



Remuneration Tribunal

Implementing the recommendations of the *An Independent Parliamentary Entitlements System Review*

Statement

On 5 May 2017 the Tribunal announced that it had formalised decisions on a number of recommendations of the report: *An Independent Parliamentary Entitlements System Review* (the Report). It was noted at the time that the Tribunal continues to consult with Government on a number of outstanding recommendations from the Review that will underpin reform of the system.

The major reforms to the system commenced earlier in 2017 with the Parliament's abolition of the Life Gold Pass scheme and the establishment of the Independent Parliamentary Expenses Authority (IPEA).

In May 2017 the *Parliamentary Business Resources Act 2017* (the Act) was passed by Parliament. The Act sets in place a new principles based framework that delineates between parliamentarians' remuneration and work expenses. Commencement of the Act required the development of subordinate legislation providing the detail of remuneration and work expenses.

The Tribunal has worked with the Government and IPEA in finalising the Parliamentary Business Resources Regulations 2017 which will come into effect on 1 January 2018. The Tribunal will issue a new determination that deals with the remuneration of members of Parliament, the rates of travel allowance payable to current members, and the allowances and expenses to be paid to former members. A separate determination will cover the qualification for Parliamentary Retirement Travel.

The Regulations incorporate a number of provisions previously contained in Tribunal determinations. The consolidation of these provisions necessitated a review of existing provisions. The consolidation also facilitated the implementation of most of the outstanding Review recommendations for which the Tribunal was solely responsible, or jointly responsible with the Government (see attachment).

Background

The Tribunal's powers to determine remuneration for a parliamentarian are now provided in the Act, consistent with the review recommendation to establish a single legislative framework for the determination and administration of parliamentary work expenses. In addition its functions to Report to Government on Ministerial salaries; decide rates of domestic travel allowance and report on matters related to travel allowance; and determine allowances and expenses to be paid to former parliamentarians are all now contained in the Act.

The Act introduces a dominant purpose test, i.e. conducting parliamentary business as a purpose based eligibility criteria for all work expenses, allowances and other public resources. Parliamentary business is now defined in the Act and the definition will be supported by a determination, issued under the provisions of the Act by the Special Minister of State, specifying activities for each of the four components of parliamentary business.

The Act also details a set of obligations on parliamentarians that include:

- ensuring value for money in incurring expenses or claiming allowances including using public money efficiently, effectively and economically;
- not making claims or incurring expenses in breach of conditions;
- acting ethically and in good faith in using, and accounting for the use of public resources;
- not using public resources provided by the Commonwealth for commercial purposes.

IPEA will play a key role in furthering accountability in the new framework through more frequent reporting on work resources of parliamentarians and increased monitoring and auditing of travel expenses.

The new set of obligations and enhanced reporting regime will support the funding of activities carried out for the purpose of discharging parliamentarians' public responsibilities, and proscribing parliamentarians seeking to disguise as parliamentary business an activity whose dominant purpose is personal or commercial.

Remuneration Tribunal

22 November 2017

Review - An Independent Parliamentary Entitlements System

The *Parliamentary Business Resources Act 2017* (the Act), the *Parliamentary Business Resources (Consequential and Transitional Provisions) Act 2017*, the *Parliamentary Business Resources Regulations 2017* (the Regulations) and a new Remuneration Tribunal Determination will implement reforms recommended in the Review, effective from 1 January 2018.

The Tribunal has made decisions implementing outstanding Review recommendations for which it was solely responsible or jointly responsible with the Government as follows:

Recommendation 2 – the Government and the Remuneration Tribunal should change their respective terminology to describe the non-remuneration support provided to parliamentarians as ‘work expenses’ rather than entitlements or ‘benefits’.

Legislative instruments for the new scheme now reference remuneration, allowances and expenses for parliamentarians.

Recommendation 3 – the Government in consultation with the Remuneration Tribunal, should clarify and strengthen the division of responsibilities for setting parliamentarians’ work expenses between the Remuneration Tribunal, the *Parliamentary Entitlements Act 1990* and its Regulations, and the discretionary decision-making power of the Special Minister of State.

The Act creates a framework for the use of public resources by members of Parliament in connection with parliamentary business. The Act defines the Tribunal’s role and powers and clearly delineates the division of responsibilities between the Tribunal and the Government for setting parliamentarians’ work expenses.

The *Parliamentary Business Resources (Consequential and Transitional Provisions) Act 2017* repeals the *Parliamentary Entitlements Act 1990* and its Regulations in their entirety.

Recommendation 4 – the Government and the Remuneration Tribunal should adopt an inclusive definition of ‘parliamentary business’ as a purpose-based eligibility requirement for all work expenses.

Section 6 of the Act defines the meaning of ‘parliamentary business’ and clearly sets out that an activity is not the parliamentary business of member if it is carried out for the dominant purpose of providing a personal benefit to the member or another person and/or pursuing commercial purposes of the member or another person. Section 6 also provides that the Minister must determine activities of a member that are parliamentary duties, electorate duties, party political duties or official duties.

Recommendation 8 – the Government and the Remuneration Tribunal should promulgate an overarching principle of ‘value for money’ to support parliamentarians’ travel decisions, including in particular, consideration of whether the expenditure or resource commitment represents efficient, effective and ethical use of resources.

The Act sets out obligations for members in relation to the use of public resources including the requirement to use those resources for the dominant purpose of conducting parliamentary business and the requirement to ensure value for money. There is a definition of ‘value for money’ and section 27 of the Act sets out the obligation to ensure value for money in incurring expenses or claiming allowances or other public resources.

Recommendation 9 – The Remuneration Tribunal should:

- a. simplify and align provisions for domestic travelling allowance to permit it generally to be claimed in relation to eligible travel on parliamentary business within Australia, while maintaining the current ten night per annum limitation on certain types of travel; and**
- b. reduce the lodgement deadline for travelling allowance and Canberra expense allowance claims from 60 to 30 days.**

A simplified and aligned set of provisions covering travelling allowance for members are in subsection 31(1) of the Act and Regulation 10 of the Regulations. These arrangements maintain a cap on certain types of travel and are underpinned by the dominant purpose test and value for money obligation set out in the Act.

The Regulations specify requirements in relation to making a claim or providing evidence in relation to expenses incurred. Regulation 98(3) provides that the specified period for a member to provide information to the Administrator must be not less than 30 days and not more than 6 months.

Recommendation 11 – extend eligible travel on scheduled commercial transport for parliamentary business within Australia to all external territories (excluding Antarctica).

This restriction has been removed consistent with the simplification of travel provisions in the Act and Regulations and the implementation of the dominant purpose test and value for money obligation.

Recommendation 13 – the Remuneration Tribunal should prohibit use by parliamentarians of car with driver transport, including COMCAR, for journeys which are primarily personal.

Section 33 of the Act allows the Minister to determine that the Commonwealth must provide public resources specified in the Regulations to members to assist them in conducting their parliamentary business. Division 5 of the Regulations prescribes Commonwealth transport as one of these matters. Under these arrangements the Tribunal does not have a role in respect of the provision of COMCAR services. The use of other car with driver transport is subject to the dominant purpose test.

Recommendation 19 – a. the Remuneration Tribunal should review and tighten eligibility requirements with respect to the combined total of three inter-state business class return trips provided each year pursuant to Remuneration Tribunal Determination 2012/04 for use by the spouse, nominee, designated person or dependent children of a Senator or member including by:

- i. incorporating a requirement that such travel be for the dominant purpose of reunion with a Senator or Member who is at a location for the dominant purpose of conducting 'parliamentary business' as defined pursuant to recommendation 4; and**
- ii. prohibiting use of the provisions to undertake an inter-state family holiday.**

b. Government should similarly review and tighten eligibility requirements with respect to the single business class return trip to any place within Australia provided each year pursuant to the *Parliamentary Entitlements Act 1990* for use by a dependent child of a Senior Officer (minister, opposition office holder or presiding officer).

Regulation 6 of the Regulations defines the meaning of 'family reunion purposes'. The Regulation provides that the family member travels for 'family reunion purposes' where the member is travelling for the dominant purpose of conducting parliamentary business; the family member travels to accompany or join the member; and the travel by the family member is for the dominant purpose of facilitating the family life of the member's family.