Parliamentary Service (Continuation of Interim Meaning of Funding for Parliamentary Purposes) Bill 2009

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Purpose

The Bill provides, until 31 December 2010, an interim meaning of the term “funding entitlements for parliamentary purposes” for the Parliamentary Service Act 2000.

A previous Bill on this subject, the Appropriation (Parliamentary Expenditure Validation) Bill 2006 (which was passed to become the Appropriation (Continuation of Interim Meaning of Funding for Parliamentary Purposes) Act 2007 (2007 No 10)) was described in Bills Digest No 1433.

Background

Funding entitlements in the Parliamentary Service Act 2000

The term “funding entitlements for parliamentary purposes” is used in three sections of the Parliamentary Service Act 2000 as follows:

Principal duties of Parliamentary Service
Section 7 provides that the principal duties of the Parliamentary Service are:
"to provide administrative and support services to the House of Representatives and to members of Parliament" (Section 7(a)); and

"to administer, in accordance with directions given by the Speaker, the payment of funding entitlements for parliamentary purposes" (Section 7(b)).

Functions of Parliamentary Service Commission
Section 14(1)(b) provides that the Parliamentary Service Commission has (inter alia) the function of recommending "... to the Speaker the adoption of criteria governing funding entitlements for parliamentary purposes".

Establishment of committee to review appropriations
Section 20(1) provides that the Speaker may from time to time, and must at least once during the term of each Parliament, establish a review committee of up to three persons to review the amounts of money appropriated by Parliament for the following purposes:

- administrative and support services provided to the House of Representatives and to members of Parliament (Section 20(1)(a));
- funding entitlements for parliamentary purposes (Section 20(1)(b)).

The need for the Bill
"Following the Controller and Auditor-General's 2006 report on his inquiry into advertising expenditure incurred by the Parliamentary Service in the 3 months before the 2005 general election, legislation was needed to give clarity to the term. The Bill provides an interim meaning of the term that is substantively the same as the interim meaning provided in the Appropriation (Continuation of Interim Meaning of Funding for Parliamentary Purposes) Act 2007, which expires on 1 July 2009. A new interim meaning is needed to allow time for a permanent meaning of the term to be considered in the context of the Government's review of electoral finance and for any resulting legislation to be enacted.

The interim meaning of the term funding entitlements for parliamentary purposes includes funding for:

- "the performance by a member of Parliament of his or her role and functions as a member of Parliament;
- "the performance by a parliamentary party of its role and functions as a parliamentary party;
- "the provision of travel, accommodation, and attendance services to members of Parliament and their families in accordance with a determination under the Civil List Act 1979 or a direction under the Parliamentary Service Act 2000;
- "the provision of communications services (other than services including electioneering) to members of Parliament and their families in accordance with a determination under the Civil List Act 1979 or a direction under the Parliamentary Service Act 2000. Electioneering is defined to mean any communication that explicitly seeks votes for particular persons or political parties, encourages people to join particular political parties, or solicits subscriptions or other financial support;
- "the provision of services and resources to support certain electoral candidates in accordance with directions made by the Speaker under the Parliamentary Service Act 2000;
- "the provision of existing benefits or privileges to former members of Parliament and members of their families"1.

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1 Parliamentary Service (Continuation of Interim Meaning of Funding for Parliamentary Purposes) Bill, 2009 No 32-1, Explanatory note, General policy statement, pp. 1 and 2.
Main Provisions

Commencement
The Bill comes into force on 02 July 2009 (Clause 2).

Comment
The existing legislation, the Appropriation (Continuation of Interim Meaning of Funding for Parliamentary Purposes) Act 2007, expires on 1 July 2009

Interim meaning of “funding entitlements for parliamentary purposes”
The Bill provides that the term “funding entitlements for parliamentary purposes” until “the close of 31 December 2010” (when this Bill will expire) in the Parliamentary Service Act 2000 includes funding for any or all of the following purposes:

- a Member of Parliament performing his or her role and functions as a Member of Parliament (Clause 4(1)(a));
- a recognised party performing its role and functions as a recognised party (Clause 4(1)(b));
- providing travel, accommodation, and attendance services to Members of Parliament and their families in accordance with any determination made by the Speaker of the House of Representatives under section 20A of the Civil List Act 1979 (Clause 4(1)(c));
- providing communications services to Members of Parliament and their families in accordance with any determination made by the Speaker of the House of Representatives under section 20A of the Civil List Act 1979, provided that those services do not include electioneering (Clause 4(1)(d));
- "The provision of services and resources to support electoral candidates to whom section 9C of the Parliamentary Service Act 2000 applies in accordance with directions given by the Speaker under section 9B of that Act" (Clause 4(1)(e));
- providing benefits or privileges of a specified kind for former Members of Parliament and members of their families in accordance with an appropriation by Parliament of money for that purpose (Clause 4(1)(f)).

Comment
This is similar to the existing definition except for the addition of Clause 4(1)(e). This relates to the provision of services and resources to support certain electoral candidates in accordance with the directions given by the Speaker of the House of Representatives under the Parliamentary Service Act 2000. Section 9B of that Act (headed; "Speaker may give directions for provision of services and funding for parliamentary purposes in relation to certain electoral candidates") provides that:

- "(1) The Speaker may give directions on the extent to which administrative and support services are to be provided, and how the payment of funding entitlements for parliamentary purposes is to be administered, in relation to people to whom section 9C applies; and
- "(2) Directions
  (a) may apply to all people to whom section 9C applies, or may apply differently to—
  (i) people of different descriptions
  (ii) the holders or former holders of different offices; and
  (b) may state the criteria to which the General Manager is to have regard in providing services and administering the payment of funding entitlements for parliamentary purposes."
"(3) A direction may provide that the General Manager is to determine whether some or all of the criteria stated in it have been met.

Section 9C is headed "Provision of services and funding for parliamentary purposes in relation to certain electoral candidates" and provides:

- "While (by virtue of section 9A [headed: "Application of section 9C to electoral candidates"]) this section applies to a person,—
  
  (a) administrative and support services must be provided in respect of him or her in accordance with directions under section 9B(1); and
  
  (b) the payment of funding entitlements for parliamentary purposes must be administered accordingly.

Exclusion of members participating in the official inter-parliamentary travel programme

The Bill provides that in spite of Clause 4(1)(c) and Clause 4(1)(d) (which relate to the provision of travel and communication services respectively and are described above), the term "funding entitlements for parliamentary purposes" does not include funding for the provision of travel, accommodation, and communications services ... in respect of members participating in the official inter-parliamentary travel programme (Clause 4(2)).

Comment

This is new. "... the new meaning in this Bill excludes funding for the purpose of providing travel, accommodation, and communications services for members of Parliament that relates to participation by members of Parliament in the inter-parliamentary travel programme (which is not funded from Vote: Parliamentary Service but from Vote: Office of the Clerk)".

Meaning of "electioneering"

The Bill defines the term "electioneering" to mean " ... any communication that explicitly":

- “seeks support for the election of a particular person or people”;
- “seeks support for the casting of a party vote for a particular political party or political parties”;
- “encourages any person to become a member of a particular political party or political parties”;
- “solicits subscriptions or other financial support” (Clause 4(3)).

What must be read consistently with the above provisions

The Bill provides that the following must, as far as possible, be interpreted consistently with Clause 4(1)-(3):

- all determinations made under section 20A of the Civil List Act 1979 (Clause 4(4)(a));
- all directions given by the Speaker of the House of Representatives under the Parliamentary Service Act 2000 (Clause 4(4)(b));
- the scope of each of each category of non-departmental other expenses in Vote: Parliamentary Service as stated in the Estimates or the Supplementary Estimates to the extent that the category

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2 Ibid, clause by clause analysis, p. 3.
of non-departmental other expenses relates to: members' communications; or member support; or party and member support funding of any party; or travel of members and others (Clause 4(4)(c));

- the scope of each of each category of non-departmental other expenses in Vote: Parliamentary Service as stated in the Estimates or the Supplementary Estimates to the extent that the category of non-departmental other expenses replaces 1 or more of the categories listed in Clause 4(4)(c)(above) (Clause 4(4)(d)).

Comment
This is worded differently from the existing legislation. But "... the new meaning in this Bill is not limited to the scope of specified other expenses appropriations stated in the Estimates for a particular year. That is because the new meaning is not limited to a particular financial year, and needs to take account of the 18-month period during which this Bill is to remain in force"3.

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3 Ibid., Clause by clause analysis, p. 3.