



ANALYSIS

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|--|---|
| Title
1. Short Title and commencement
2. Interpretation
3. Staff of Commission
4. Functions of Commission
5. Allowances
6. Release of determinations
7. Criteria of Commission
8. Frequency of adjustments | 9. Interim adjustments
10. Submissions to Commission
11. Recommendations to Commission
12. Application of cost-of-living increases
13. Delegation
14. New Schedules substituted
15. Repeals
16. Revocations
Schedules |
|--|---|

1988, No. 24

**An Act to amend the Higher Salaries Commission Act
1977** [30 March 1988]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Higher Salaries Commission Amendment Act 1988, and shall be read together with and deemed part of the Higher Salaries Commission Act 1977 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of April 1988.

2. Interpretation—(1) Section 2 of the principal Act (as substituted by section 2(1) of the Higher Salaries Commission Amendment Act (No. 2) 1985) is hereby amended by repealing the definitions of the terms “Health Service”, “junior dental officer”, and “resident medical officer”.

(2) Section 2 of the principal Act (as so substituted) is hereby further amended by repealing the definition of the term “remuneration”, and substituting the following definition:

“Remuneration” includes—

“(a) Salary, wages, and other payments, whether in the form of bonuses or otherwise, in return for services; and

“(b) Benefits and other emoluments (whether in money or not) in return for services:”.

3. Staff of Commission—The principal Act is hereby amended by repealing section 11, and substituting the following section:

“11. There shall from time to time be appointed by the chief executive of the Department of Labour such employees of the Department as may be necessary to enable the Commission to exercise its functions and powers.”

4. Functions of Commission—The principal Act is hereby amended by repealing section 12 (as substituted by section 3 (1) of the Higher Salaries Commission Amendment Act (No. 2) 1985), and substituting the following section:

“12. (1) The functions of the Commission shall be—

“(a) To consider and determine the following matters:

“(i) The salaries and allowances of members of the House of Representatives, being the salaries and allowances required to be fixed by the Commission pursuant to the Civil List Act 1979:

“(ii) The remuneration of the highest paid executive officer of each of the corporations and bodies specified (either by name or by class) in the First Schedule to this Act and the remuneration of such other officers of those corporations and bodies as the Commission from time to time specifies:

“(iii) The remuneration of the persons holding the offices specified in the Second Schedule to this Act and the remuneration of such other persons employed by any university within the meaning of the Universities Act 1961 or by the University Grants Committee as the Commission from time to time specifies:

“(iv) The remuneration of the chief executive officer of each of the local authorities of the classes specified in Part I of the Third Schedule to this Act and of each of the local authorities specified in Part II of that Schedule, and the remuneration of such other officers of the local authorities to which the Third Schedule to this Act applies as the Commission from time to time specifies:

“(v) The remuneration of the officers specified in the Fourth Schedule to this Act:

“(vi) The remuneration of teachers in any university within the meaning of the Universities Act 1961, not being a university or a class of teachers excluded from this provision by Order in Council:

“(b) To consider and make determinations with respect to the superannuation rights of members of the House of Representatives, being rights fixed at the commencement of this Act by Part VI and other provisions of the Government Superannuation Fund Act 1956;

“(c) To carry out such other functions as may be conferred or imposed on it by this Act or any other enactment.

“(2) In carrying out its functions under subsection (1)(a) of this section, the Commission may fix scales of salaries and scales of allowances or ranges of rates of remuneration or alternative forms of remuneration within a remuneration package for any position, and may prescribe rules governing the application of any such scales of salaries or allowances, or ranges of rates of remuneration, or alternative forms of remuneration within a remuneration package fixed by it.

“(3) Except as provided in this Act, where the remuneration due to any person is fixed under this Act, no amount in excess of the remuneration so fixed for the time being shall be granted to any person on account of that remuneration.”

5. Allowances—The principal Act is hereby amended by inserting, after section 12B (as inserted by section 4 of the Higher Salaries Commission Amendment Act (No. 2) 1985), the following section:

“12c. (1) Notwithstanding anything in this Act, where the Commission has jurisdiction to determine the remuneration of any persons or group of persons pursuant to section 12 (1) (a) of this Act (other than subparagraph (i)) or under any other enactment, the Commission may in relation to any such persons or to any member of that group of persons determine the nature and extent of the principal allowances that may be paid in addition to that remuneration.

“(2) Every determination under subsection (1) of this section shall have effect according to its tenor.

“(3) It shall be unlawful for any person to act contrary to a determination under subsection (1) of this section or to fail to observe the criteria or limits specified in any such determination.”

6. Release of determinations—Section 15 of the principal Act is hereby amended—

- (a) By omitting from subsection (2) the words “salaries or the principal allowances or both”, and substituting the word “remuneration”;
- (b) By repealing subsections (3) and (4).

7. Criteria of Commission—The principal Act is hereby amended by repealing section 18 (as substituted by section 5 of the Higher Salaries Commission Amendment Act (No. 2) 1985), and substituting the following section:

“18. (1) In determining any remuneration under section 12 (1) (a) or section 12B (1) of this Act, or under any other enactment, the Commission shall have regard in particular to the following criteria:

“(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 or ratepayer; and

“(c) The need to recruit and retain competent persons.

“(2) In determining the remuneration of any persons or group of persons pursuant to any subparagraph of section 12 (1) (a) of this Act or in determining the remuneration of any persons or group of persons pursuant to section 12B (1) of this Act or under any other Act, the Commission shall take into account—

“(a) The requirements of the position concerned; and

“(b) 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 Commission, comparable with those of the persons or members of the group of persons whose remuneration is being determined.”

8. Frequency of adjustments—(1) The principal Act is hereby amended by repealing section 19 (as substituted by section 6 (1) of the Higher Salaries Commission Amendment Act (No. 2) 1985), and substituting the following section:

“19. (1) Subject to subsection (4) of this section, every determination shall specify the date on which it expires and shall continue in force at least until the close of that date. The

Commission may issue separate determinations, at different times, for the different positions under the jurisdiction of the Commission. The Commission may make a determination before or after the date upon which that determination is to come into force.

“(2) No determination, or any part of it, shall come into force earlier than the date of the expiry of the currency of the existing determination being wholly or partially superseded by the first-mentioned determination.

“(3) Notwithstanding the expiry of the currency of a determination, it shall continue in force to the extent that it is not superseded by another determination.

“(4) Notwithstanding subsection (1) of this section, the Commission may at any time while a determination is in force amend that determination—

“(a) For the purpose of remedying any defect or removing any ambiguity; or

“(b) To deal with any new matter that was not dealt with at the time of the making of the determination; or

“(c) If the Commission is satisfied that in all the circumstances there are particular and special reasons that justify a period of less than the term specified in the determination.

“(5) Notwithstanding any term included in any determination, the Commission shall review and issue a determination for each position that is subject to its jurisdiction at intervals of not more than 3 years.”

(2) Notwithstanding anything in section 19 of the principal Act (as substituted by subsection (1) of this section), the Commission may issue an interim determination with effect from the 1st day of April 1988 to adjust the remuneration of any of the categories of persons who are covered by this Act. Any such adjustment shall subsequently be incorporated into a final determination which may have a term commencing on or after the 1st day of April 1988.

9. Interim adjustments—Section 20 of the principal Act is hereby repealed.

10. Submissions to Commission—The principal Act is hereby amended by repealing section 21, and substituting the following section:

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

“(2) Where the Commission is considering whether to make a determination in relation to the remuneration or superannuation of any persons or group of persons, the following persons and organisations shall be entitled to make written submissions and, at their option, oral submissions to the Commission, at a time and place and in a manner to be determined by the Commission:

“(a) Either—

“(i) Representatives of 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 or superannuation is being considered:

“(b) Any recognised organisation representing employers of persons whose remuneration or superannuation is being considered:

“(c) Each employer or employing authority, or an authorised representative of each employer or employing authority, of the persons whose remuneration or superannuation is being considered.”

11. Recommendations to Commission—The principal Act is hereby amended by repealing section 22, and substituting the following section:

“22. The Commission shall, in making any determination under section 12 (1) (a) (iii) or section 12 (1) (a) (vi) of this Act, have due regard to any recommendations made to it by the University Grants Committee established by section 3 of the Universities Act 1961.”

12. Application of cost-of-living increases—Section 23 of the principal Act is hereby repealed.

13. Delegation—The principal Act is hereby amended by repealing section 26 (as substituted by section 7 (1) of the Higher Salaries Commission Amendment Act (No. 2) 1985), and substituting the following section:

“26. (1) The Commission may from time to time, and subject to such conditions as it thinks fit, delegate, in accordance with this section, its power to make a determination in respect of the remuneration for any position referred to in subsection (2) of this section.

“(2) Delegations under subsection (1) of this section may be made—

“(a) To the University Grants Committee, in respect of the remuneration for any position to which section 12 (1) (a) (iii) or section 12 (1) (a) (vi) of this Act applies;

“(b) With the prior joint consent of the Minister of Labour and the Minister of Local Government, to the Joint Council for Local Authorities Services, in respect of the remuneration for any position (other than the position of any officer of a harbour board) to which section 12 (1) (a) (iv) of this Act applies.

“(3) A delegation under this section shall designate specifically (and not in general terms) the position in respect of which the delegate may determine the remuneration.

“(4) The Committee or Commission or Council to which powers are delegated under this section—

“(a) Shall exercise those powers only by unanimous vote of its members; and

“(b) Shall not itself delegate those powers.

“(5) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Higher Salaries Commission.”

14. New Schedules substituted—The principal Act is hereby amended by repealing the First, Second, Third, and Fourth Schedules (as substituted by section 3 of the Higher Salaries Commission Amendment Act 1980), and substituting the First, Second, Third, and Fourth Schedules set out in the First Schedule to this Act.

15. Repeals—(1) The enactments specified in the Second Schedule to this Act are hereby repealed.

(2) The repeal by subsection (1) of this section of the Higher Salaries Commission Amendment Act 1980 does not affect the amendments made by subsections (2) and (3) of section 4 of that Act to section 31 of the Consumer Council Act 1966.

16. Revocations—The Orders in Council specified in the Third Schedule to this Act are hereby consequentially revoked.

SCHEDULES**FIRST SCHEDULE**

Section 14

**NEW FIRST, SECOND, THIRD, AND FOURTH SCHEDULES TO HIGHER SALARIES
COMMISSION ACT 1977****"FIRST SCHEDULE**

Section 12 (1) (a) (ii)

**CORPORATIONS AND BODIES WHOSE HIGHEST PAID EXECUTIVE OFFICERS'
REMUNERATION IS TO BE DETERMINED BY HIGHER SALARIES COMMISSION**

- The Broadcasting Corporation of New Zealand.
The Education Board of the District of Auckland.
The Tourist Hotel Corporation of New Zealand.
Waikato Carbonisation Limited.
The New Zealand Apple and Pear Marketing Board.
The New Zealand Dairy Board.
The New Zealand Meat Producers Board.
The New Zealand Milk Board.
The New Zealand Pork Industry Board.
The New Zealand Poultry Board.
The New Zealand Racing Authority.
The New Zealand Wool Board.
The New Zealand Wool Testing Authority.

"SECOND SCHEDULE

Section 12 (1) (a) (iii)

**UNIVERSITY POSITIONS THE REMUNERATION FOR WHICH IS TO BE
DETERMINED BY HIGHER SALARIES COMMISSION**

- The Chairman of the University Grants Committee.
The Vice-Chancellor of the University of Auckland.
The Vice-Chancellor and Rector of the University of Canterbury.
The Vice-Chancellor and Principal of Massey University.
The Vice-Chancellor of the University of Otago.
The Vice-Chancellor of the University of Waikato.
The Vice-Chancellor and Principal of the Victoria University of Wellington.
The Principal of Lincoln College.

FIRST SCHEDULE—*continued***NEW FIRST, SECOND, THIRD, AND FOURTH SCHEDULES TO HIGHER SALARIES
COMMISSION ACT 1977—*continued***

Section 12(1)(a)(iv) **“THIRD SCHEDULE**
**LOCAL AUTHORITIES WHOSE CHIEF EXECUTIVE OFFICERS’ REMUNERATION IS
TO BE DETERMINED BY HIGHER SALARIES COMMISSION**

Part I—Classes of Local Authorities

Borough Councils (including City Councils).
Catchment Boards.
Catchment Commissions.
County Councils.
District Councils.
Electric Power Boards.
Harbour Boards.
Land Drainage Boards.
Nassella Tussock Boards.
Pest Destruction Boards.
Regional Councils.
Regional Water Boards.
Town Councils.
United Councils.

Part II—Particular Local Authorities

The Auckland Regional Authority.
The Christchurch Drainage Board.
The Christchurch Transport Board.
The Hutt Valley Drainage Board.
The North Shore Drainage Board.
The Rotorua Area Electricity Authority.
The Selwyn Plantation Board.
The Waikato Valley Authority.
The Waimakariri-Ashley Water Supply Board.

FIRST SCHEDULE—*continued*NEW FIRST, SECOND, THIRD, AND FOURTH SCHEDULES TO HIGHER SALARIES COMMISSION ACT 1977—*continued*

“FOURTH SCHEDULE

Section 12 (1) (a) (v)

OFFICERS WHOSE REMUNERATION IS TO BE DETERMINED BY HIGHER SALARIES COMMISSION

- The Managing Director and the Deputy Managing Directors of the Accident Compensation Corporation.
- The Chief Commissioner and other Commissioners of the Arbitration Commission (being the members of that Commission appointed under section 261 (1) (a) of the Labour Relations Act 1987).
- The Controller and Auditor-General and the Deputy Controller and Auditor-General.
- The Chairman of the Broadcasting Corporation of New Zealand.
- The members and associate members of the Commerce Commission.
- The Clerk of the House of Representatives and the Deputy Clerk of the House of Representatives.
- The members and alternate members of the Human Rights Commission.
- The members of the Law Commission.
- The members of the New Zealand Fire Service Commission.
- The Chief Mediator and other Mediators appointed under section 251 of the Labour Relations Act 1987.
- Mema o te Komihana Mo Te Reo Maori.
- The Director of the New Zealand Security Intelligence Service.
- The Ombudsmen (including the Chief Ombudsman).
- The Parliamentary Commissioner for the Environment.
- The Chief Parliamentary Counsel.
- The Commissioner of Police and the Deputy Commissioner of Police.
- The Police Complaints Authority and the Deputy Police Complaints Authority.
- The Race Relations Conciliator.
- The Governor of the Reserve Bank of New Zealand and the Deputy Governor of that Bank.
- The members and alternate members of the Securities Commission.
- The Solicitor-General.
- The Chief Commissioner and other Commissioners of the State Services Commission.
- The Principal Tenancy Adjudicator and the Deputy Principal Tenancy Adjudicator.
- The Wanganui Computer Centre Privacy Commissioner.
- The Chief of Defence Staff and the Deputy Chief of Defence Staff.
- The Chief of Naval Staff.
- The Chief of General Staff.
- The Chief of Air Staff.”
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Section 15 (1)

**SECOND SCHEDULE
ENACTMENTS REPEALED**

- 1966, No. 21—The Consumer Council Act 1966: Section 18 (3A). (R.S. Vol. 17, p. 149.)
- 1967, No. 141—The Government Superannuation Fund Amendment Act 1967: Section 4 (3). (R.S. Vol. 21, p. 439.)
- 1974, No. 2—The New Zealand Export-Import Corporation Act 1974: Section 28 (2A).
- 1980, No. 31—The Higher Salaries Commission Amendment Act 1980. (R.S. Vol. 19, p. 649.)
- 1980, No. 50—The Poultry Board Act 1980: Section 26 (5).
- 1982, No. 138—The Pork Industry Board Act 1982: Section 43 (4).
- 1982, No. 156—The Official Information Act 1982: So much of the Third Schedule as relates to the Higher Salaries Commission Act 1977.
- 1985, No. 20—The Higher Salaries Commission Amendment Act 1985. (R.S. Vol. 19, p. 651.)
- 1985, No. 128—The Parliamentary Service Act 1985: Section 69.
- 1985, No. 135—The Higher Salaries Commission Amendment Act (No. 2) 1985: Sections 3, 4, 5, 6, 7, and 8 and so much of the Second Schedule as relates to the Consumer Council Act 1966 and the New Zealand Export-Import Act 1974 and so much of the First Schedule as relates to sections 20, 22, and 23 of, and the First, Second, Third, and Fourth Schedules to, the Higher Salaries Commission Act 1977. (R.S. Vol. 19, p. 652.)
- 1985, No. 151—The Law Commission Act 1985: Second Schedule.
- 1986, No. 10—The Wanganui Computer Centre Amendment Act 1986: Section 8.
- 1986, No. 129—The Development Finance Corporation of New Zealand Act 1986: So much of the First Schedule as relates to the Higher Salaries Commission Act 1977.
- 1986, No. 130—The Bank of New Zealand Amendment Act 1986: Section 10.
- 1987, No. 176—The Maori Language Act 1987: Section 23.
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**THIRD SCHEDULE
ORDERS IN COUNCIL REVOKED**

Section 16

Title	Statutory Regulations Serial Number
The Higher Salaries Commission (Jurisdiction) Order 1985	1985/175
The Higher Salaries Commission Amendment Act Commencement Order 1986	1986/51
The Higher Salaries Commission Amendment Act Commencement Order (No. 2) 1986	1986/199
The Higher Salaries Commission (Jurisdiction) Order 1987	1987/181
The Higher Salaries Commission (Jurisdiction) Order (No. 2) 1987	1987/242

This Act is administered in the Department of Labour.
