



REMUNERATION TRIBUNAL

Explanatory Statement: Remuneration Tribunal (Members of Parliament) Amendment Determination (No. 2) 2019

1. The determination is made under the *Parliamentary Business Resources Act 2017* (the PBR Act), which gives the Tribunal power to make determinations in relation to various matters for members, and former members, of the Parliament at least once each year in sections 45 and 46.
2. The Tribunal must determine the remuneration to be paid to members, the rates of travel allowances for domestic travel, and the allowances and expenses to be paid to former members. The Tribunal must publish its reasons for making a determination.
3. The Tribunal also has functions under section 35 of the PBR Act relating to travel expenses, travel and motor vehicle allowances and other public resources. The Tribunal must inquire annually into travel expenses and travel allowances for domestic travel (except rates of travel allowances for domestic travel which it determines), and may be asked by the Special Minister of State to inquire into other matters. Regulations must be made or amended in accordance with the Tribunal's recommendations.

Consultation

Review of Travel and Motor Vehicle Allowances

4. There was no consultation on this matter as it is the Tribunal's practice to review, each year, the travel and motor vehicle allowances applicable to office holders for which it determines remuneration.
5. The Tribunal did not receive any submissions on this matter.
6. In conducting this review, making this determination and adjusting travel allowance rates for parliamentarians the Tribunal has relied on Taxation Determination *TD 2019/11: Income tax: what are the reasonable travel and overtime meal allowance expense amounts for the 2019–20 income year?* (TD 2019/11).
7. Amongst other things the Australian Taxation Office (ATO) determination sets out the amounts that the Commissioner of Taxation considers are reasonable for the substantiation exception in Subdivision 900-B of the *Income Tax Assessment Act 1997* for the 2019–20 income year in relation to claims made by employees for domestic travel expenses and overseas travel expenses.
8. TD 2019/11 (excluding appendixes) is a public ruling for the purposes of the *Taxation Administration Act 1953* and is available online for free at <https://www.ato.gov.au/law/view/view.htm?docid=%22TXD%2FTD201911%2FNAT%2FATO%2F00001%22>

9. The travel allowance rates for parliamentarians include the Canberra rate that is set at a lower rate than that available to other office holders in the Tribunal's jurisdiction, the Prime Minister's travel allowance rate and the meals and incidentals rate for Ministers provided with accommodation.
10. The Tribunal aligns the private vehicle allowance for parliamentarians with the rate for the cents per kilometre method of calculating income tax deductions for work-related car expenses which is determined by the Commissioner of Taxation in accordance with subsection 28-25(4) of the *Income Tax Assessment Act 1997*. The current instrument is *Income Tax Assessment Act 1997 – Cents per Kilometre Deduction rate for Car Expenses 2018* (MVE 2018) which is available online for free at <http://law.ato.gov.au/atolaw/view.htm?docid=%22itd%2Fmve20181%2F00001%22>.
11. In conducting this review, the Tribunal noted that the ATO had not adjusted its cents per kilometre rate for 2019 from that set in MVE 2018 so that the rate set in MVE 2018 will continue to apply in 2019. The Tribunal has, accordingly, maintained the parliamentary private vehicle allowance at its present rate.
12. The Tribunal's Reasons for Determination are available at www.remtribunal.gov.au.
13. *Remuneration Tribunal (Members of Parliament) Amendment Determination (No. 2) 2019* implements the Tribunal's travel and motor vehicle allowance review decisions.

Retrospectivity

14. Any retrospective application of this determination is in accordance with subsection 12(2) of the *Legislation Act 2003* as it does not affect the rights of a person (other than the Commonwealth or an authority of the Commonwealth) to that person's disadvantage, nor does it impose any liability on such a person.

The power to repeal, rescind and revoke, amend and vary

15. Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Details of the determination are as follows:

Section 1 – Name

16. Section 1 specifies the name of the instrument.

Section 2 – Commencement

17. Section 2 specifies the commencement date of the instrument of 25 August 2019.

Section 3 – Authority

18. Section 3 specifies the authority for the instrument.

Section 4 – Schedules

19. Section 4 outlines the effect of instruments specified in a Schedule to the instrument.

SCHEDULE 1—AMENDMENTS

Remuneration Tribunal (Members of Parliament) Determination 2019

20. Section 1 increases the rate of travel allowance for the Prime Minister for each night in commercial accommodation by amending clause 5.3 of *Remuneration Tribunal (Members of Parliament) Determination 2019* by omitting:

“\$577”

and substituting it with;

“\$583”.

21. Section 2 increases the rate of travel for a Minister where the Commonwealth pays for the accommodation by amending paragraph 5.5(a) of *Remuneration Tribunal (Members of Parliament) Determination 2019* by omitting:

“\$184”

and substituting it with;

“\$188”.

22. Section 3 inserts a new clause, Clause 7.2, which explains that the amendments made by the *Remuneration Tribunal (Members of Parliament) Amendment Determination (No. 2) 2019* take effect on 25 August 2019.

23. Section 4 repeals Schedule B of *Remuneration Tribunal (Members of Parliament) Determination 2019* which sets out Travel Allowance Rates and substitutes a new Schedule B setting out revised Travel Allowance Rates.

Authority: Sections 45 and 46
Parliamentary Business Resources Act 2017