there was a lack of continuity in the work.

The establishment of a standing Tribunal was seen as a resolution to this. Although the establishment of a Tribunal did not immediately follow the 1971 Kerr Report, the passage of the *Remuneration Tribunal Act 1973* (the Remuneration Tribunal Act) created the Tribunal from the commencement of 1974.

From 1974 until 1990 the Tribunal had a decisive, though not always easy, role in setting parliamentary pay by way of determinations – which were disallowable, and not infrequently disallowed, by the Parliament.

Ultimately, through the passage of legislation in 1990 – specifically the *Remuneration and Allowances Act 1990* (the R & A Act) and the *Parliamentary Entitlements Act 1990* – the Parliament took back the primary role in the setting of various items for MPs.

Many of the Tribunal's powers that were drawn back by the passage of the R & A Act were returned to the Tribunal over time by the insertion of a clause in the R & A Act that allowed Tribunal determinations on various subjects (although not base salary) to override provisions in the R & A Act. Eventually, a further amendment to the R & A Act, made by the *Remuneration and Other Legislation Amendment Act 2011*, also allowed a Tribunal determination on parliamentary base salary to override any provision in the R & A Act.

Thus the Tribunal's making of Determination 2012/02, setting a parliamentary base salary from 15 March 2012, meant that any provision in the R & A Act in relation to parliamentary base salary was made obsolete.

During the period 1990 – 2012, when the salary provisions of the R & A Act were in force, parliamentary base salary was, for the most part, not set directly. Instead, it was set by reference to salaries set for other offices. Initially pay was set by reference to one, then another, fixed pay point in the Australian Public Service (APS) Senior Executive Service pay scale. However, the effect of enterprise bargaining in the APS which devolved pay setting meant that no fixed pay point existed.

In December 1999 the Government made a regulation under the R & A Act (updated in December 2005) to link the parliamentary base salary to a reference salary (Reference Salary A) within the Tribunal's Principal Executive Office (PEO) Structure.

The decision to link the parliamentary base salary to Reference Salary A in the PEO structure was taken following a request from Government in 1999 for the Tribunal's advice on base salary for parliamentarians.

Rates of pay in the PEO structure (including Reference Salary A) were (and continue to be) reviewed by the Tribunal and adjusted, as appropriate, generally from 1 July each year. From 1 July 2007 until 30 June 2008 the Reference Salary A, and consequently the parliamentary base salary, was \$127,060 per year.

In the period immediately prior to 30 June 2008 the parliamentary base salary was equal to 100% of Reference Salary A. However, the *Remuneration and Allowances Amendment Regulations 2008 (No. 1)* provided that parliamentary base salary in 2008/09 and future years would be set at an amount equal to the Reference Salary A determined by the Tribunal, less the whole dollar increase to the reference salary determined by the Tribunal for the 2008/09 year. In other words, there was no increase to parliamentary pay in that year and the regulation set a calculation which meant that there was no catch-up of the forgone increase in subsequent years.

The application of the Tribunal's annual adjustment increased Reference Salary A to \$132,530, with effect from 1 July 2008. The effect of the amending regulation was that (after 1 July 2008) parliamentary base salary remained at \$127,060, an amount of \$5,470 less than Reference Salary A (\$132,530). The Tribunal's 2011 review saw Reference Salary A increased to \$146,380 with effect from 1 July 2011; this amount less \$5,470 was \$140,910.

In August 2011, amendments to the Remuneration Tribunal Act by the *Remuneration and Other Legislation Amendment Act 2011* returned the power to the Tribunal to determine parliamentary base salary.

Using its new powers, the Tribunal determined a new base salary rate of \$185,000 with effect from 15 March 2012.

Parliamentary base salary has been increased in line with the Tribunal's annual review adjustments since 2012.

In 2015, the Government established a review to consider options for a new parliamentary entitlements system. The Review Panel's report "[An Independent Parliamentary Entitlements System Review - Report February 2016](#)" included a number of recommendations, accepted by the Government, to reform the system for determining parliamentary remuneration, allowances and expenses.

From 1 January 2018, through subsequent amendments to the Remuneration Tribunal Act by the *Parliamentary Business Resources (Consequential and Transitional Provisions) Act 2017*, the Tribunal's power to determine remuneration and allowances for parliamentarians is prescribed in the *Parliamentary Business Resources Act 2017*.