



REMUNERATION TRIBUNAL

John C Conde AO
President

Ms Barbara Belcher AM
Chair
Committee for the Review of Parliamentary Entitlements
Department of Finance and Deregulation
John Gorton Building
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PARKES ACT 2600

Dear Ms ~~Belcher~~ *Barbara*

In my letter of 17 December 2009, I mentioned that I would provide you with additional material on aspects of parliamentary benefits. I note that the Tribunal's papers on Family Reunion Travel and Travel Allowance for Canberra were provided on Tuesday last during the meeting of your Committee.

These papers complete the Remuneration Tribunal's submission to the Review of Parliamentary Entitlements.

On behalf of the Tribunal, I would like to thank you once again for the opportunity to make a submission to the Review.

Yours sincerely

A handwritten signature in black ink that reads 'John'.

John C Conde AO
President
12 February 2010

FAMILY REUNION TRAVEL

As stated in the Tribunal's principal submission to the Committee for the Review of Parliamentary Entitlements, the Tribunal considers that there should be further consideration and possibly consultation before a final position on any ongoing family reunion travel provision is adopted.

Nevertheless the Tribunal considers that in any ongoing provision the following principles should govern its specification:

- Consistent with the Committee's terms of reference, there should only be one source of entitlement to family reunion travel – either in a remuneration jurisdiction or a business expenses one, but not both;
- The Tribunal is of the view that family reunion travel itself confers a personal benefit, and thus any provision may fit more appropriately in the Tribunal's remuneration jurisdiction; further, that there should be no supplementation elsewhere;
- Family reunion travel should be clearly defined - travel that is in the interests of the Commonwealth (such as travel by a member's spouse to accompany the member to a vice regal function) should not be classed as family reunion travel but should come under a different head of expenditure;
- In setting any provision, modern transport availability and current employment practice should be taken into account - it should be recognised that past usage records show that members rarely spend more than a few days in Canberra at any one time, and that the average member spends three quarters of their time at their home base;
- A provision should be a limited one, strictly for family reunion and no other purpose – that is, for family members to spend time with the member while they are in Canberra on parliamentary duties, and;
- The provision should be restricted to the member's immediate family (and, where direct and sustained support is involved, a person caring for the member's dependants). The provision should cover a family equally - i.e. spouse entitlement and child entitlement, which currently vary, should not vary.

FAMILY REUNION TRAVEL

The spouse, nominee, dependent children and other persons associated with senators and members are entitled to travel within Australia at Commonwealth expense in certain limited circumstances.

CURRENT FEATURES

The relevant entitlements are provided for, currently, in *Remuneration Tribunal Determination 2006/18: Members of Parliament – Entitlements*, as follows:

“Definitions

2.8 For the purposes of this determination:

‘accompany’ means to travel with a senator or member to the final destination of a trip he or she is undertaking.

‘dependent child’ means:

- (a) a person under the age of 16 who:
 - (i) is in the custody, care and control of the senator or member, or is a person to whom the senator or member has access; or
 - (ii) where no other person has the custody, care and control of the person - is wholly or substantially in the care and control of the senator or member; or
- (b) a person who is aged at least 16 but is under 25 and is wholly or substantially dependent on the senator or member; and
- (c) is not a person who is otherwise receiving the entitlements of a nominee.

‘designated person’ means a person or persons (not being a dependent child, spouse or nominee or a member of the staff of the senator or member) nominated by the senator or member who:

- (a) is substantially dependent on the senator or member; or
- (b) has significant caring responsibilities for:
 - (i) a person substantially dependent on the senator or member; or
 - (ii) the senator's or member's spouse, nominee, or dependent child; or
- (c) is any other member of the senator's or member's family.

‘home base’ means the principal place of residence of a senator or member as nominated from time to time to the Special Minister of State.

‘interstate trip’ means a trip:

- (a) from one state to another state or territory; or
- (b) from a territory to a state or territory; or
- (c) from a territory or state to an external territory when travel is to accompany or join a senator or member travelling under Clauses 2.5(c), 2.5(d) and 2.5(e) [of this Determination], except if the external territory forms part of the senator's or member's electorate.

‘join’ means to travel to meet a senator or member for a period of at least 3 hours.

‘nominee’ means a person 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 any time.

‘Spouse’ has the same meaning as spouse in the *Parliamentary Entitlements Act 1990*.

‘year’ means a period commencing 1 July and ending on the following 30 June.

FAMILY REUNION TRAVEL

2.9 Subject to clauses 2.10, 2.11 and 2.20, a senator or member is entitled to be accompanied or joined when travelling at Commonwealth expense on parliamentary, electorate or official business by any one or more of the senator's or member's:

- (a) spouse or nominee;
- (b) dependent children;
- (c) designated person(s).

2.10 The entitlement under clause 2.9 is limited to travel for non-commercial purposes by:

- (a) scheduled commercial services by any mode of transport, by the most direct route to the intended destination for the mode of transport used without voluntary stopovers; and
- (b) special purpose (Defence) aircraft the use of which has been approved by the Minister for Defence before the particular travel.

2.11 In addition to clause 2.10, where the spouse, nominee, dependent child or designated person, in relation to a senator or member from:

- (a) Western Australia;
- (b) the Northern Territory; or
- (c) Queensland at least 1,100kms flight distance from Brisbane;

travels to or from Canberra, the journey may be broken by one stop-over of one night in a capital city, provided the journey to or from Canberra is completed.

Canberra and Intra-State Family Travel (other than for ACT Senators and Members)

2.12 The cost of travel listed in clause 2.14 below is limited to the combined value of:

- (a) 9 business class return trips to Canberra from the spouse's or nominee's principal place of residence; and
- (b) 3 business class return trips to Canberra from the principal place of residence for each dependent child.

OR for senators and members, whose principal place of residence is within 150km of Canberra by road, the combined value of:

- (c) 9 business class return trips between Canberra and Sydney for the spouse or nominee; and
- (d) 3 business class return trips between Canberra and Sydney for each dependent child.

2.13 The value of the fares under clause 2.12 will be calculated on 1 July each year for expenditure during that year. Where a business class fare is not available, the cost of travel is limited to the value of an economy class fare for the most reasonable and usual route between the departure and destination points.

2.14 Within the cost limitation described in clauses 2.12 and 2.13 above, a senator's or member's spouse, nominee, dependent child or designated person may travel at the class of travel selected by the senator or member between the following locations:

- (a) to Canberra;
- (b) from Canberra to the senator's or member's electorate or their principal place of residence;
- (c) on intra-state trips within the senator's or member's home state or territory (except when the family member would be travelling to join the senator or member at the principal place of residence after they have been to another destination for private purposes); or
- (d) for a spouse or nominee, from the spouse's or nominee's principal place of residence to the senator's or member's electorate.

Inter-State Family Travel (including for ACT Senators and Members)

2.15 In addition to the entitlement described in clauses 2.12, 2.13 and 2.14, all senators and members (including those from the ACT) are entitled to be accompanied or joined at Commonwealth expense on a total of 3 business class return inter-state trips each year. The senator or member may choose which combination of a spouse or nominee, dependent child or designated person may access this entitlement.

2.16 Such inter-state trips may be converted to intra-state trips or trips to Canberra; the basis of the conversion being one trip for one trip.

No Carry Over Provision

- 2.17 A trip is deemed to be a trip in a year only if commenced in that year.
- 2.18 For each year, if the entitlement to Canberra/intra-state travel is not fully spent, or the inter-state trips are not used, the unused portion of the entitlement will not be added to the entitlement for any later year.

Representational Travel

- 2.19 Where a senator or member has an entitlement to travel under the provisions of this Determination and is prevented by illness or parliamentary or family reasons from attending one of the functions set out below, then the senator or member may be represented by his or her spouse or nominee at:
- (a) a funeral;
 - (b) a function where the spouse or nominee accepts an award or honour on behalf of the senator or member;
 - (c) a function within the electorate to which the senator or member has been invited; or
 - (d) any other function as approved by the Special Minister of State.

The cost of such a trip shall be deducted from the cost limitation calculated under clauses 2.12 and 2.13.

Additional Travel

- 2.20 Travel by a senator's or member's spouse or nominee in order to attend an official government, parliamentary or vice-regal function as an invitee shall be at Commonwealth expense. This provision is additional to any entitlement in clause 2.9.

CAR TRANSPORT

....

- 3.4 [When provided with car transport at government expense] A senator or member may be accompanied by:
- (a) his or her spouse or nominee;
 - (b) a member or members of his or her staff; and/or
 - (c) other senators and members.
- 3.5 In addition, a senator or member may be accompanied by another person or persons as long as the passenger's travel is:
- (a) relevant to the purpose of the travel;
 - (b) for compassionate reasons;
 - (c) for public interest reasons; and/or
 - (d) to enable a senator or member to be accompanied by a dependent child or dependent children.

...

Spouse or nominee

- 3.14 When travelling as determined in clauses 2.14 and 2.15, a spouse or nominee unaccompanied by a senator or member shall be provided with car transport at government expense:
- (a) between home, electorate office or place of business and the airport or railway station, as outlined in clauses 3.1 and 3.10;
 - (b) between the airport or railway station in Canberra and the Canberra destination;
 - (c) between the airport and the capital city being visited on an interstate or an intrastate visit;
 - (d) between the airport and the capital city where a stop-over is made as provided in clause 2.11; and
 - (e) between Parliament House and place of accommodation in Canberra or Queanbeyan.
- 3.15 When a spouse or nominee has travelled to Canberra under clause 2.20 for the purpose of attending an official government, parliamentary or vice regal function, he or she is entitled to car transport in Canberra at

government expense to attend that function and other functions with the approval of the Special Minister of State.

Dependent Children and Designated Persons

- 3.16 Dependent children and designated persons may use taxis or hire cars to and from any station or terminal for the purposes of travel at Commonwealth expense under Clauses 2.14 and 2.15 provided that if the dependent child or designated person is under the age of 16 they must be accompanied by a person over the age of 18.

PRIVATE VEHICLE ALLOWANCE

Private Vehicle Allowance for travel to or from Canberra

- 4.1 (a) A senator or member who uses their private vehicle to travel from his or her home to Canberra or from Canberra to home on parliamentary business; or
- (b) a senator or member who uses their private vehicle to travel from their home part of the way to Canberra or from Canberra part of the way to their home on parliamentary business; or
- (c) a spouse, nominee, dependent child or designated person, when travelling by private motor vehicle to or from Canberra as provided in clauses 2.14 and 2.15.

shall be entitled to payment of private vehicle allowance at Australian Public Service rates then current for the shortest practicable route, or the cost of the business class air fare, whichever is less. Where a business class air fare is not available, the cost of an economy class air fare shall apply.

...

- 4.4 When more than one person with a travel entitlement travels in the one motor vehicle, payment of a private vehicle allowance or the cost of the business class air fare may be made to one person only. Where a business class air fare is not available, the cost of an economy class air fare shall apply. Where no payment is made in respect of a person travelling in the motor vehicle, the entitlement to travel of that person shall not be reduced.
- 4.5 Private vehicle allowance is not payable to a senator or member, spouse or nominee, or dependent child for travel other than as provided in clauses 4.1 and 4.2 of this determination.

PROVISION OF VEHICLE

...

- 5.9 Where a senator or member is provided with a private-plated vehicle, the Commonwealth shall meet all costs of operating and maintaining that vehicle. Accordingly, when that vehicle is used:
- (a) for travel to which a senator or member (or eligible family member, nominee or designated person) is otherwise entitled by the provisions of this Determination, (such as under clauses 2.1, 2.9, 3.1, 3.10, 3.11, 3.14 to 3.16) the other entitlements are voided; and
- (b) likewise no private vehicle allowance is payable."

...

CHARTER AIRCRAFT/DRIVE YOURSELF VEHICLES

...

- 6.5 A senator or member entitled by this determination to the cost of charter transport within and for the service of his or her electorate may be accompanied by:
- (a) his or her spouse; and/or
- (b) a member or members of his or her staff; and/or
- (c) a senator or member, or senators or members.
- 6.6 Where a person accompanies a senator or member in accordance with clause 6.5, he or she may travel unaccompanied on charter positioning and re-positioning legs where this does not incur any additional cost.

- 6.7 In addition to clause 6.5, a senator or member may be accompanied by another person or other persons provided that a more expensive charter aircraft/vehicle would not be required.
- 6.8 Where a senator or member is accompanied by another person or other persons in accordance with clause 6.7, cost recovery for the fare equivalent will be obtained from any other passengers (or their employing organisation).
- 6.9 Where a senator or member is accompanied by another person or other persons in accordance with clause 6.7, cost recovery for the fare equivalent in accordance with clause 6.8 will not be required where he or she certifies that the passenger's travel was:
- (a) relevant to the purposes of the travel, or
 - (b) for compassionate reasons, or
 - (c) for public interest reasons, and/or
 - (d) to enable a senator or member to be accompanied by a dependent child or dependent children under 25.

...

FREQUENT FLYER POINTS

Frequent Flyer Points

- 12.1 Frequent flyer points accrued as a result of travel at Commonwealth expense should only be used to reduce the cost of future travel under the provisions of this Determination by the person who accrued the points. Wherever possible and practicable, a person should ensure that frequent flyer points accrued by him or her are used to cover the cost of any travel under this Determination.
- 12.2 Details of the usage of frequent flyer points accrued as a result of travel at Commonwealth expense and used under this Determination must be reported to the Special Minister of State in accordance with guidelines developed by the Special Minister of State.

GENERAL

...

- 13.3 Procedural rules and guidelines to give full effect to all entitlements set out in this determination shall be such as may be made from time to time by the Special Minister of State.
- 13.4 No double payment: Where a spouse, dependent child, designated person or nominee claims or receives travelling allowance under any other source or entitlement for the same travel, they are not entitled to access travel entitlements under this determination."

HISTORY

It is difficult to provide a comprehensive history of the family reunion travel entitlements. It is not clear, for example, when the entitlements were first introduced. The Tribunal's Secretariat has, however, established the following chronology:

1903

Treasury documentation appears to show that the wives of senators and members were provided with free railway passes over all lines except suburban, at least for a trial period. Details concerning any restrictions are not available.

1920

The papers of the May 1920 Premiers Conference reveal that railway passes were provided to wives of members of Parliament and to a sister or mother of an unmarried senator/member, or to the daughter of a widowed senator/member, but not to the sister of a widowed senator/member.

1924

Cabinet agreed on 4 June 1924 that a minister's wife "accompanying her husband when travelling upon duties arising out of his position as Minister shall be entitled to orders for travelling within the Commonwealth".

1926

On 11 January 1926, Cabinet agreed that the relevant regulations "be amended to permit Members' wives to be accompanied by an attendant where the state of health requires such attendant".

Cabinet further agreed on 21 June 1926 that "the extension of privileges to Members in regard to their wives and families can be considered as and when cases arise, so long as the general principles as to expenditure only being incurred when the travelling of wives and families is related to the carrying out of the Member's parliamentary duties by him". A proposal for a "general allotment" was not approved.

1930

Cabinet papers from January 1930 reveal that the Government was considering "the question of making some allowance to wives of members in way of railway concessions and visit [sic] to Federal Territory".

1951

According to the *Rules for the Conveyance of Members of the Commonwealth Parliament* appended to the 1952 Nicholas Report, the following arrangements were in place in 1951 with respect to travel by the families of senators and members:

"Wives of Members

11. (i) Where a Member's home is not in Canberra and he does not remove his family to Canberra for the session, orders for return [travel] passes may be issued in favour of his wife:-
 - (a) From her home to Canberra four times per year either by rail or air. (Note: Passes are not issued for suburban journeys.)
 - (b) From her home to some other place in the same State twice yearly by rail or air; or as an *alternative* to (b)
 - (c) Once per year from her home to some other place in the same State by rail or air; and Once per year from her home to a city or town in any other State either by rail or air.
 - (d) If her home is not in the Member's electorate – From her home to any part of his electorate twice per calendar year by rail or air.
 - (e) From her home to any place in the Commonwealth by rail or air for the purpose of attending any official Federal Government function to which she has been invited.
11. (ii) Where a Member's home is not in Canberra and he moves his family to Canberra for the session, orders for return passes may be issued in favour of his wife:-
 - (a) From her home in Canberra to her home in the Member's electorate once each year by rail or air.
 - (b) From Canberra or from her home to a city or town in any other State once per year by rail or air.
 - (c) From her home or from Canberra to any part of his electorate twice per year, where the home is outside the Member's electorate, by rail or air.
 - (d) From her home or from Canberra to any place in the Commonwealth by rail or air for the purpose of attending any official Federal Government function to which she has been invited.
11. (iii) Where a Member's home is in Canberra, orders for return passes may be issued in favour of his wife:-
 - (a) From her home to some place in New South Wales twice yearly by rail or air; or as an *alternative* to (a)
 - (b) Once from her home to a city or town in any State other than New South Wales by rail or air; and Once from her home to some place in New South Wales by rail or air.
 - (c) From Canberra to any part of his electorate twice per year by rail or air.

- (d) From Canberra to any place in the Commonwealth by rail or air for the purpose of attending any official Federal Government function to which she has been invited.

Attendant for Wife

12. Where a Member's wife is travelling and is in such a state of health as to require the help of an attendant, passes may be issued for such attendant to accompany her.

Widower or Unmarried Member

13. If a Member be a widower or unmarried, then any female relative who manages his home may have the same privileges as set out in Rule 11.

Female Member may nominate Relative

14. In the case of a female Member, such Member may nominate a near relative – either male or female – whom she desires to receive the concessions available under these Rules, and the concessions shall apply to that nominee accordingly.

Children of Members

15. (i) Where a Member's home is not in Canberra, orders for return passes will be issued in favour of children who usually reside at home and are not earning their own living:-
- (a) From his home to Canberra by rail, or air, once per year.
 - (b) From his home to his electorate by rail, or air, once per year where his home is outside the electorate.
 - (c) From the Member's home by rail, or air, to a city or town in any other State once per year.
15. (ii) Where a Member's home is in Canberra, return passes will be issued in favour of children who normally reside at home and are not earning their own living:-
- (a) From the Member's home to his electorate once per year, by rail or air.
 - (b) From the Member's home by rail, or air, to a city or town in a State once per year.

Nursemaid

16. Where a Member's wife is accompanied by one or more children under the age of six years in the charge of a nursemaid, a return pass in favour of the nursemaid will be issued as follows:-
- (a) Where a Member's home is not in Canberra, from his home to Canberra once per year by rail or air.
 - (b) Where a Member's home is in Canberra, from his home to his electorate once per year by rail or air.

General

Wives and Families – Information re.

17. At the beginning of each year Members are requested by circular letter to advise where their homes are and to furnish names and ages of children who usually reside at home and are not earning their own living. Such information is required for use when dealing with applications for passes for wives and families.

Special Applications

18. In cases not provided for by the foregoing Rules, Members may submit special applications which will be dealt with by the Minister for the Interior.

Offsetting Rules

19. (a) The travelling privileges of wives of Members and their children are to be regarded as applicable only to the cases stated in the Rules. If the travelling provided for in the Rules is not availed of, this is not to be regarded as constituting claims for conveyance to other places.
- (b) If concessions under these Rules are not availed of in any year, entitlement to such concessions shall lapse and shall not under any circumstances be carried forward from year to year."

1952

The 1952 Nicholas Report recommended that the free travel facilities described above be "withdrawn and free travel extended only to the wives of members for travel to Canberra twice per annum". It appears that this recommendation was not fully implemented (see below).

1953

The updated *Rules for the Conveyance of Members of the Commonwealth Parliament* (appended to the 1956 Richardson Report) contained the following provisions, which came into effect on 1 December 1953:

- "3. In addition, a Member may be granted warrants for other air travel for himself and his wife to the limits indicated in the following table:

Electorate Classification	Limit of Expenditure Payable by the Commonwealth each Financial Year £
Group I	50
Group II	75
Group III	100
Group IV	125
Group V	150
Senators	75

The classification of the electorate is that specified in the Appendix to these rules.

Travel not availed of under this Rule at the end of each financial year may be allowed to accrue from year to year throughout the life of a Parliament.

...

5. Where any Member and/or his wife are entitled to travel by air, interstate sea travel may be substituted in lieu thereof, providing such travel does not exceed the cost of equivalent travel by air.

...

WIVES OF MEMBERS

11. (a) Where a Member's home is not in Canberra, warrants for return travel by rail or air may be issued in favour of his wife from her home to Canberra four times each financial year.
(b) Where a Member's home is in Canberra, warrants for return travel may be issued in favour of his wife from Canberra to any part of his electorate twice in each financial year.
(Warrants are not to be issued for suburban journeys.)

12. If a Member be a widower or unmarried, then any female relative who manages his home may have the same privileges as set out in Rule 11.

13. In the case of a female Member, such Member may nominate a near relative - either male or female - whom she desires to receive the concessions available under these Rules, and the concessions available to Wives of Members shall apply to that nominee accordingly.

CHILDREN OF CERTAIN MEMBERS

14. Any Member who lives in Western Australia, and any Member who lives on or north of the Tropic of Capricorn, will be permitted to bring his children as well as his wife to Canberra once each financial year at Commonwealth expense.

GENERAL

15. At the beginning of each financial year Members are requested by circular letter to advise the Secretary, Department of the Interior, of their home addresses, and in the case of Western Australian Members and

Members residing on or north of the Tropic of Capricorn, to furnish names and ages of children who usually reside at home and are not earning their own living. Such information is required for use when dealing with applications for warrants for wives and families.

16. (a) In cases of illness or other similar emergencies not provided for by the foregoing Rules, Members may submit special applications which will be dealt with by the Minister for the Interior.
(b) Special travel facilities apart from those provided under Rules 11 and 14 may be made available at the discretion of the Minister for the Interior for wives and children of Members of Parliament on special occasions, e.g., Opening of Parliament, general invitation to a function at Government House, Royal Visit, Jubilee celebrations and similar cases.
17. (a) The travelling privileges of wives of Members and their children are to be regarded as applicable only to the cases stated in the Rules. If the travelling provided for in the Rules is not availed of, this is not to be regarded as constituting claims for conveyance to other places.
(b) If concessions under these Rules, with the exception of those provided under Rule 3, are not availed of in any financial year, entitlement to such concessions shall lapse and shall not under any circumstances be carried forward from year to year."

1956

The 1956 Richardson Report recommended that "no alteration be made to the travel privileges for wives and families of Senators and Members", apart from the abolition of the additional air travel allowance provided under Rule 3 of the 1953 *Rules* (as outlined above). (Cabinet documentation from the time indicates that this allowance had been used "for holidays and honeymoons – although such interpretation of the rule does not appear to have been the intention of its originators".) The Report's recommendations were accepted.

Separately, it also seems clear (from a Cabinet submission made in 1972) that in 1956, following representations from the Members' Amenities Committee, the then Prime Minister agreed to allow two of the trips to Canberra to be converted into one interstate trip per year. The original impetus for this appears to have been the Olympic Games, which were held in Melbourne that year. The concession continued, however, with the only qualification being that such interstate travel should be by the most direct route.

1959

The 1959 Richardson Report noted that presently "free air or rail travel is allowed to a Member's wife from her home to Canberra and back four times a year. She may convert two of her four entitlements for free travel to Canberra into one free interstate trip. Also, Members representing electorates in Western Australia, the Northern Territory or north of the Tropic of Capricorn, may bring their wives and dependent children to Canberra at Commonwealth expense once each year. If a Member's home is in Canberra his wife is allowed each year two return trips to her husband's electorate or one return interstate trip".

The Committee recommended no changes to the above entitlements, observing that "in view of the extent to which a Member's wife is expected to help him in the electorate and to which home life is impaired by parliamentary service, the very limited travel facilities for wives and children are justified".

1971

The 1971 Kerr Report noted that "current approvals allow a Member to bring his wife to Canberra four times a year, or if he does not wish to do this to convert any two such visits to one other interstate visit. If a Member brings his wife to Canberra or, indeed, if she travels at all, her accommodation and other costs are met by the Member." It also noted that "there are occasions – for instance during major State visits to Canberra – where it is sometimes approved that Members may bring their wives to Canberra without debit to their ordinary entitlement".

The Report observed that the "records suggest that for most Members the travel entitlement is sufficient and within the bounds of what they are able to afford". It also states, however, that "there is a need for Members in the larger electorates sometimes to be accompanied by their wives when they are travelling in electorates and this on occasions has to be by air". It recommended that consideration be given to offering a senator/member's wife travel up to the equivalent value of the current four trips to Canberra

each year “without limits as to destination, provided that the wife is accompanying her husband on parliamentary business. This would enable Members, including those representing remote areas, to have their wives accompany them to Canberra or, if so required, on interstate, intrastate or on electorate visits. The entitlement would not be limited simply to travel to Canberra and on interstate travel”.

It appears that no action was taken regarding the implementation of this recommendation.

1974

Citing the isolation of Canberra and the increased number of parliamentary sitting days, the Tribunal observed in its *Reports and Determinations: July 1974* that “there should be an improvement in the entitlement of the spouse (or nominee) of a Member to travel to Canberra at public expense”. The Tribunal therefore recommended to the Government “that the number of occasions on which a Member’s spouse (or nominee) should be entitled to travel to Canberra should be increased from four to, say, eight times a year, but ... there should be no right to convert such entitlement to travel to other places”.

It left consideration of the issue of travel by dependent children to the Government.

1975

According to the Tribunal’s *1976 Review*, prior to the Tribunal’s 1976 Determination the spouse or nominee of a senator/member was entitled to the following travel by air: four return visits to Canberra per annum and one interstate visit per annum. From 1 January 1975, a dependent child was entitled to one return trip to Canberra per annum.

A spouse could also travel to Canberra at official expense to attend official government or vice-regal functions and to accompany a dependent child on his/her annual visit to Canberra.

1976

The Tribunal made its first determination in respect of family reunion travel, via *Determination 1976/6* and with effect from 1 June 1976, as follows:

“[TRAVEL WITHIN AUSTRALIA]

Spouse or Nominee of a Senator or Member

- 2.5 For the purpose of this entitlement ‘nominee’ means a close relative nominated to the Minister for Administrative Services by a widowed or unmarried senator or member to receive travel privileges available to the spouse of a senator or member. The Minister for Administrative Services shall have a discretion, to be exercised by him in special circumstances, to approve as the nominee of any senator or member, a person other than the spouse or close relative of the senator or member.
- 2.6 The spouse or nominee of a senator or member shall be entitled to travel at official expense:
- (i) on a maximum of six return visits to Canberra per annum;
 - (ii) on one return interstate visit per annum; and
 - (iii) to attend official government, parliamentary or vice-regal functions to which the spouse or nominee has been invited.
- 2.7 A spouse or nominee shall be entitled to travel at official expense at the same class of travel as a senator or member is entitled to travel [i.e. first or economy class when travelling by air and first class when travelling by rail].
- 2.8 The following shall apply to convertibility and transferability of the travel entitlement of a spouse or nominee:
- (i) any or all of the six Canberra visits and the interstate visit may be converted to intrastate travel; the basis of the conversion being one visit for one visit; and
 - (ii) no more than two of the return visits to Canberra may be used by the staff of a senator or member. When a member of the staff travels by air the entitlement to travel at official expense shall be limited to economy class standard.

2.9 Travel entitlements of a spouse or nominee not availed of in the one period of twelve months cannot be carried over to the next period of twelve months.

Dependent Children

2.10 Each dependent child of a senator or member shall be entitled to travel at official expense on a maximum of two return visits to Canberra per annum at economy class.

2.11 Travel entitlements of a dependent child not availed of in the one period of twelve months cannot be carried over to the next period of twelve months.

....

[USE OF OFFICIAL CARS]

2.17 When travelling as determined in 2.6, a spouse or nominee unaccompanied by a senator or member shall be provided with official car transport:

- (i) up to a limit of 150 kilometres between home and the airport or railway station;
- (ii) between the airport or railway station in Canberra and the Canberra destination; and
- (iii) between the airport and the city being visited on an interstate or an intrastate visit."

The Tribunal noted in its *1976 Review* that "a great number of senators and members stressed the importance of more opportunities to see their families and to have their spouses accompany them". In addition, a number "pointed to the value of having members of their staff available in Canberra from time to time".

1977

The Tribunal made a separate determination regarding travel entitlements for the staff of a senator or member, removing the option to nominate a staff member from the family travel provisions (*Determination 1977/9*). It also clarified that a 'close relative' meant a "parent, child, brother or sister", nominated to receive travel privileges "for the life of a Parliament".

1978

In *Determination 1978/9*, the Tribunal provided the Minister for Administrative Services the discretion to vary the nominee of any senator or member "for a period of twelve months". It also defined a 'dependent child' for the purpose of the relevant entitlement as a "dependent child under 16 years of age or a dependent full-time student under 25 years of age".

Limits were also placed on the entitlements as follows:

"1.14 When travelling by air the entitlement of the spouse or nominee or dependent child is limited to the cost of the most direct flight available for the journey to the intended destination.

1.15 When travelling by public transport other than air (e.g. rail, interstate coach) the entitlement of a spouse or nominee or dependent child is limited to the cost of the most direct journey to the intended destination by the form of transport used."

The payment of a private vehicle allowance at the "Australian Public Service rates then current for the shortest practicable route, or the most direct flight, whichever is less" was also extended to spouses, nominees and dependent children when travelling to or from Canberra in accordance with the relevant entitlements.

If more than one person with a travel entitlement travelled in the one motor vehicle, payment of the private vehicle allowance or the cost of the most direct flight was made to one person only. Where no payment was made in respect of an eligible person, the entitlement to travel of that person was not reduced.

1979

The Tribunal determined that any senator or member (not just a widowed or unmarried one) could nominate a close relative as a substitute for his/her spouse with respect to travel privileges (*Determination 1979/10*). The specification that the nomination should be “for the life of a Parliament”, and that such a nomination could be varied “for a period of twelve months”, was omitted from the Determination.

1980

The Tribunal determined that “the spouse of a sitting senator or member who has satisfied the [Life Gold Pass] qualifying periods ... shall be entitled to accompany the senator or member on return visits at government expense to Canberra, when the senator or member is travelling at government expense”. The entitlement was additional to any other spousal entitlement and was not transferable (*Determination 1980/8*).

The Tribunal also increased the maximum number of return visits to Canberra by a dependent child from two to three per annum and determined that the spouse or nominee of a senator or member from the Australian Capital Territory would be entitled to “travel at government expense on one [additional] return visit to Sydney or Melbourne per annum”.

1981

The Tribunal, via *Determination 1981/13*, increased the maximum number of return visits to Canberra by a spouse or nominee from six to nine. However, the additional three trips could not be converted to intrastate travel.

It also provided that when a senator/member utilised his/her charter transport entitlement, he or she could be accompanied by his/her spouse.

1982

In *Determination 1982/11*, the Tribunal determined that “where a spouse or nominee of a senator or member from Western Australia, the Northern Territory or Queensland north of Townsville travels to Canberra with a dependent child or dependent children, the journey may be broken by one stopover of one night in a capital city, provided the journey to Canberra is completed”. In this case, car transport at government expense would be provided for travel “between the airport and the capital city where a stopover is made”.

The Tribunal also clarified that, other than under the conditions specified above, voluntary stopovers were not permissible under the relevant entitlements.

1984

The number of return Canberra visits which could be converted to intrastate travel was increased from “up to six” to all nine (*Determination 1984/18*).

In addition, the Tribunal removed the 150 kilometre limit with respect to the provision of car transport for direct travel between the spouse or nominee’s home and (except in certain circumstances) the nearest airport or railway station.

1985

The Tribunal clarified the provision regarding travel by a spouse or nominee when accompanying a dependent child by omitting the reference to “Queensland north of Townsville” and replacing it with “Queensland at least 1,100 kilometres flight distance from Brisbane” (*Determination 1985/11*). It also specified that the spouse/nominee’s nine return visits to Canberra could be replaced by return visits “from Canberra to the senator’s or member’s electorate”.

It also determined that travel by a dependent child could be “commenced and/or terminated at the child’s school rather than the child’s home if the cost is no more than the cost of travel between the home and Canberra”.

1986

Changes were made to the procedure for designating a nominee in order to provide greater flexibility (*Determination 1986/11*).

1990

The Tribunal determined that a senator or member should be given, at his or her request, a standard private plated vehicle for the purpose of carrying out parliamentary duties and for other usage (*Determination 1990/14*). Recourse to the new entitlement meant, amongst other things, the loss of other entitlements, including those relating to travel by a spouse, dependent child or the nominee of a senator or member. Similar provisions are in place as at the date of this submission.

In wider developments, the *Parliamentary Entitlements Act 1990* was assented to on 24 May 1990. The Act, which is still in effect, provides that senators and members are entitled to the benefits set out in the Act itself and, secondly, to the “additional benefits” determined by the Tribunal. It allows the benefits set out in the Act to be varied or omitted by determination of the Tribunal or by regulations pursuant to the Act. However, where the regulations and determinations are inconsistent, the regulations prevail and the determination is void to the extent of the inconsistency.

The Act provides that parliamentary office-holders and ministers are entitled to benefits as set out in Part 2 of Schedule 1 to the Act. It defines ‘cost of travel’ as the cost of fares, accommodation, meals and incidentals. A ‘Senior Officer’ is specified to be a minister, Leader or Deputy Leader of the Opposition in the House of Representatives, Leader or Deputy Leader of the Opposition in the Senate, President of the Senate, or Speaker of the House of Representatives.

As made, the benefits provided by the Act included:

“3.(2) The cost of travel in Australia for official purposes by the spouse of a Senior Officer.

4. For travel in Australia by each dependent child of a Senior Officer:

- (a) the cost of travel at economy class for 3 return visits between Canberra and the electorate each year; and
- (b) with the prior approval of the Minister, the cost of travel at economy class (or at first-class if accompanying the Officer or spouse) for:
 - (i) 1 return visit to any place within Australia each year; and
 - (ii) travel to and from Parliamentary functions in Canberra attended by the Officer or spouse; and
 - (iii) return visits between the nominated principal place of residence and Canberra when the Officer and spouse are in Canberra for lengthy periods.”

1992

The Tribunal made a number of amendments to the relevant entitlements via *Determination 1992/10*. These included:

- increasing the number of return interstate visits which could be undertaken by a spouse or nominee of a senator or member (other than a senator or member from the Australian Capital Territory) from one to three;
- providing that a dependent child could travel “at the same class of travel as the parent if under the age of 12 and travelling with the parent”; and
- enabling an unaccompanied spouse/nominee to be provided with car transport at government expense to and from the electorate office of the relevant senator or member or the place of employment of the spouse/nominee and the airport or railway station, when travelling in accordance with the provisions of the entitlement.

The Tribunal also inserted the following new provisions into the Determination:

"2.22 A spouse or a nominee of a Senator or Member may convert all of the Canberra visits and the interstate visits from first class to economy class travel so as to utilise the savings to provide additional trips for dependent children.

...

2.24 The travel entitlements in respect of a spouse/nominee and dependent children may, in special circumstances, be used in such other combinations within the levels of such entitlements as may be approved by the Minister [for Administrative Services]."

According to the Tribunal's *1992 Review*, these changes were made "with a view to allowing greater flexibility" regarding the use of the relevant entitlements.

It also noted that the entitlements were necessary "in fairness to the Members" in circumstances which "require them to be absent from their homes frequently and for substantial periods". Further, it was "conducive to the effective and efficient discharge of the Member's duties that a proper provision be made for family travel to Canberra, particularly when members are required to be there".

1993

The Tribunal, in accordance with the Government's submission to the 1993 annual review and in order to make the entitlements "more flexible and accessible", determined that the "travel entitlements of a spouse or nominee may be utilised by a dependent child of a senator or member in the absence of spouse or nominee or if the spouse or nominee is unable to travel" (*Determination 1993/18*).

It also provided that:

- a spouse of a senator or member (other than a senator or member from the Australian Capital Territory) was entitled to travel at government expense on return trips to Canberra to and from "the spouse's principal place of residence";
- an unaccompanied spouse/nominee would be provided with car transport at government expense when travelling between Parliament House and the place of accommodation in Canberra, when travelling in accordance with the provisions of the relevant entitlement.

1997

In its 1997 *Statement – Members of Parliament – Remuneration and Allowances*, the Tribunal specified "spouse costs when representing a member at official functions in special circumstances (e.g. due to illness) and specifically allowable functions" as expenditure to be covered by the electorate allowance.

1998

In January 1998, the Tribunal clarified that any travel undertaken in accordance with the relevant entitlements must be on scheduled commercial transport (*Determination 1998/1*). It also determined an exception to this rule by inserting the following new provision:

"2.13A Where the Minister for Defence has already approved the use of special purpose aircraft for a particular journey under the *Parliamentary Entitlements Act 1990*, the spouse or nominee of a senator or member may travel on a journey that he or she would otherwise be entitled to make in accordance with clause 2.10, 2.11, 2.12, or 2.14 [relating to family travel] subject to that journey counting as a journey for the purpose of calculating the spouse's or nominee's entitlement under clause 2.10, 2.12 or 2.14."

A similar exception was inserted into the Determination relating to travel by dependent children. According to the Tribunal's *1997 Decisions and Reports*, these amendments were designed to allow spouses, nominees and dependent children "to use any excess capacity on special purpose aircraft, thereby saving the Commonwealth the cost of a commercial flight".

The definition of a dependent child was also modified, as follows:

"2.19 For the purpose of this determination 'dependent child' means:

- (a) a person under 16 who
 - (i) is in the custody, care and control of the senator or member or is a person to whom the senator has access; or
 - (ii) where no other person has the custody, care and control of the person, is wholly or substantially in the care and control of the senator or member; or
- (b) a person who is at least 16 but under 25 and is wholly or substantially dependent upon the senator or member."

This amendment extended eligibility to an older child not in full-time education, "so long as they are wholly or substantially dependent upon the Senator or Member".

In another change related to travel by dependent children, the Tribunal determined that a "senator or member may 'pool' his or her entitlement in respect of each child and may allocate travel from the 'pool' as between the children at his or her discretion".

The Tribunal also determined that frequent flyer points accrued as a result of family reunion travel could only be used to reduce the cost of future travel under the relevant entitlements by the person accruing the points. Further guidelines, including the provision that details of the use of frequent flyer points must be reported to the Special Minister of State, were also inserted into the Determination.

In relation to the above changes, the Tribunal noted that "the longstanding provisions which enable the family members of Senators and Members to travel to Canberra and, as specified, elsewhere have evolved from the particular parliamentary circumstances which require members to be absent from their homes frequently and for substantial periods of time. The average Senator and Member is required to spend a quarter or more of his or her time in Canberra. Some, with ministerial or other office holder responsibilities, spend more time than this. This imposes substantial stress on families, particularly where children are involved". In this context, the Tribunal "provided flexibility wherever possible" but maintained certain conditions and limitations "in the interests of reasonable cost effectiveness and public accountability".

Later that year, via *Determinations 1998/10* and *1998/26*, the Tribunal inserted a new clause into the Principal Determination which provided that when a spouse or nominee travelled to Canberra for the purposes of attending an official government, parliamentary or vice regal function, he or she was entitled to car transport in Canberra at government expense to attend that and other functions "with the approval of the Special Minister of State".

Determination 1998/16, which the Tribunal made in June, extended the pooling provision introduced in January by allowing a senator or member to pool "the cost of travel entitlements to Canberra in respect of a spouse or nominee" as well as by a dependent child, for use at the discretion of the senator or member "for trips to Canberra for either a spouse or a nominee or a dependent child". This apparently restored a flexibility introduced in 1992 (Clause 2.24 of *Determination 1992/10*) which was removed by *Determination 1998/1*.

Determination 1998/26 also introduced new provisions relating to charter travel similar to those in place as at the date of this submission. There was no specific reference however, to travel by dependent children.

2000

The relevant provisions of *Determination 1998/26* were overhauled by *Determination 2000/02* which, amongst other things, articulated that the intention of the relevant entitlements was family reunion i.e. travel for the purpose of accompanying or joining a senator or member.

A new provision introduced the only exception to the prohibition on independent travel by specifying that a spouse or nominee could travel at government expense in order to represent the relevant senator or member at certain functions which the senator/member was prevented from attending "by illness or parliamentary or family reasons".

According to the associated Explanatory Statement, the Tribunal also sought to “accommodate and recognise the range of modern families by extending the categories of persons who can accompany or join a senator or member to include family members other than spouses and dependent children as well as carers”. To this end, the Tribunal introduced a new category of persons referred to as ‘designated persons’. These persons were entitled to economy class travel unless travelling with the senator or member or his or her spouse or under the age of 12.

The Tribunal also increased the family travel entitlement of spouses or nominees of senators and members representing the Australian Capital Territory to the interstate entitlement of spouses or nominees of other senators and members.

In addition, the Tribunal extended the pooling arrangements to allow spouse/nominee interstate travel to be accessed by a dependent child or a designated person. A specific reference to travel by a dependent child was also included in the charter transport provisions of the Determination.

With respect to car transport, the Tribunal inserted a new clause in the Determination providing that “dependent children and designated persons may use taxis or hire cars to and from any station or terminal for the purposes of travel at Commonwealth expense ... provided that if the dependent child or designated person is under the age of 16 they must be accompanied by a person over the age of 18” (*Determinations 2000/02 and 2000/11*).

2001

The Tribunal made some minor adjustments to the entitlements of dependent children and designated persons via *Determination 2001/09*, meaning that these categories of persons were able to travel at other than economy class, provided this was done within entitlement as spelt out in the pooling and conversion provisions of the Principal Determination. For dependent children, this apparently restored earlier flexibilities which had been removed the previous year.

In addition, special arrangements were put in place for family reunion travel for the purpose of the Centenary of Federation Parliamentary Sittings, held in Melbourne that year (*Determination 2001/10*).

2003

The Tribunal varied the wording of the stop-over provision of the Determination to include a reference to a dependent child travelling in his or her own right (*Determination 2003/14*).

It also moved the provisions regarding frequent flyer points to a separate part of the Determination and amended the car transport provisions to allow a senator or member travelling on parliamentary business to be accompanied by his or her spouse or nominee and a designated person or dependent child.

In wider developments, the Parliamentary Entitlements Amendment Regulations 2003 (No. 1) amended the *Parliamentary Entitlements Act 1990* to exclude Parliamentary Secretaries from the definition of a Senior Officer in relation to travel by a dependent child.

2004

As there was no limitation on a spouse also being a member of staff, the prohibition on a nominee being a member of staff was removed from the Principal Determination via *Determination 2004/10*.

The Tribunal also inserted a new exclusionary clause into the Principal Determination to minimise the possibility of misuse of accompanied travel entitlements. It provided that “where a spouse or nominee claims or receives travelling allowance under any other source or entitlement for the same travel, they are not entitled to access travel entitlements under this determination”. The clause, which is still in place as at the date of this submission, was subsequently extended to include dependent children and designated persons.

Later in 2004, via *Determination 2004/22*, the Tribunal determined that where a business class air fare was not available, the cost of an economy class airfare would apply for the purpose of:

- calculating the cost to the Commonwealth of a trip to Canberra with respect to the pooling and conversion of entitlements;
- making payments related to the private vehicle allowance.

2006

The Tribunal made a number of changes to the Principal Determination (then *Determination 2005/09*) through *Determination 2006/11*. These included:

- specifying that a dependent child could not be a “person who is otherwise receiving the entitlements of a nominee”;
- defining the terms ‘accompany’ and ‘join’ for the purpose of the entitlements;
- widening the definition of an interstate trip to include travel to and from external territories (i.e. Christmas Island, Norfolk Island and the Cocos (Keeling) Islands) in certain circumstances;
- clarifying that travel must be for “non-commercial purposes”;
- emphasising that the entitlements applied to travel for the purpose of joining or accompanying a senator or member when he or she is travelling on parliamentary, electorate or official business;
- providing more flexible pooling arrangements in order to simplify access to the entitlements.

Later that year, the entitlements were labelled “Family Reunion Travel” in a new Principal Determination, *Determination 2006/18*, which (as amended) is current as at the date of this submission.

In wider developments, some adjustments were made to the provisions in the *Parliamentary Entitlements Act 1990* relating to travel by a dependent child of a Senior Officer i.e. the *Parliamentary Entitlements Amendment Regulations 2006 (No. 1)* removed the requirement for the relevant minister’s approval to be obtained prior to travel. In addition, travel could now be taken at “the highest available class” when the child was accompanying the Senior Officer and/or his or her spouse.

2009

A definition of the word ‘spouse’ was inserted into the definition section of the Principal Determination via *Determination 2009/09*: i.e. it provided that the word had the “same meaning as spouse in the *Parliamentary Entitlements Act 1990*”. (Previously, the definition had only appeared in that part of the Determination dealing with overseas travel entitlements.)

The *Parliamentary Entitlements Act 1990* notes that “spouse of a member includes a de facto partner of the member within the meaning of the *Acts Interpretation Act 1901*”. The current definition of “de facto partner” in the *Acts Interpretation Act 1901*, which was amended in 2008, encompasses partners of the same or a different sex.

Later in 2009, *Determination 2009/23* removed a reference to additional family reunion travel by the spouse of a senator or member who had satisfied the qualifying periods for the issue of a Life Gold Pass. This reference was redundant as the entitlement is provided by statute.

CANBERRA TRAVEL ALLOWANCE

This document present the history, such as it can be gleaned from extant records, relating to travelling allowance for parliamentarians fulfilling their duties in Canberra.

The Tribunal considers that future provisions governing Canberra travel allowance should be framed on the basis of the following principles:

- Travelling allowance is a payment in the nature of recompense for necessary expenses incurred in the earning of income - it is not intended to be a supplement to that income;
- It is reasonable for parliamentarians whose principal place of residence is not in Canberra (or the near vicinity) to receive an allowance to cover the additional costs involved in utilising temporary accommodation or a secondary residence, no matter what arrangements they make;
- The two main factors in determining whether a particular parliamentarian is entitled to an allowance is that their principal place of residence is elsewhere, and that they spend time in Canberra;
- As the history shows, it is acknowledged that parliamentarians make various arrangements for accommodation in Canberra, some of which would involve expense spread over the course of a year, rather than simply when Parliament is sitting;
- It could be more convenient for these parliamentarians to include an option for an annualised rate of travel allowance, paid with salary;
- Such an annualised sum could be calculated on the basis of historical sitting patterns (e.g. an average of a certain number of night for a senator, multiplied by the current daily rate), and could be greater for holders of ministerial office to recognise the additional time spent in Canberra;
- For those who wish to continue on a daily rate, it is appropriate that the current discounted rate continues to apply, to encourage members to make arrangements that are cost effective for themselves and the Commonwealth, and;
- The circumstances of members resident in the vicinity of Canberra should not be distinguished from those of any person working in the locale in which he or she resides.

CANBERRA TRAVEL ALLOWANCE

Travel allowance for parliamentarians attending Canberra is set at a lower rate than for comparable attendance at other centres, but is by and large paid under the same conditions as normal travel allowance.

CURRENT FEATURES

The entitlement is provided for in the relevant Remuneration Tribunal determination, currently *Remuneration Tribunal Determination 2009/11: Members of Parliament – Travelling Allowance*, as follows:

The Canberra rate of travelling allowance for both Specified Office Holders (as defined in the determination), and senators and members in general, is currently \$230 per night. The basic qualification for payment is:

- 2.2 The Canberra rate... is payable upon validation of arrival and departure times in Canberra in the form of documentary evidence of travel to and from Canberra in accordance with guidelines issued by the Special Minister of State.

The documentary evidence required by the Department of Finance and Deregulation is not onerous – it is sufficient that there is some form of proof that the parliamentarian was in Canberra. If they fly in and out, the flight bookings are sufficient and the allowance is paid for all nights in between. There is no requirement that the parliamentarian stay in commercial accommodation.

OTHER JURISDICTIONS

Most Parliaments in Australia have some such entitlement for members, although the method of payment varies. The New South Wales Parliament, for instance, provides a daily rate of \$246 for stays in Sydney for members whose principal place of residence is elsewhere. Members can receive this allowance as either a daily allowance or annual allowance based on a fixed number of nights depending on where their home base is – the minimum is 105 nights. However, members who receive an annual allowance have to remit part of their allowance if they do not spend the requisite numbers of nights in Sydney. (It is understood that the pay-back provisions ensure that members cannot accumulate a windfall gain from an allowance intended for accommodation assistance.)

In Victoria members from outside Melbourne can claim actual expenses in Melbourne up to a maximum of the daily limit set by the Commonwealth Remuneration Tribunal for an overnight stay by a member of the Australian Parliament in Canberra.

Queensland provides members with a standard daily travel allowance wherever they stay. This allowance is, however, set at a relatively low level in comparison to the travelling allowance for members of the Australian Parliament travelling to Queensland, for example – the last reported figure for Queensland parliamentarians was \$220 from 1 July 2007.

In Western Australia a similar scheme exists to the Commonwealth scheme. Regional members on business in Perth receive \$245 per night, up to a maximum of 120 nights per annum. The WA Tribunal's decision in this regard notes that members who maintain a residence in both their home region and in Perth retain eligibility to the daily allowance 'to cover costs associated with maintaining residences in both areas'.

In South Australia the 'Country Members Allowance' specifies that members receive \$207 for each overnight stay in Adelaide occasioned by their role as parliamentarians. There is no prescription on what type of accommodation can be used, although there is a maximum amount per annum (\$27,945, or 135 nights).

HISTORY

1927 – Prime Minister Bruce declared that portion of the Hotel Kurrajong should be set aside for the sleeping accommodation of members of Parliament – meals were to be taken at Parliament House. No allowance was provided to members.

1946 – A ‘Canberra Allowance’ of £1/2/6 per day was introduced by Prime Minister Chifley’s Government to provide some financial relief to meet the cost of maintenance of senators and members in Canberra during the sittings of the Parliament (in the Cabinet papers of 3/10/1945 it was referred to as the proposed ‘living away from home allowance’ – ‘Canberra Allowance’ appears a term of common usage rather than an official title). The allowance did not apply to ministers – an expectation is implied in the Cabinet papers that ministers should live in Canberra rather than visit for parliamentary sittings.

1950 – The Government decided that the allowance of £1/2/6 per day would also apply to ministers, with the decision being retrospective.

Pre 1952 – The Nicholas Report of 1952 notes that there was, when the Report was made, a current living allowance for parliamentarians of £1/16/- per day, covering periods when the member was away from home. Ministers received £5/5/- per day ‘when absent primarily on official business from the place where his home is situated’. However, when ministers were in Canberra, the rate was £2/12/6 per day.

1952 – The Nicholas Report recommended that the standard living allowance for parliamentarians be increased to £2/10/- per day, but that the rate for ministers be retained. However, the Report also recommended for ministers that ‘residences should be provided at Canberra or if this is impracticable, that a living and expense allowance be made to each minister to supersede any other living allowance that he might receive and that the amount of this allowance should be fixed at £1,000 per annum’. (It is noted that the amount of this proposed allowance was around 25% of the salary, including base salary, of a senior minister – around \$50,000 if that relativity was maintained today). If the £1,000 allowance was granted, ministers would no longer receive the £2/12/6 per day for periods that they were in Canberra. It is clear from later reports that the Nicholas Report recommendations were implemented (although not in relation to the provision of housing).

1955 – The Richardson Report noted that it considered the £2/10/- per day paid to members and senators for attendance in Canberra adequate ‘in view of the concessional tariffs available to Members in Canberra’. This payment was only in respect of parliamentary sittings and reasonable travel time. The Report also recommended no change to the ministers’ special expense allowance. The report recommended that the standard travelling allowance for ministers, at locations other than Canberra, increase from £5/5/- per day to £7/7/- per day, a 40% increase.

1959 – Notwithstanding the recommendations of the 1955 Report about maintaining the £2/10/- per day to senators and members, the 1959 Richardson Report notes that members receive £3/13/6 per day, and that the conditions were more defined. Members could claim the allowance during sitting weeks (not just on sitting days), and members from Queensland, WA, SA and Tasmania could remain in Canberra during ‘short adjournments’. There is the first notation here that a member resident in Canberra gets the allowance, but only for actual sitting days. The reasoning behind the receipt of the allowance for such members is not explained. The Report recommends that the allowance be increased to £4/- per day, on the same conditions.

The Report also notes that few ministers have made Canberra their home base and that no housing has been provided. The Report recommends the annual allowance, in lieu of travelling allowance in Canberra, be increased from £1,000 per annum to £1,500. The recommended travelling allowance rate elsewhere for ministers is now £12 per day for senior ministers and £10 per day for junior ministers.

1971 – The Kerr Report notes that travelling allowance, now known as ‘the Canberra Allowance’, for members and senators for time spent in Canberra, is payable on exactly the same terms as in 1959. The rate is now \$15 per day. Justice Kerr recommends an increase in the allowance to \$22 per day. He states that:

Costs of accommodation in Canberra have risen considerably... It may perhaps be argued that Members benefit to some extent from the availability of lower cost accommodation, especially at the Hotel Kurrajong, and lower

cost meals in the dining room at Parliament House. However the situation is now very different from the time when facilities in Canberra for accommodation and meals were extremely limited, and the time has come when the allowance may now be calculated on an economic basis. In fact, many Members now stay at a variety of hostels, hotels and motels and in private accommodation. I see no reason why this should not be so – indeed why it should not be encouraged.

Justice Kerr also recommended that Canberra based members should continue to receive an allowance for sitting days only, but now at only 50% of the standard rate. He also recommended that the qualifications for payment of the allowance be expanded to include, for example, meetings of parliamentary committees or party meetings. In these cases the allowance would only be paid 'where overnight accommodation costs are actually incurred'.

The ministerial situation also remained the same. The Ministerial Special Allowance (including living costs in Canberra) was now recommended to be \$4,875 for a senior minister and \$4,250 for other ministers. The TA rates for other destinations were recommended to be \$36 and \$33 respectively.

1971 – Cabinet papers note that Cabinet considered establishing housing for ministers in Canberra but decided not to proceed in large part because the 'constitutional position cannot be said to be free from doubt'. The constitutional question revolved around s44(v), which states briefly that a person who has any direct pecuniary interest in an agreement with the Commonwealth is not eligible to stand for Parliament (in this instance, the 'agreement' would presumably be a lease for Commonwealth owned property).

1974 – In its first report the Tribunal noted that there were reasons why the 'Canberra Allowance', then \$22 per day, differed from travel allowance for other destinations. The Tribunal stated that 'we understand that some Members make arrangements for semi-permanent accommodation in Canberra, certain residential buildings are subsidised...', as were meals at Parliament House. Nevertheless the Tribunal noted that many members did not utilise such arrangements and 'after much reflection' the Tribunal concluded that a common travelling allowance (for all destinations) was warranted.

The Tribunal set a standard travelling rate of \$33 for members for any overnight stay away from his (sic) nominated home base on parliamentary business. The \$33 rate also now applied to ministers for stays in Canberra, a different rate to the \$45 they received for other destinations. In fact, ministers also continued to receive the annual allowance which was frozen at its 1971 level, but now also became eligible for TA in Canberra at the members' rate.

The Tribunal also abolished the 'short adjournment' provision (see 1959 above) as 'obsolete in view of modern transport facilities'. The Tribunal further noted that it could see 'no justification in any circumstances for payment to Canberra-based Members'. (Nevertheless, these payments continued.)

1975 – The standard rates were changed to \$37 per day for Canberra for all (this applied to all TA for members), and \$48 for ministers' travel elsewhere. The ministerial 'special allowance' remained at \$4,875.

1976 – The Tribunal determined a higher rate of travelling allowance in respect of an overnight stay *other than in Canberra* (emphasis added). In respect of Canberra the Tribunal simply said 'we have determined that there should be no change to the rate on the basis of the information available to us'. For members in general TA was \$37 in Canberra and \$41 elsewhere; for ministers, and office holders, \$37 and \$52. The ministerial special allowance was increased.

1977 – Again the 'elsewhere' TA rate rose, from \$41 to \$45 for a member, but the rate for Canberra remained at \$37. The Tribunal stated 'as in 1976 the Tribunal has not received convincing evidence that an increase in travelling allowance for an overnight stay in Canberra is justified'.

1978 – After 'examining evidence of price changes' the Canberra rate was increased to \$45 – the rate for other destinations was increased by a lesser amount to \$49. For ministers and office holders the rates were now \$45 and \$62.

1979 – Standard member rates were increased to \$49 (Canberra) and \$53 (elsewhere). Ministerial/ office holder rates were \$49 and \$67.

1980 – Standard member rates were increased to \$56 (Canberra) and \$61 (elsewhere). Ministerial/ office holder rates were \$56 and \$80. In applying these increases the Tribunal stated ‘there can be no doubt that the TA rates are now inadequate’.

1981 – The Tribunal noted that having two rates - Canberra and elsewhere - was inadequate, particularly as accommodation rates in the larger cities had increased substantially – the Tribunal now set three rates – Canberra, other capitals and other destinations outside capitals. The member rates were \$65, \$70 and \$56 respectively; minister rates \$65, \$98 and \$75.

1982 – Member rates \$80, \$85 and \$60; ministerial rates \$80, \$120, \$85. At this stage a Canberra resident receives \$27 for sitting days, described as ‘a daily expense allowance’.

1984 – Member rates \$90, \$100 and \$80; ministerial rates \$90, \$140, \$100. Canberra resident receives \$30.

1986 – Member rates \$100, \$115 and \$89; ministerial rates \$100, \$160, \$115. Canberra resident still receives \$30.

1987 – The Tribunal issued a statement after a thorough examination of the travel provisions. With respect to Canberra the Tribunal noted that ‘the rate of allowance for places other than Canberra is fixed by reference to the cost in the respective areas. In fixing the rate of allowance for Canberra, the Tribunal has not adopted such costs. It has taken into account the fact that... the form of accommodation used by ministers and members varies according to their needs from time to time and their wishes.’ The Tribunal discussed ‘a provision by way of a lump sum allowance’ for ministers but noted that this would be appropriate in some circumstances and not others, because the time they spent in Canberra varied.

The Tribunal concluded that ‘In 1974, the Tribunal formed the view that an allowance on a daily basis was, on balance, the appropriate form of allowance... It remains of that view.’ It also noted that an annual allowance ‘will, in each case, achieve only an approximation of the cost to be reimbursed’.

Member rates \$105, \$125 and \$95; ministerial rates \$100, \$190, \$120. Canberra resident still receives \$30.

1988 - Member rates \$115, \$136 and \$105; ministerial rates \$115, \$250, \$130. Canberra resident still receives \$30.

1989 – Although the decision is unexplained in contemporaneous papers, members’ TA now had four rates – it is assumed that the change related to ‘the costs in respective areas’ mentioned above (and perhaps particularly the effect of the 1988 Bicentennial on Sydney prices). Members now received \$130 for Canberra, \$200 for Sydney, \$170 for other capitals, and \$130 for elsewhere. Ministers had three rates - \$130 for Canberra, \$300 for capitals and \$140 elsewhere.

1992 - Members now received \$140 for Canberra, \$230 for Sydney, \$190 for other capitals, and \$145 for elsewhere. Ministers had three rates - \$140 for Canberra, \$300 for capitals and \$155 elsewhere. These rates were preserved in 1993.

1995 – Canberra rate raised to \$145, where it remained until 2003.

1997 – Prime Minister asks Tribunal to consider whether an annualised allowance might be appropriate. For comment on this see following entry.

2003 – Following a full review of MPs’ entitlements in 2002 and various submissions from parliamentarians about the inadequacy of the allowance, the allowance for Canberra was increased from \$145 to \$170. At the same time, the question of an annualised allowance was considered as it had been in 1997. The Tribunal did not proceed to set such an allowance. Issues considered by the Tribunal in 2003 are summarised at the end of this paper.

Since 2003 – The amounts only have been changed since 2003; Canberra TA is now \$230. Increases have been of a commensurate percentage with percentage increases to the Australian Taxation Office’s reasonable benefit limits for travelling allowance for Canberra. The allowance for Canberra resident

members and senators is now \$72 per day. In recent times this has been increased by a commensurate percentage to any percentage increases in the Australian Taxation Office's meals and incidentals component only (i.e. accommodation is excluded) of the reasonable benefit limits for travelling allowance for Canberra.

The 2003 consideration of an annualised allowance:

The following excerpts are from a paper prepared by the Secretariat for consideration by the Tribunal in 2003. While the Tribunal did not make a statement on the issue, an annualised allowance was not adopted.

Canberra Travelling Allowance (TA) – proposed annualisation

Background

- *In 1997, the Prime Minister asked that the Tribunal consider whether it would be possible to calculate an annual taxable amount to be paid to each MP, based on reasonable estimates of the extent of travel to Canberra.*
- *The Tribunal reported to the Commonwealth Government in October 1997 on the possible introduction of an annualised 'Canberra Accommodation and Living Allowance' (CALA).*
 - *It was suggested CALA be calculated on the basis of the annual Parliamentary sitting pattern but with some variation for differences: 80 days for members, 88 days for senators, and 100 days for ministers and office holders.*
 - *CALA would be optional, so those MPs with commitments above the norm could still take the per diem rate.*
 - *In January 1998 the Government lodged a supplementary submission with the Tribunal, which did not address Canberra allowance or the proposed CALA.*

How would an annualised rate be calculated?

- *If an annualised rate was calculated as proposed under the 1997 CALA model (ie based on the parliamentary sitting pattern as then calculated but with variations to take into account certain differences), the rates would be:*

Annualised Canberra travelling allowance levels

	<i>At current rate of \$145 per night</i>	<i>At proposed rate of \$170 per night</i>
<i>Members (80 days)</i>	<i>\$11,600 pa</i>	<i>\$13,600 pa</i>
<i>Senators (88 days)</i>	<i>\$12,760 pa</i>	<i>\$14,960 pa</i>
<i>Ministers and office holders (100 days)</i>	<i>\$14,500 pa</i>	<i>\$17,000 pa</i>

- The CALA model reflected differences between MPs, notably that the additional duties of ministers and office holders, and senators' more onerous Parliamentary Committee duties, require them to spend additional days in Canberra. Other matters that might need to be taken into account include:
 - whether a higher level of allowance should be allocated for shadow ministers as well as ministers and office holders; and
 - McSPS advice that MPs from the Northern Territory, Queensland and Western Australia often stay for weekends in Canberra because of long travelling distances.
- Information on recent sitting patterns is contained in the table below:

Parliamentary sitting days: 1996 to 2003 (scheduled)

	1996*	1997	1998*	1999	2000	2001*	2002	2003#	Total	Average
Senate	71	83	59	79	71	52	60	62	537	67.1
House	63	79	56	73	73	57	69	77	547	68.4

* election year

scheduled

- An alternative approach to determining an annualised rate based on sitting patterns would be to set a rate based on a view that rental accommodation is appropriate rather than motel style accommodation (given the regular and ongoing nature of work in Canberra).
 - The Department of Employment and Workplace Relations (DEWR) provides suggested rental ceilings for Canberra (and other capital cities). These are typically used for APS staff who are relocated from interstate and reside in rental premises pending making permanent arrangements (ie sell their home in their former location and purchase in Canberra).
 - The current rent ceilings for Canberra, expressed as weekly rates and also annualised, are as follows:

DEWR temporary accommodation allowance – Canberra rental ceilings (January 2003)

	SES – officer without dependants	SES	Non-SES; 4 or more bedrooms	Non-SES; 3 bedrooms	Non-SES; 2 bedrooms	Non- SES; 1 bedroom
Rate per week	\$135	\$380	\$345	\$220	\$200	\$135
Annualised (52 weeks)	\$7,020	\$19,760	\$17,940	\$11,440	\$10,400	\$7,020

SES = Senior Executive Service

- An annualised rate could be set which assumes a person rents premises (or makes accommodation arrangements) on an ongoing basis. It would not be dependent on the number of sitting days. There would be no requirement for acquittal and an MP could decide to use it for motel accommodation if they choose to do so (or share rental premises in order to obtain a higher standard).
- The tax implications would need to be considered if an annualised rate was pursued.

Potential advantages and disadvantages of an annualised Canberra TA rate

An annualised Canberra allowance could have the following advantages:

- *It has the potential to simplify administration as currently each MP's arrival in and departure from Canberra needs to be verified by M&PS.*
 - *However, M&PS have indicated that the administrative burden is currently not excessive as only around 10 MPs travel to Canberra by car (which requires the most verification).*
- *An annualised rate may enable MPs to organise their Canberra accommodation more efficiently.*
 - *However, there have not been submissions from MPs seeking to annualise the Canberra TA rate and we are not aware of any interest in this area.*

Possible disadvantages of an annualised Canberra TA rate include:

- *The Secretariat understands from informal discussions with M&PS that the Government has recently indicated it is opposed to an annualised allowance.*
- *While clearly not impossible, it could be difficult to determine an appropriate and widely accepted level of annualised Canberra allowance.*
- *The basis and purpose of an annualised Canberra TA amount may become 'lost' if it were to be paid in monthly instalments at the same time as MPs' salaries are paid. (Electorate Allowance is paid at the same time as salary).*
- *If MPs were allowed to choose between an overnight or annualised rate (as was proposed under CALA):*
 - *this may complicate administration as M&PS would have to run two systems; and*
 - *changing sitting patterns and unscheduled Committee meetings could mean that some MPs who chose the annualised allowance may be disadvantaged and petition the Tribunal for ad hoc increases (although this could be addressed to some extent by allowing them to elect either payment method on an annual basis or after each general election).*

Tribunal comment – the fact that the Tribunal did not proceed to determine an annualised allowance in 2003 does not indicate that such an allowance could never be introduced. The comments in the above paper about perceived Government opposition to such a scheme relate to the Government in 2003. The views of the current Government have not been sought at this stage.

An issue that caused the Tribunal apparent concern in 1997 and 2003 was the taxation implications of annualising the allowance. It appears from correspondence with the Australian Tax Office in 1997 that, to retain the current tax status of the payments, the allowance would have to be acquitted to the satisfaction of the Commissioner, at least in terms of number of nights spent in Canberra. This may mean that members would have to pay back some of their allowance at the end of the year – this situation exists in NSW for those members who choose an annualised allowance.

Such a regimen would have the effect, however, of transferring responsibility for administration of the funds in relation to nights spent in Canberra from the Department of Finance and Deregulation to the members themselves. In other aspects of the Tribunal's submission to the Review, this has generally been regarded as an appropriate outcome providing flexibility to members.