



REMUNERATION TRIBUNAL

STATEMENT ON FEDERAL SENATORS AND MEMBERS – OVERSEAS TRAVEL REVIEW AND OTHER MATTERS: DETERMINATION 2001/20

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Background to the review

On 14 December 2000, the President of the Remuneration Tribunal wrote to all Federal Senators and Members inviting submissions to the Tribunal's review of parliamentarians' overseas study travel entitlement. In his letter, the President noted that the Tribunal intended the review to be a wide-ranging examination of matters pertaining to overseas travel, considering issues such as rules relating to accompanying travel by spouses and limited overseas travel for Opposition shadow ministers.

Submissions were received from Senators and Members, as well as from the major parties: the Opposition on 6 March 2001 and the Government on 25 June 2001.

The submissions received addressed a range of issues specific to overseas study travel, but also raised other matters relating to parliamentarians' allowances. The matters raised by the various submissions have been considered by the Tribunal and are discussed below.

Overseas study travel and related issues

The Tribunal, at clause 9 of Determination 1998/26, makes provision for a Senator or Member to receive government assistance for travel outside Australia for the purpose of undertaking studies and investigations of matters related to their duties and responsibilities as a member of parliament. The initial availability of the allowance accrues when the Senator or Member has completed three years' service in parliament, with further benefits accruing once only in the life of each subsequent parliament. The allowance is equivalent to the value of a round the world first class airfare. If the allowance or part thereof is not used during one parliament, up to half of the cost of the airfare may be carried over to the next parliament.

Overseas study travel is the only overseas travel for federal parliamentarians determined by the Tribunal. Responsibility for other overseas travel resides elsewhere. For example, participation on overseas parliamentary delegations comes within the scope of the *Parliamentary Entitlements Act 1990*.

Five issues raised in submissions were relevant to overseas study travel matters. The Tribunal has considered all of these matters and, while disposed to make some changes, has not yet decided fully upon those changes. The Tribunal is keeping the issues under consideration and will deal with them comprehensively but will not issue a Determination at this stage.

1. Accompanying spouses on overseas study travel

The first issue was whether any changes should be made to arrangements for accompanying spouses when parliamentarians undertake overseas study travel, and in particular whether the current definition of 'spouse' was adequate or appropriate.

Under the overseas study travel provisions as currently determined by the Tribunal, a Senator or Member may use the allowance (the cost of a first class round the world

airfare) to pay for the fares of his or her accompanying spouse. Prior to embarking upon the journey, the Senator or Member must provide a submission to the Special Minister of State that includes, inter alia, whether or not the parliamentarian will be accompanied by his or her spouse.

The definition of 'spouse' used is that contained in the *Parliamentary Entitlements Act 1990*, namely, 'includes a person who is living with the member as the spouse of the member [of either House of the Parliament] on a genuine domestic basis although not legally married to the member'. This definition is applicable to either de jure or de facto spouses, but does not apply more broadly than that, for example to same sex partners.

Although not supported by all submissions, a number of parliamentarians suggested that the Tribunal move away from the present 'spouse' definition to enable parliamentarians regardless of their marital status to be accompanied when travelling on overseas study. Some submissions commented on the inconsistency between the current arrangements for overseas study travel and those for domestic travel, with several arguing that there was 'discrimination' based on marital status in the current (overseas) arrangements.

The Tribunal has considered two possible terms that could be used instead of or in addition to 'spouse': 'partner' or 'nominee' (or 'nominated person').

Elsewhere in the Tribunal's jurisdiction (judicial and related offices, full-time and part-time public officer holders, and principal executive offices), Determinations provide that office holders may be accompanied by their 'spouse' (defined as 'husband or wife') or 'partner', for both domestic and overseas travel. 'Partner' is defined as 'any person who lives with the office holder on a genuine domestic basis as the partner of the office holder'.

A federal parliamentarian, when travelling domestically according to the Tribunal's Determinations, may be accompanied by his or her spouse or 'nominee'. 'Nominee' is defined as 'a person (other than a member of the staff of the Senator or Member) nominated by the Senator or Member and approved at the discretion of the Special Minister of State; a Senator or Member may only have one nominee at a time'.

The Tribunal notes that there are pressures elsewhere in society for changes along the lines discussed above, for example in the context of superannuation benefits.

2. Overseas travel by Opposition shadow ministers

The second issue was whether the Tribunal should introduce a limited overseas travel entitlement for certain Opposition shadow ministers.

In its Report Number 1 of 1999 (7 December 1999), the Tribunal noted that it had

'... discussed the introduction of limited overseas travel for Opposition shadow ministers. The Opposition is, in effect, the alternative Government, and those who occupy positions dealing with a number of key portfolio areas – for example, financial services and regulation, trade and foreign affairs –

should have the opportunity to inform themselves of overseas developments in an increasingly global economy. One possible arrangement is for the Leader of the Opposition to be provided with an annual overseas travel budget, which he would administer. This reflects the approach that occurs in the Government, where the Prime Minister approves overseas travel by Ministers.’

Submissions were received both supporting and opposing the proposal. A particular concern expressed was whether providing shadow ministers with such travel would blur the distinction between the official representational role of Government and overseas travel for study or development purposes. A specific entitlement for shadow ministers’ overseas travel risked creating the misunderstanding in other countries that shadow ministers were travelling in a capacity that could be construed as representing Australia’s Government, thus causing possible confusion.

On the other hand, a number of views were put forward in support of the proposal. These arguments included that, if there was a change of government, there was a risk that new ministers with portfolio responsibilities for global or international matters may have had insufficient opportunity to travel overseas, and that sponsored travel offered by overseas governments, if accepted, could create compromising situations.

It was also suggested to the Tribunal that such a provision should be extended beyond Opposition shadow ministers, to take into account portfolio spokespersons from all recognised parties.

The Tribunal remains of the view that the proposal is worthwhile, for the reasons put forward in Report Number 1 of 1999. Expanding the proposed provision beyond the Opposition is not consistent with the Tribunal’s intention that it should apply only to the alternative government.

3. Extension of items claimed under overseas study travel

The third issue raised in submissions was that the Tribunal should extend the range of items for which use of the overseas study travel provision may be claimed.

The maximum amount of money that is available in the life of a parliament (other than if funds are carried over from the previous parliament) is the cost of a first class round the world airfare. Currently, that money may be used only for the cost of a Senator’s or Member’s fares, fares of an accompanying spouse, accommodation and subsistence costs, and travel by sea (but not the cost of sea cruises).

Submissions proposed that the entitlement should cover a range of other matters that are related genuinely to overseas study travel, such as the costs of conferences, seminars and university tuition; travel related expenses (eg departure tax, inoculations, insurance and passport/visa fees); and the cost of mobile phone hire and interpreters.

The Tribunal supports broadening the entitlement, provided that the additional items are relevant clearly and legitimately to the purpose of overseas study travel, and are claimed within the funding provided.

4. Pre-departure statements for overseas study travel

The fourth issue that has been proposed is increased flexibility in the provision of pre-departure statements.

The current overseas study travel provisions require a Senator or Member to submit a written statement to the Special Minister of State, stating the purpose/s of the journey, the period of the visit and a detailed proposed itinerary, and whether or not the parliamentarian will be accompanied by his or her spouse. The statement must be submitted prior to embarking upon the overseas journey, which in practice has meant before the parliamentarian leaves Australia. In a number of instances, this requirement has proven to be restrictive in its application – for example, when parliamentarians wish to use their overseas study travel entitlements to extend their stay overseas when already away from Australia on a parliamentary delegation.

With modern communication facilities, it is feasible for Senators and Members to meet the requirement to submit a written statement to the Special Minister of State while still overseas but prior to drawing upon the overseas study travel entitlement, without having to be present physically in Australia as is required currently.

5. Frequent flyer points

The fifth issue concerned a proposal for more flexible use of frequent flyer points when parliamentarians travel overseas, rather than having to use overseas study travel.

It was put to the Tribunal that Senators and Members will sometimes use all or part of their overseas study travel entitlement when they decide to extend their time away whilst already overseas, for example on parliamentary delegations. If allowed to use frequent flyer points more flexibly, this would remove or reduce the need for parliamentarians to use up their overseas study travel. The Tribunal decided that it would not make any changes at this time to existing arrangements for overseas study travel and the use of frequent flyer points.

Other matters raised in submissions

Some submissions were made to the Tribunal about aspects of parliamentary allowances other than overseas study travel. The Tribunal has considered these matters in the current review.

(a) Communications allowance and private vehicle allowance

It was submitted to the Tribunal that changes should be made to the communications allowance:

1. to enable the allowance to be used more flexibly by Senators and Members following redistribution of electoral boundaries by the Australian Electoral Commission; and

2. to reduce the administrative complexity associated with recovering unused portions of the allowance prior to polling day for a general election or double dissolution.

With regard to the first matter, it was proposed that the communications allowance be broadened in two ways, to allow a Member to use government-funded entitlements to:

- communicate with electors not currently in their electorate but who will be in their electorate following the determination of new electoral boundaries; and
- communicate with electors in nearby electorates, if that electorate and some part of the Member's current electorate will become the same electorate (although not necessarily that particular Member's future electorate).

With regard to the second matter, it was put to the Tribunal that the current wording in clause 10.6 of Determination 1998/26 means that certain administrative requirements must be met, which are time-consuming and no longer necessary. New arrangements enable unused communications allowance moneys to be reclaimed electronically, obviating the need for Commonwealth officials to recover unused funds by visiting electorate offices in person, prior to polling day.

The Tribunal also received representations regarding the private vehicle allowance provisions in clause 4 of Determination 1998/26. Under sub-clause 4.1(c), a Senator's or Member's spouse, nominee or dependent child, when travelling by private motor vehicle to or from Canberra as provided elsewhere in the Determination, is entitled to payment of private vehicle allowance. It has been suggested to the Tribunal that this provision should extend also to 'designated persons', a category introduced by the Tribunal in 2000 as part of the family travel changes.

The Tribunal has decided to implement the changes sought, and accordingly has prepared amending Determination 2001/20 which makes the necessary modifications to principal Determination 1998/26.

(b) Other matters

Several other matters were raised in submissions, and the Tribunal has decided either not to implement the changes suggested or has addressed previously the matters raised. These go to:

- greater flexibility in the use of the pooled travel provisions, under the family travel arrangements, for intrastate travel;
- enabling dependent children over 12 to travel at other than economy class;
- unmarried former parliamentarians entitled to Life Gold Pass being able to nominate a travelling partner;
- using charter allowance for travel outside a Senator's home state and for travel in Comcars for official functions in a parliamentarian's home city after hours; and
- broadening the scope for which travelling allowance can be claimed.

Two additional matters that were raised in submissions are outside the Tribunal's jurisdiction: provision of business class travel for parliamentarians' staff who are required to travel more than six hours to Canberra; and extension of the range of items

covered by the software allowance. The Tribunal has referred these matters to the government for its consideration.

Concluding remarks and future issues

It has been suggested to the Tribunal that further work be done on simplifying and streamlining its Determinations for Senators and Members. This important issue is one that the Tribunal has been addressing for some time. However, further work will be done, balancing the competing interests of simpler language and shorter Determinations against the need for sufficient detail to ensure clarity in interpretation and unambiguous administration.