



REMUNERATION TRIBUNAL

# **REVIEW OF THE REMUNERATION OF MEMBERS OF PARLIAMENT**

## **INITIAL REPORT**

December 2011

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## Preface

This is the Tribunal's first Report on parliamentary remuneration and other entitlements since the *Remuneration Tribunal Act 1973* (the Act) was amended to enable the Tribunal, once again, to determine the annual 'allowance' payable to members under section 48 of the Constitution.

The 'allowance' is referred to subsequently in this Report as parliamentary base salary or, simply, base salary.

The Tribunal has been concerned, for some time, about the remuneration of parliamentarians and the sources of its various components. For example, in the Overview to its 2007-2008 Annual Report, the Tribunal noted that:

*"...there has been no thorough review of the remuneration of parliamentarians for nearly twenty years. In these circumstances, base salary is not only less now than it might otherwise have been, it is also significantly below the level at which it would have been at 30 June 2008, had there been a consistent, sustained, basis for its fixation. I referred to the apparent adverse shifts in relativities between parliamentarians and the SES in last year's Overview."*<sup>1</sup>

The Tribunal therefore welcomed the announcement, on 8 September 2009, by the then Special Minister of State, Senator the Hon Joe Ludwig, of the establishment of a Committee to report on the reform of parliamentary entitlements.

The report of the Committee for the Review of Parliamentary Entitlements (the CROPE report) was published in April 2010. While this Report takes account of that report's recommendations, they have not limited the scope of the Tribunal's approach. The Tribunal made a submission in two parts to the Committee; they are available on the Tribunal's web site<sup>2</sup>. However, as a result of the more detailed work giving rise to this Report, including interviews with a significant number of parliamentarians and the consultancy undertaken by Egan Associates, the Tribunal has modified certain proposals from its earlier submissions to afford them greater relevance. These are mentioned later in this Report.

On 30 September 2011, the Tribunal issued a Statement entitled "Remuneration of Federal Parliamentarians". That Statement included the Tribunal's view that existing parliamentary entitlements should be rationalised and separated, as far as applicable, into two distinct streams, namely:

- remuneration (those entitlements which provide a personal financial benefit); and
- business expenses (the costs incurred in undertaking their duties and responsibilities as a parliamentarian).

### Assessment of the Work of Federal Parliamentary Backbenchers

That Statement also noted that, as a first step:

*".....consistent with the Committee's recommendations, the Tribunal is conducting, with the assistance of a consultant, an assessment of the work of federal parliamentary backbenchers so as to establish, first, a defensible basis for assessing appropriate remuneration and, secondly, a benchmark for future assessments."*<sup>3</sup>

An important part of that assessment has been consultations with a range of interested parties, including parliamentarians, officers of the parliament and party officials. The outcome of our assessment is the main focus of this Report.

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<sup>1</sup> Remuneration Tribunal 2007-2008 Annual Report – Overview, p4

<sup>2</sup> Remuneration Tribunal - Submissions to the Review of Parliamentary Entitlements - <http://www.remtribunal.gov.au/statementsreports/default.asp?menu=Sec8&switch=on>

<sup>3</sup> Remuneration Tribunal - Statement - 30 September 2011 - <http://www.remtribunal.gov.au/statementsreports/Parliamentarians%20-%20Statement%20-%2030%20Sep%202011.pdf>

The confirmation of the Tribunal's expectations about the uniqueness of the role of a parliamentarian and the range, diversity and number of demands upon each (whether member of the House of Representatives or a senator) was unsurprising.

Simply put - and setting aside, entirely, the additional responsibilities associated with appointment to a parliamentary office or as a Shadow Minister or, most significantly of all, a Minister - parliamentarians have two significant 'clusters' of work, each of which, in its own right, would be regarded as a job.

First, they must meet the ongoing demands of their electorate. In many respects - bearing in mind the staff involved; the premises; and, importantly, the intense and continuing local engagement - the parliamentarian is responsible for the effective conduct of a small business.

Secondly, they must attend to their many, increasingly diverse and consuming responsibilities in the Parliament. Without their engagement - and the attention to detail necessary to deal properly with the very considerable flux of issues, legislation and regulation - the processes of federal government would become rapidly unworkable.

While acknowledging the diversity of community views about aspects of the work of parliamentarians and of the Parliament, the Tribunal has no doubt about the central importance to the well-being of the Australian community and to effective public administration of capable parliamentarians and an effective Parliament.

It is unfortunate that a lot of the commentary about parliamentarians and their work proceeds with a cynicism which, while perhaps characteristic of the Australian way of dealing with things, must not be allowed to define debate about the institution of Parliament, which is, after all, fundamental to our democracy and all we hold dear. If we are to demand more and more from our parliamentarians and if our expectations of the quality of their work are to keep increasing, then we need to remunerate them sufficiently so as to attract and retain men and women of appropriate capacity.

In the Tribunal's view, the general community believes that parliamentarians enjoy substantial pension or superannuation benefits when they retire. Although this may once have been the case, the entitlement was changed dramatically for all those elected at or since the 2004 federal election. Members and senators elected since then, and now numbering about half the total of both Houses, no longer have access to the former pension scheme - indeed, their superannuation entitlement is simply a contribution scheme like the rest of the community. However, while the termination of pension benefits was made so as to bring parliamentarians' superannuation benefits into line with the community generally, there was no compensating adjustment to parliamentarians' annual earnings. Accordingly, in a total remuneration sense, there was a substantial reduction in total effective remuneration (annual earnings plus superannuation costs).

#### Parliamentary Base Salary

In undertaking this review, the Tribunal was confronted by (and, indeed, continues to be confronted by) many and diverse entitlements and, more significantly, sources of entitlement. There is a considerable amount of work still to be done to separate matters into the two streams that the Tribunal has identified as its ultimate objective.

In these circumstances, the Tribunal decided to consider the matter of an appropriate base salary for a parliamentarian in isolation, effectively, from the range of other conditions and entitlements. That is not to say that the Tribunal, in presenting this Report, has neglected other conditions and entitlements.

The Tribunal has endeavoured to establish a proper base salary by evaluating the work of parliamentarians, rather than assessing one entitlement or another and cashing it out.

On this basis, the Tribunal intends to determine parliamentary base salary at \$185,000. The Tribunal is delaying the implementation of its intended decision because of concerns about 'flow on' effects to the superannuation outcomes of retired members. The Tribunal will make the relevant determinations when it is satisfied that these concerns have been resolved.

#### Reductions in Benefits and Entitlements

At the same time, the Tribunal intends to:

- cease the entitlement to individual overseas study travel altogether; and
- heavily prune the entitlement to travel following retirement from the Parliament - this will now be limited to 5 return trips, between Canberra and the former electorate, or between their home base and the place where they had a publicly funded electorate office, for the retired member, alone, in the six months following retirement.

The Tribunal - as it does not determine either the entitlement to a Life Gold Pass or the features of parliamentary superannuation arrangements - has also recommended:

- the abolition of the Life Gold Pass scheme, prospectively, so that it is not available to those who enter Parliament at after the next federal election and, for existing Life Gold Pass holders, the reduction, now, in the number of return trips from 25 to 10 within Australia per annum; and
- that alternative indexation arrangements be established for both the basic pension and the additional pension of retired parliamentarians who derive benefits from the Parliamentary Contributory Superannuation Scheme (the 1948 Scheme). Specifically, we recommend that the linkage of the 1948 Scheme pensions (both basic and additional) to the current salaries (both basic and additional) of serving parliamentarians, be severed.

In the case of each of these recommendations, the Tribunal has indicated that it will take action towards bringing about these ends in the event that the Parliament does not, itself, make the necessary legislative changes.

The Tribunal considers that the lack of workers compensation arrangements for parliamentarians is most unsatisfactory. The fact that they are not employees, in the conventional sense, should not, in the Tribunal's view, militate against suitable arrangements being established for them. This is not a new stance on the Tribunal's part; it is consistent with the view that it expressed 25 years ago in its Report on Compensation for Ministers, Members of the Commonwealth Parliament, the Federal Judiciary and Members of the Inter-State Commission. The Tribunal can see no good reason for not establishing, now, appropriate arrangements.

#### Cost

The Tribunal is conscious that the cost of the Parliament and of federal parliamentarians is borne by the taxpayer.

That government is also conscious of this is evident from the letter to the Tribunal from the Special Minister of State, the Hon Gary Gray AO MP, of 5 April 2011. The Minister asked, then, that the Tribunal:

*"..... in making any recommendations in relation to remuneration and non-remuneration matters, be mindful of the Government's stated Budget objectives, including of the fiscal rules that apply across other areas of Government."*

This Report does not address all aspects of current entitlements determined by the Tribunal or the recommendations of the Committee for the Review of Parliamentary Entitlements.

Accordingly, although the matters that the Tribunal intends to determine, or those recommended by it, have cost consequences (entailing, as they do, both increases and

reductions in costs), in the Tribunal's judgement, it would be simplistic, on the basis of this, the first Report, to draw conclusions about the longer term cost implications.

The Tribunal, in its ongoing work on parliamentary remuneration and other entitlements, will continue to be mindful of the balance to be struck.

However, it is also relevant to note, that, even in respect of the proposals in this Report, the balance between increases and reductions in costs is not a matter within the control of the Tribunal. This is a matter for the Government, and the Parliament, more generally. In this regard, it need only be pointed out that the significant recommendations about the abolition of the Life Gold Pass and the cessation of pension indexation arrangements under the 1948 Scheme - and the associated reductions in costs - turn on action to make the necessary legislative changes.

### Acknowledgements

The preparation and publication of this Report has been the culmination of a period of very intensive work by the Tribunal. At the same time, it has published both a Statement on the outcome of its review of the Specified Statutory Office group of offices and its second, and final, report of its Review of the Office of Secretary.

The Tribunal's program would not have been brought to this point without the application, energy and insight of my colleagues Mr John Prescott AC and Ms Jillian Segal AM. I thank them warmly for their efforts.

Changing the 'status quo' is a challenge at the best of times. However, the undertaking of the review that has given rise to this Report would not have been possible without prior changes in policy and legislation.

There are many whose commitment in this regard warrants acknowledgement here – amongst the most significant have been the Chief Government and Chief Opposition Whips in the House of Representatives and in the Senate since 2006. Of these office holders, the Tribunal notes, in particular, the efforts of Mr Roger Price, as both Chief Opposition Whip and, subsequently, Chief Government Whip in the House of Representatives. Mr Price retired at the 2010 election. His efforts, and those of his colleagues, over an extended period, have been of great assistance to the Tribunal.

### The Tribunal's Secretariat

The Tribunal would not have been able to undertake the work that has given rise to this Report (and to the reports and statements on other public offices), without the hard work and support of each member of the staff of its Secretariat. This small, expert and committed group of officers has achieved great things. Although this Report, and others, have, perhaps, taken precedence recently amongst other matters on the Tribunal's agenda, the Secretariat has also worked diligently to ensure that the ongoing demands of the Tribunal's ordinary business have not been neglected. The Tribunal thanks the officers involved and the Tribunal's Secretary, Mr Derren Gillespie - for their continuing support and effort. In particular, I thank Mr Gillespie.

John C Conde AO  
President  
December 2011

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# **1 Executive Summary**

1.1 This Report outlines the Tribunal's initial findings regarding parliamentary base salary and related matters for members of the Australian Parliament.

## **Power to Determine**

1.2 The Committee for the Review of Parliamentary Entitlements (CROPE) made a number of recommendations concerning the remuneration and other entitlements of federal members of parliament. These included restoring to the Tribunal the power to determine the base salary of parliamentarians (Recommendation 1). The Government accepted this recommendation, which was achieved through the amendment of the *Remuneration Tribunal Act 1973* by the *Remuneration and Other Legislation Amendment Act 2011*.

1.3 With the agreement of the Special Minister of State, the Hon Gary Gray AO MP, the Tribunal was also tasked with considering CROPE's thirty eight other recommendations. These cover matters such as remuneration, so-called tools of trade (or business expenses) entitlements, governance issues, and travel.

## **Parliamentary Base Salary**

1.4 The Tribunal considers that the base salary of a member of the Australian Parliament should be \$185,000 per annum and will determine this from a date to be fixed.

1.5 Based on the principle that parliamentary remuneration, like other remuneration determined by the Tribunal, should be based on the roles and responsibilities of the job in question, the Tribunal's decision was informed by an assessment of the work of federal parliamentary backbenchers, which was carried out with the assistance of a consultant, Egan Associates. (A work value assessment of this kind was also recommended by CROPE.)

1.6 The consultant concluded that a base salary in the range of \$185,000 to \$250,000 per annum was appropriate for parliamentarians, taking into consideration their accountabilities as well as broader remuneration comparatives.

1.7 The Tribunal accepted this advice as sound but, consistent with its conservative approach to public sector remuneration, has decided to set a salary figure at the bottom of the range.

## **Additional Salaries**

1.8 The Tribunal has long held the view that shadow ministers should receive a salary in addition to base salary given that they have greater responsibilities than general opposition backbenchers and perform identifiable functions in relation to the Parliament. In addition, the Tribunal considers that the Manager of Opposition Business in the House of Representatives has a significant role in the running of the Parliament.

1.9 Accordingly, these office holders will be paid as follows, from a date to be fixed:

- Manager of Opposition Business in the House of Representatives – 27.5% additional salary;
- shadow Cabinet minister – 25% additional salary; and
- shadow minister outside shadow Cabinet – 20% additional salary.

1.10 The Tribunal intends to limit the number of shadow ministers who can be paid these additional salaries so that the number of shadow ministers does not exceed the number of Government ministers.

1.11 There is no immediate intention to make major changes to any of the current percentages representing additional salary for the currently listed offices.

## **Entitlements Determined by the Tribunal**

1.12 When parliamentary pay is determined, the Tribunal intends to simultaneously make two major changes to the entitlements of parliamentarians, namely:

- abolish the individual overseas study travel entitlement; and
- restrict the severance travel entitlement to a maximum of five return trips - available to be used only within six months after leaving Parliament, and only to cover travel from the member's home base to Canberra, or from their home base to a location where they had an electorate office.

1.13 Under transitional arrangements, those who have already accrued an entitlement to overseas study travel will be able to utilise the entitlement in the current or next Parliament. The former severance travel entitlement, which allowed former parliamentarians who did not qualify for a Life Gold Pass (LGP) to travel anywhere in Australia at Commonwealth expense for six months to five years after retirement, will only apply to eligible former members who retire prior to the making of the relevant determination.

1.14 In coming to these conclusions, the Tribunal noted that there were other avenues for overseas travel, for example, as part of a parliamentary delegation, or as a representative of the government or a minister.

1.15 In the case of members losing their seats, the Tribunal recognised that there might be a need for them to have some travel entitlements after leaving Parliament to ensure a smooth transition and to wind up their parliamentary business.

1.16 CROPE recommended that the Tribunal cash out the overseas study travel entitlement with a consequent increase in base parliamentary salary (Recommendation 22). The Tribunal sees no compelling reason to do so. The Tribunal also sees no reason to compensate current parliamentarians for the changes to the severance travel entitlement.

1.17 At this time, the Tribunal intends to make no other changes to the entitlements it determines, with the exception of removing the personal cost contribution of \$711 paid annually by members of parliament towards the cost of their private plated vehicle. This removal was recommended by CROPE (Recommendation 18).

1.18 With respect to electorate allowance, as a consequence of the more detailed work giving rise to this Report, the Tribunal now accepts this as a business expense payment and intends to maintain it in its current form.

## **Entitlements Not Determined by the Tribunal**

1.19 The pensions of retired members of the superannuation scheme established by the *Parliamentary Contributory Superannuation Act 1948* are linked to the current base and additional salaries of current parliamentarians. In order to prevent an unintended windfall benefit to members of this scheme, the Tribunal intends to delay determining any increase to base parliamentary salary (and consequently additional salary) until the Tribunal is satisfied that the matter is resolved, preferably by severing the link between current additional salaries and the additional pensions of retired members of the 1948 Act superannuation scheme.

1.20 With respect to other current entitlements of parliamentarians, the Tribunal recommends that:

- legislation should be put before Parliament to abolish the LGP scheme, prospectively, so that it would not be available to those who enter parliament at or after the next federal election:
  - a. the number of return trips for existing pass holders should be reduced, now, from 25 to 10 within Australia per annum;

- b. the reduced benefit should apply to current senators and members who have qualified for an LGP at the date of the government's announcement of its decision;
  - c. the spouse/partner of current senators and members who have qualified for an LGP at the date of the government's announcement of its decision should be reduced from 25 to 10 return trips to Canberra per annum.
- an on-going travel entitlement should continue to be provided to former Prime Ministers (once they have left the Parliament) under special provisions for former Prime Ministers;
- the overseas travel provisions for the Leader and Deputy Leader of the Opposition and Leaders of minor parties be enhanced;
- the Government act immediately to introduce a workers' compensation scheme by, amongst other things, implementing amendments to the *Parliamentary Entitlements Act 1990* (PE Act) to accommodate a scheme compliant with the *Safety, Rehabilitation and Compensation Act 1988*. The scheme should cover all members of parliament and provide for arrangements related to:
  - a. medical and rehabilitation costs;
  - b. lump sum payment for permanent impairment and non-economic loss;
  - c. lump sum payment for loss of future earnings;
  - d. exclusions;
  - e. dispute resolution;
  - f. duties covered, e.g. coverage for travel related to parliamentary, electorate or official business.
- the Government undertake an immediate examination of the current rate and coverage of public liability insurance held by all members of parliament with a view to determining whether:
  - a. the risk of injury or damage to members of the public is supported by the insurance held by individual senators and members;
  - b. the holding of public liability insurance to an agreed level be a compulsory requirement for all senators and members;
  - c. the cost of public liability insurance should be reimbursed to senators and members;
  - d. the provision of public liability insurance should be included as an entitlement under the PE Act.
- the examination outlined above should provide the Special Minister of State with:
  - a. recommendations for the best means of providing such an entitlement;
  - b. financial costing for coverage of all senators and members with a view to that coverage commencing by 1 July 2012; and
  - c. the legislative means to enact public liability insurance as a business expense entitlement.

1.21 The Tribunal also notes that if the Government does not act to close the LGP scheme before the commencement of the next Parliament, the Tribunal will amend the qualifying periods (as it is empowered to do) so that the grant of an LGP becomes a very rare occurrence.

### **Remuneration and Conditions of State and Territory Parliamentarians and Assembly Members**

1.22 The Tribunal recommends that any existing linkages between the remuneration of state and territory parliamentarians and assembly members and the base salary of federal parliamentarians be severed on the basis that it cannot be justified without a state or territory

based work-value assessment similar to that conducted for federal parliamentarians. In addition, such linkages might not differentiate salaries for superannuation purposes and inappropriately create a flow-on of the increased base salary to state/territory pension benefits.

1.23 The Tribunal also notes that any future increases in the base salary of federal parliamentarians resulting from the elimination of entitlements (although no such increases are foreseen at this time) could also be passed on inappropriately to state and territory parliamentarians and assembly members.

### **Next Steps**

1.24 The above decisions respond, in whole or in part, to CROPE Recommendations 6, 8, 10, 18, 20, 21, 22 and 26.

1.25 The Tribunal will next review the business funding given to parliamentarians, with a view to rationalising and separating, as far as applicable, remuneration (those entitlements which provide a personal financial benefit) and business expenses (the costs incurred in undertaking the duties and responsibilities of a parliamentarian) into two distinct streams.

1.26 It will also review whether there is any scope for improving or refining the provisions for travel within Australia (including the external territories). In doing so, the Tribunal will take into consideration and report on, among other things, CROPE Recommendations 17 (Family reunion travel); 19 (Car transport allocations); 25 (Additional travel for children of senior officers); 27 (Travel to external territories); 33 (Travelling allowance for shadow ministers); and 34 (Travelling allowance for the second Deputy Speaker in the House of Representatives).

1.27 Charter Allowance, which the Tribunal will also reconsider, was not the subject of a CROPE recommendation.

## 2 Introduction

### Preliminary comments

2.1 Following the passage of the *Remuneration and Other Legislation Amendment Act 2011* (ROLA), the Tribunal now has the responsibility for setting a parliamentary base salary which applies as the basic remuneration for all members of the Australian Parliament. The Tribunal's establishing legislation has already given it, for many years, the responsibility of determining pay for a large number of other senior public offices in the Commonwealth, including heads of agencies, many statutory appointments and federal judges, among others.

2.2 In many ways, however, the setting of base salary for parliamentarians presents a different challenge, not least because of the importance of ensuring, insofar as a Remuneration Tribunal can, that appropriate conditions are set for Australia's most important democratic institution to be filled with capable people representing a broad cross section of the Australian population.

2.3 The role of a parliamentarian is an unusual one, with a high level of complexity and difficulty. They have in effect two jobs, at least. One role is as a member of a legislature which sits for approximately 20 weeks a year in what is to most parliamentarians a city a long way from home. In this role they have to process large amounts of information over long working days and make decisions on a variety of issues. For instance, Parliament passed 159 Acts in 2008, 136 in 2009 and 150 in 2010. A member of the Parliament for those three years thus had to consider, and vote on, some 445 different pieces of legislation on a wide variety of subjects, not taking into account those that were withdrawn or did not pass through the Parliament. As well, it is almost universal that members have a significant role as holders of additional offices and/or as members of various parliamentary committees.

2.4 The second role of the parliamentarian is as the representative of all the residents of his or her electorate, however they vote. In the case of a senator, they represent the state or territory from which they were elected. This is also a challenging task, which fills the 32 weeks when they are not in Canberra, as well as a significant portion of the weeks when they are.

2.5 There is no specific qualification to become a member of parliament, and experience suggests that the highest performing parliamentarians have a diversity of backgrounds. As a place of debate and the contest of ideas, Parliament is best served when its representatives themselves represent a cross section of society. The Tribunal considers it vital that remuneration be set at a level sufficient to attract, or at least not to deter, people from various walks of life, with various past careers and ranges of life experience, and with a variety of skills including the ability to deal effectively with people both formally and informally.

2.6 It is noticeable in the report produced by the consultant engaged to assist the Tribunal in its task that the average age of a parliamentarian represents the time of life when many people have their highest earning capacity. It is frequently the case that work in the public sector has a significant discount factor compared to possible private sector earnings, and parliamentary work has other, non financial, rewards in terms of personal satisfaction and the opportunity to make a difference in the life of the country. Nevertheless it cannot be in Australia's interests to have such a discount factor that people would consider, for example, that they could not afford to stand for Parliament because of their need to provide for their family, or of their need to maintain, at least to some extent, the lifestyle that they could otherwise have had.

2.7 Parliamentarians also have some unusual employment conditions – for example, unlike practically every other person in the public sector, they are not regarded as

employees in the employment law context, meaning that much legislation providing protection or benefits to employees, such as paid leave, does not apply to parliamentarians.

2.8 Not being employees, parliamentarians also do not have the protection of any employment law, including not being covered for worker's compensation. This issue is covered in more detail later in this Report.

2.9 It is also the case that parliamentarians have risky employment. They are subject to the vicissitudes of election; if unseated they become unemployed immediately. As an example, there are several seats in the House of Representatives which electoral commentators describe as 'bellwether seats'. These are seats that swing at elections with the mood in the electorate as a whole, and are nearly always represented by a member of the Government of the day. A member in such a seat has no real hope of tenure beyond a change of government, regardless of his or her own performance as the local member. It is a rare office in the public sector where one's own performance can have such little relevance as to whether a person retains office or not.

### **The Tribunal's task and principles**

2.10 The drafting and subsequent passage through the Parliament of ROLA arose from a process in which a Committee appointed by the Government had performed a wide ranging review of parliamentary entitlements. The Committee for the Review of Parliamentary Entitlements (CROPE) made 39 recommendations on a variety of subjects in its report<sup>1</sup>, the CROPE report. This Report by the Tribunal also covers a number of those recommendations, with the Tribunal committed to responding to a number of other recommendations in the future.

2.11 The Tribunal in considering both personal remuneration of the individuals who serve in Parliament, and how best their parliamentary and electorate business should be supported by public funding, has relied on a number of principles. These include:

- parliamentary remuneration (like other remuneration determined by the Tribunal) should be set based on the role and responsibilities of a parliamentarian;
- parliamentary remuneration should be sufficient to allow representation from various members of society with a diverse range of skills, including those who are in the middle of their careers and those with responsibility for supporting others;
- parliamentary remuneration should be sufficient so that the highest standards of integrity are maintained;
- it should not, however, be so high that the remuneration itself becomes the overriding attraction with no regard for the concept of public service;
- parliamentary remuneration should be clearly expressed – there should not be any hidden benefits;
- funding for the business expenses of parliamentarians should be sufficient so that parliamentarians can fulfil their functions adequately without having to fund their parliamentary and electorate expenses from their own pockets;
- available funding should be clear and easy to understand for parliamentarians, those administering the funding, and the public at large; and
- in setting funding levels the Australian experience, that parliamentarians from different electorates across the country have vastly different challenges in servicing their electorates, must be taken into account.

2.12 As well, the Tribunal's view is that it is important that the remuneration paid to members of parliament, and the business funding that is given to them, should be clearly separate, with no conflation of the two. In the early stages of doing the work that led to this Report, the Tribunal issued a Statement entitled 'Remuneration of Federal Parliamentarians'

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<sup>1</sup> <http://www.finance.gov.au/publications/review-of-parliamentary-entitlements-committee-report/index.html>

(the Statement is available on the Tribunal's website<sup>2</sup>). It set out the Tribunal's broad objective in the following terms:

*The Tribunal... considers that existing parliamentary entitlements should be rationalised and separated, as far as applicable, into two distinct streams:*

- *remuneration (those entitlements which provide a personal financial benefit); and*
- *business expenses (the costs incurred in undertaking their duties and responsibilities as a parliamentarian).*

2.13 The Tribunal also noted that this would require a comprehensive review and that such a review 'will take some time'.

2.14 This is the Tribunal's initial report; others will follow. The Tribunal's principal aim in this report has been to deal with matters of remuneration that should be addressed now. The Tribunal will consider other matters, primarily relating to business expenses and their funding, subsequently.

## **What is in the Report**

2.15 In this Report, and by virtue of it, the Tribunal:

- sets out the background to its current engagement in parliamentary remuneration and associated matters;
- specifies those elements of the present remuneration arrangements and associated matters in respect of which it has made decisions which will be implemented by future determinations;
- sets out its general views on some particular aspects of current parliamentary remuneration arrangements;
- makes recommendations concerning a number of related matters outside the Tribunal's jurisdiction; and
- outlines its anticipated future directions.

2.16 In the past, there has been comment by the Tribunal mooted the 'cashing out' of certain entitlements and including them in a parliamentarian's base salary - for example in the Tribunal's submission<sup>3</sup> to CROPE. Ultimately, the Tribunal intends not to adopt this approach. Rather, having had the opportunity, with the assistance of a consultant with wide experience in remuneration matters, of conducting an extensive study of the workload and responsibilities of a member of Parliament, the Tribunal intends to determine what is in its judgment an appropriate base salary for a parliamentarian. At the same time the Tribunal has noted that it intends to abolish or wind back some anachronistic remuneration elements and entitlements.

2.17 It has also recommended – as it did in 1986 – that a workers' compensation insurance scheme be established for parliamentarians.

2.18 Further, it has also recommended that the links between the benefits paid to retired members of the Parliamentary Contributory Superannuation Scheme (which was closed to new members with effect from 9 October 2004) and the current salaries of serving parliamentarians be severed.

## **A single rate of pay**

2.19 As has been the case since Federation, the base salary of a parliamentarian is set as a single figure for all members of each House. The Tribunal understands that this stems from a philosophical position that no member representing one part of Australia has higher

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<sup>2</sup> Remuneration Tribunal Statement 30 September 2011 at <http://www.remtribunal.gov.au/> under 'Tribunal Statements'

<sup>3</sup> Available at <http://www.remtribunal.gov.au/> under 'Tribunal Statements'

worth or should be, personally, paid more than a member representing another part of Australia.

2.20 Although the Tribunal's study of the workload of members has confirmed the self evident truth that the role of no two members is exactly the same, it is also the case that the personal exertion required of members is similar across the Parliament. In the Tribunal's view, it is appropriate that the variations in the challenges facing members are best addressed by providing an appropriate level of business funding for the different circumstances that members face.

2.21 Thus, business funding, provided both by Tribunal determination and by other sources, will continue to vary between electorates (and between senators and members) through variations in items such as:

- electorate allowance;
- charter allowance;
- printing and communications entitlement; and
- access to travelling allowance.

2.22 However, the remuneration paid to the backbench parliamentarian will not vary from electorate to electorate.



### 3 The Tribunal's approach

#### Background

3.1 The setting of parliamentary remuneration and the provision of funds to cover the business expenses of parliamentarians have, unsurprisingly, a history as long as the Federal Parliament itself. The 110 years since Federation have seen a number of methods of setting the pay for parliamentarians and of funding business expenses.

3.2 In relation to the setting of what is now referred to as parliamentary base salary, but which section 48 of the Australian Constitution describes as an 'allowance', the various methods adopted have included:

- setting the figure in the Constitution itself (1901);
- setting updated figures in legislation passed by the Parliament (after 1901 to 1973);
- having the Remuneration Tribunal determine the salary in determinations disallowable by the Parliament (1974 to 1990);
- having Parliament legislate the salary figure again, by linkage to salaries in the Australian Public Service (1990 to 1999);
- legislating to link the salary to a figure determined by the Remuneration Tribunal in relation to other public offices (1999 to 2011); and
- giving the Tribunal once again the power to determine the salary, this time in determinations not disallowable by the Parliament.

#### The Position on Base Salary prior to this Report

3.3 As noted above, it has been the Parliament itself which set the method of determining parliamentary base salary in the period since 1990. The Tribunal has, in that time, not had the power to determine parliamentary base salary. Nevertheless since 1999 the Tribunal has had a contingent role in setting parliamentary base salary.

3.4 In the period between 1990 and 1999 the parliamentary base salary was set in relation to pay points for Senior Executive Service (SES) employees in the Australian Public Service. The pay points used were, initially, in Band 1 and then in Band 2 of the SES structure.

3.5 The passage of the *Public Service Act 1999*, with the consequent devolution of full pay setting to individual agencies, meant that the concept of 'a pay point in the SES structure' was no longer viable. In reality, there was no longer any such thing. Consequently, the Government asked the Tribunal to suggest a new, appropriate, pay comparator to use for the setting of parliamentary base salary.

3.6 Having accepted the requested advice from the Tribunal, the Government decided that Reference Salary A in the Principal Executive Office (PEO) structure was a suitable pay point. By way of explanation, PEOs are a group of senior offices in the public sector for which the Tribunal has the responsibility for setting a classification structure. The classification structure itself has five bands, with a reference salary determined by the Tribunal for each. The reference salary in the lowest band, Band A, is the salary used for the calculation of parliamentary base salary. This base salary figure applies to every member of each House of the Parliament.

3.7 Since 1999 parliamentary base salary has been set by a Regulation<sup>1</sup> made under the *Remuneration and Allowances Act 1990* at a percentage of Reference Salary A. In the years up to 2008 the relevant percentage was 100%, which of course means that Reference Salary A and parliamentary base salary were the same figure. In those years, Reference

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<sup>1</sup> Available at <http://www.comlaw.gov.au/Details/F2008C00306/Download>

Salary A, and thus parliamentary base salary, normally increased by the standard percentage that the Tribunal determined annually for public offices in general.

3.8 In 2008, the Government under Prime Minister Rudd broke the 100% link by varying the relevant Regulation so that the increase determined by the Tribunal that year for Reference Salary A did not apply to parliamentary base salary. The Tribunal understands that the Government's reasoning behind this decision was to set an example of pay restraint in the period immediately following the global financial crisis of 2007. The amended Regulation was also drafted in such a way that the dollar increase in Reference Salary A for that year, which happened to be \$5,470, should not flow back to parliamentary base salary in subsequent years.

3.9 Thus since 2008 parliamentary base salary has been Reference Salary A less \$5,470. As Reference Salary A is currently \$146,380, this means that parliamentary base salary at the time that the Tribunal made this study was \$140,910 per annum.

3.10 To say that the instruments which provide the current method of setting parliamentary base salary can be difficult for an outsider to understand may be to understate the matter. The relevant words of the Regulation that set the percentage of Reference Salary A to be used as parliamentary base salary are:

*... the percentage is the percentage of the reference salary which, when applied to the reference salary, reduces the reference salary by the amount (in whole dollars) by which the reference salary was increased by the Remuneration Tribunal for the financial year commencing on 1 July 2008.*

## **Other Entitlements**

3.11 The setting of the relevant salaries in the PEO structure has not been the Tribunal's only role in relation to parliamentarians. The Tribunal also:

- reports on additional salaries for Ministers of State;
- determines additional salaries for Parliamentary Office Holders;
- determines a number of other entitlements for parliamentarians such as electorate allowance, overseas study travel and travel after leaving Parliament; and
- provides rules for, and determines entitlement to, business travel in relation to the members' parliamentary duties.

3.12 This is, however, far from the only source of funding for parliamentarians, particularly in relation to business expenses. The complexity and multiplicity of heads of power in relation to these matters is covered in greater detail later in this Report. However as a brief summary, the present system is, to draw upon the description in the April 2010 CROPE report<sup>2</sup>:

*...derived from a number of sources which, over time, has become less transparent as the number and diversity of benefits provided to senators and members have increased.*

3.13 The Tribunal considers that the community and parliamentarians themselves would be better served were there to be greater clarity about the present mix of entitlements and the purpose of each.

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<sup>2</sup> Published by the Department of Finance and Deregulation - <http://www.finance.gov.au/publications/review-of-parliamentary-entitlements-committee-report/index.html>

## Complex Legislative Framework

3.14 As is pointed out later in this Report, there are no fewer than eleven Acts of Parliament and a large amount of subordinate legislation which direct decisions regarding the funding of parliamentarians' remuneration and business expenses.

3.15 The Tribunal itself has significant powers invested in it in one of these eleven Acts – the *Remuneration Tribunal Act 1973*. One other principal piece of legislation, the *Parliamentary Entitlements Act 1990*, which provides for many of the business tools for parliamentarians, is administered by the Special Minister of State, and not by the Tribunal. Nevertheless there can be overlap between items determined by the Tribunal<sup>3</sup>, and items provided under the *Parliamentary Entitlements Act 1990*.

3.16 The issue of the complexity of the current process was highlighted in 2009, when the Australian National Audit Office reported on the administration of parliamentary entitlements<sup>4</sup>. The report, which followed an earlier 2001/02 report, was centred on the actual administration of parliamentary entitlements by the (then) Department of Finance and Administration rather than remuneration issues. In relation to parliamentary entitlements the report's summary, at paragraph 12, noted that:

*To strike a better balance between assisting Parliamentarians and accountability for the public funds spent on providing entitlements to Senators and Members, ANAO's 2001 - 02 Audit Report on Parliamentarians' entitlements indicated that there would be merit in a comprehensive review of the entitlements framework. No such review was undertaken and, whilst various changes have been made to some individual entitlements, no fundamental changes have been made to the framework in the eight years that have passed since that audit. The result is an entitlements framework that is difficult to understand and manage for both Parliamentarians and Finance.*

3.17 In response to this report, the then Special Minister of State, Senator the Hon Joe Ludwig, announced the formation of a Committee for the Review of Parliamentary Entitlements (CROPE). The Committee consisted of four persons, including the Tribunal President. The scope of the review was broad and covered issues of remuneration as well as other entitlements. Prior to reporting in April 2010, CROPE sought submissions from interested parties. The Tribunal itself lodged a submission<sup>5</sup> covering a number of issues, and containing a considerable amount of history, from its own sources, about various items that make up the package provided to a parliamentarian<sup>6</sup>.

## Actions following the CROPE Report

3.18 In considering remuneration, CROPE did not actually give a view on what the quantum of remuneration should be, but rather made a recommendation (Recommendation 1) that the power to determine remuneration should be restored to the Tribunal, with the Tribunal's determinations not to be disallowable by the Parliament. Recommendation 6 also recommended that Government should ask the Tribunal to conduct a work value assessment of the work of a parliamentarian.

3.19 Recommendations 1 and 6 were but two of 39 recommendations, on a number of subjects, contained in CROPE's report. It is noted that Chapter 3 of the CROPE report, 'Limitations of the Current Framework', sets out a picture of an entitlements framework that has developed in a largely ad hoc manner over an extended period, with the result being a set of arrangements that is complex, not necessarily readily understood even by those 'expert' in it, and derived from numerous heads of power.

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<sup>3</sup> For instance, in relation to when Charter Allowance can be used

<sup>4</sup> [http://www.anao.gov.au/~media/Uploads/Documents/2009%2010\\_anao\\_audit\\_report\\_3\\_.pdf](http://www.anao.gov.au/~media/Uploads/Documents/2009%2010_anao_audit_report_3_.pdf)

<sup>5</sup> In two parts, on 17 December 2009 and 12 February 2010. Each is available in the 'Tribunal Statements' page of the Tribunal's website

<sup>6</sup> The histories are attachments to the two Statements mentioned in footnote 5

3.20 After considering the CROPE report the Government decided to implement Recommendation 1 (restoring the salary power to the Remuneration Tribunal) through legislation. This was effected by the enactment of the *Remuneration and Other Legislation Amendment Act 2011* (ROLA). ROLA was proclaimed on 4 August 2011 and took effect on 5 August 2011. ROLA has made amendments to the *Remuneration Tribunal Act 1973*, and also to the *Remuneration and Allowance Act 1990*, which had the effect of restoring to the Tribunal the power to set base salary for Parliamentarians<sup>7</sup>. While the Tribunal is now required to determine parliamentary base salary, transitional provisions in ROLA have maintained the status quo until the Tribunal makes its first determination.

3.21 The amendments in ROLA have also made Tribunal determinations in relation to parliamentary matters not disallowable by the Parliament (other than by further legislative amendment). They also require the Tribunal to publish statements of reasons for its decisions in relation to parliamentarians, and they allow the Tribunal, for the first time, to set separate superannuation salaries for members of the two parliamentary superannuation schemes<sup>8</sup>.

3.22 At the time that the Government introduced into Parliament the Bill which ultimately became ROLA, the Tribunal wrote to the Special Minister of State, the Hon Gary Gray AO MP, offering to consider and comment on CROPE's other recommendations. On behalf of the Government, Minister Gray accepted this approach. He also advised that the Tribunal should report on these matters as they considered them – that is to say, the matters could be considered individually or in groups over a period of time, rather than all at once. A number of CROPE recommendations are the subject of consideration in this Report.

3.23 The Tribunal will consider other items, for instance in relation to travel issues, at a later date. In respect of some of these items, the Tribunal may vary the relevant Determinations. For those items that it cannot determine, the Tribunal will make recommendations to the Government, through the Special Minister of State.

### **The Tribunal's Response and Work Plan – September 2011**

3.24 Following gaining the enhanced powers, and responsibilities, vested in it by ROLA, the Tribunal made a Statement on 30 September 2011<sup>9</sup>. In this Statement the Tribunal noted that there should be a clear delineation of parliamentary 'entitlements' into two streams:

- the remuneration stream – that is, the recompense to parliamentarians for their personal efforts; and
- the business expenses stream – that is, the funding which enables parliamentarians to do their job, with such funding being incapable of being converted to the parliamentarians' own financial benefit.

3.25 The Tribunal also announced that prior to making its first determination on base salary it intended to conduct:

*... with the assistance of a consultant, an assessment of the work of federal parliamentary backbenchers so as to establish, first, a defensible basis for assessing appropriate remuneration and, secondly, a benchmark for future assessments.*

3.26 The Tribunal has noted previously that the great advantage of setting parliamentary pay through a linkage to a pay figure set for other public sector purposes (as occurred in 1990-2011) was that parliamentary pay would be adjusted when that public sector

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<sup>7</sup> The amendments have also brought into the Tribunal's determinative jurisdiction a number of offices in the *Public Service Act 1999*, such as Departmental Secretaries. The Tribunal's actions in respect of these offices are the subject of a separate Report.

<sup>8</sup> Superannuation is also discussed in a later Chapter of this Report.

<sup>9</sup> See the 'Tribunal Statements' page of the Tribunal's website.

remuneration was adjusted. This was an efficient way of ensuring that parliamentary pay did not effectively decrease in comparison to other public sector incomes.

3.27 The major question that went unanswered in such a linkage was whether the starting point was appropriate. In its 2006/07 Annual Report the Tribunal, in covering this topic among others, noted that:

*The proposed reference salary at that time (i.e. 1999) was \$90,000. The Government adopted the Tribunal's recommendation; the link established by regulation has continued since.*

*It is relevant to note that the Tribunal, in its 1999 Report, observed that the base salary for SES Band 2 officers at the first quartile (25%) point was around \$102,000 per annum. The most recent APS SES remuneration survey (as at 31 December 2006) indicated that base salary for SES Band 2 officers, at the minimum and first quartile levels, was \$126,860 and \$157,000 respectively<sup>10</sup>. These data suggest that base salary - currently \$127,060 - has slipped as a proportion of the first quartile SES Band 2 salary compared with the position at the time the link was first proposed.*

*In the Tribunal's view, formal linkages of the kind that have governed parliamentarians' base salary since 1999 have advantages and disadvantages. Adjustments to parliamentarians' remuneration invariably attract criticism whatever the quantum. The now long-standing linkage to one public sector office, or pay point, at least ensures that adjustments are made regularly.*

*The singular disadvantage of such a linkage is that there is no separate evaluation of the unique work of parliamentarians and, consequently, no assessment of the monetary value that should be placed upon it. The Tribunal considers it important that the roles and responsibilities of federal parliamentarians be reviewed regularly - whether, or not, a linkage of the current kind is maintained.*

3.28 While it did not, at the time, quantify what it thought an alternative figure might be, the Tribunal also commented, in its 2007/08 Annual Report, that:

*The Tribunal's concern is that there has been no thorough review of the remuneration of parliamentarians for nearly twenty years. In these circumstances, base salary is not only less now than it might otherwise have been, it is also significantly below the level at which it would have been at 30 June 2008, had there been a consistent, sustained, basis for its fixation. I referred to the apparent adverse shifts in relativities between parliamentarians and the SES in last year's Overview.*

3.29 The subject of the need for an examination of the work of a parliamentarian was followed up in later years – specifically, for example, in its submission to CROPE in December 2009. The Tribunal noted then that it would not be making a submission on an appropriate base salary, because:

*the Tribunal could not at this time suggest what a different base salary for a parliamentarian should be, without undertaking a full review of the role.*

3.30 This remained the situation until 5 August 2011, when the new Tribunal powers contained in the *Remuneration and Other Legislation Amendment Act 2011* (ROLA) took effect, including the power to make an effective Determination on parliamentary base salary.

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<sup>10</sup> The 2006 APS Remuneration Survey can be accessed through <http://www.workplace.gov.au/workplace/Organisation/Government/Federal/Reports/2006APSRemunerationSurvey.htm>

3.31 Not since 1988 has the Tribunal conducted a review of the work of a parliamentarian with a view to establishing an appropriate base salary, and nor has anyone else. The matter was considered prior to the 1999 linkage being established – however 1988 was the last full review of the work of a parliamentarian.

3.32 Having decided on the necessity of a full study of the work of a parliamentarian prior to determining parliamentary base salary, the Tribunal sought approval to engage the assistance of an expert in remuneration to provide the Tribunal with the requisite background information on the roles of parliamentarians, both individually and collectively, on which to base its decision.

3.33 In these circumstances, the Tribunal put its request to engage a consultant to the Government, which agreed to provide one-off additional funding for such a study. A contract was entered into with Egan Associates, whose principal, Mr John Egan, had conducted the 1988 review on parliamentary remuneration for the Tribunal, and who had, more recently, assisted the Tribunal with its examination of the role of Departmental Secretaries and Specified Statutory Officers. The Report that Egan Associates provided in fulfilling this contract is appended to this Report (Appendix 1).

3.34 Utilising the information provided by Egan Associates and also utilising its own resources, the Tribunal considered a number of issues in relation to parliamentarians such as:

- who becomes a member of parliament?
- what is their background and what are their qualifications?
- what sort of career would they be likely to have were they not in the Parliament?
- the various roles of a member – as a representative of their electorate; as a legislator; as a member of parliamentary committees – both outside and inside Canberra were examined;
- working hours;
- level of responsibility;
- job security; and
- other matters of a similar type.

3.35 In relation to many of these issues the Tribunal has accepted the findings of Egan Associates and does not consider that it is necessary to comment further on these topics.

3.36 During September 2011 members of the Tribunal assisted by Mr Egan, also met with 27 members of the Parliament from both Houses and from the various political parties (including Independents). In choosing a sample of members with whom to meet, the Tribunal also had regard to the diversity of electorates and the proximity of electorates to Canberra.

3.37 Each senator and member was also given the opportunity to describe the role of a parliamentarian in response to a questionnaire. Interviews were also conducted with a number of staff members of parliamentarians to gain their perspectives of the workload of a parliamentarian. The Secretaries of the major political parties were also interviewed for the purpose of gaining their perspective on:

- the role of a member of Parliament;
- whether it is difficult to attract appropriate candidates; and
- the challenges in attracting and retaining candidates.

3.38 It should be noted that the contact with parliamentarians was primarily for the purpose of gaining a full appreciation of their workload and responsibilities, rather than seeking their submissions on remuneration.

3.39 The report from Egan Associates has also provided information on comparators from the federal public sector that might provide indications relevant to conclusions on appropriate remuneration; and has provided the Tribunal with information in relation to remuneration arrangements in the private sector in regard to payment to members of professions, executives and others where work value and workload are considered to be comparable.

3.40 The Tribunal wishes to thank Egan Associates for its role in providing a high level of relevant information that the Tribunal has been able to use in coming to its judgment on an appropriate parliamentary base salary.

## 4 Parliamentary Base Salary

### Conclusion

The Tribunal intends to determine parliamentary base salary of \$185,000.

### The Tribunal's findings

4.1 The full Egan Associates (EA) report is appended to this Report. However, in relation to the overall questions regarding the work of a parliamentarian and the base salary to set in relation to that work, the Executive Summary of that work states:

*In gaining a comprehensive appreciation of the role of a Backbench Member of Parliament John Egan was joined by members of the Remuneration Tribunal in discussions with twenty-seven Members of Parliament representing city, urban, rural and regional electorates across all States and the ACT. These interviews incorporated discussions with independent Members of both the House of Representatives and the Senate.*

*Additionally, an online survey was forwarded to all Members of Parliament seeking information on the nature of their work and workload, including their engagement in the Parliament and in the electorate. EA received a 60 per cent return from the online survey which was managed on their behalf by the Australian Survey Research Group.*

*Additionally, EA sought an alternate market based perspective from Mercer<sup>1</sup> in relation to salary levels in both the public and private sectors for work of equivalent value.*

*The current research in many respects was consistent with the research of others and my own earlier research into the role of a Backbench Member of Parliament at the time sittings commenced in the new Federal Parliament House in 1988.*

*It was evident from discussions and from questionnaire returns that Members of Parliament work long hours, both when the Parliament is sitting (around twenty weeks per year) and during weeks when they are in the electorate.*

*While the Tribunal's and my own principal focus was on Backbench Members of Parliament, our interviews also included discussions with Members who had held Ministerial office in a Coalition Government, Parliamentary Whips, committee Chairs and Deputy Chairs. EA also sought input from Principal Advisers and Chiefs of Staff with long experience to obtain a perspective of the role of a Member of Parliament from the staff's perspective and also held discussions with the non-Parliamentary leadership of the Labor Party, Liberal Party and National Party.*

*These enquiries confirmed that Members of Parliament work long hours and those in rural and regional electorates as well as those situated some distance from Canberra devote a considerable period of time each week either travelling in the electorate or travelling to Parliamentary sittings.*

*EA's research revealed that in respect of the 43<sup>rd</sup> Parliament the typical Member has served for a period beyond two terms of the House of Representatives, though more than ninety Members of the Parliament have served less than two terms. The average age of a Member of Parliament is 51, though the range of ages is from early 20s to early 70s.*

*The vast majority of Members of Parliament have undertaken tertiary education, with thirty Members of Parliament having training in the law. A number of regional and country Members have*

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<sup>1</sup> Mercer (Australia) Pty Limited.



*experience in farm management and small business management. A number have prior backgrounds in the trade union movement or as political advisers or commentators.*

*EA's research broadly confirmed that the role of a Backbench Member of Parliament remains similar to that described in the 1988 study, though subsequent to that time the demands on Members from 24/7 media and the level and speed of communication sponsored by the new electronic age has placed significant new demands on all Backbench Members of Parliament arising from these two significant changes.*

*While acknowledging these changed circumstances, both Egan Associates and Mercer in undertaking an independent review have determined that the work value of a Backbench Member of Parliament, while in a number of respects is more complex, is broadly aligned to my assessment in the late 80s. The most problematic and challenging aspect of determining work value experienced by both organisations is wrestling with the duality of a Backbencher's role, one in the Parliament overseeing Government expenditure, formulating policy and legislation, the other in supporting their constituency which in many electorates represent highly challenged sectors of the national economy each indicatively impacting on the wellbeing and welfare of 150,000 citizens.*

*The work value methodology used by Mercer at the time of this research retains the same constructs and processes that I developed for application in both the public and private sectors from the 1970s and has been retained since that time across many Government organisations to which Mercer continue to consult and formed the basis in the early 80s and subsequent to that time as the key work value foundation for the Chief Executive and Senior Executive Services across Governments throughout Australia.*

*In reviewing the salaries paid across a number of industry and sector settings both Egan Associates and Mercer have offered a perspective of the marketplace which is broadly aligned and which in aggregate reflected an indicative salary level drawn from data at both the end of the 2010 calendar year and from recent disclosures for positions of comparable work value, though not necessarily workload. The range in values having regard to both average and median salary levels was from \$150,000 to \$302,269. Having regard to averages the spread was from \$154,000 to \$302,269 and in relation to medians from \$150,000 to \$293,632. The average salary value drawn from both samples was \$208,780.*

*It was acknowledged that Members of Parliament do not receive performance aligned payments which are widely embraced at senior management level in the public sector, though particularly the private sector, and do not receive shares in Australia Inc or any equivalent which is a common benefit of senior management in listed public companies, subject to the performance of those individuals and the companies.*

*A matter raised by all groups with whom both the Tribunal and myself held discussions was the changes to Parliamentary superannuation which took effect from the October 2004 general election and in many respects changed attitude toward tenure and, from many potential candidates' perspectives, was a disincentive given the high risk attached to regular elections and more volatile sentiment in the constituency.*

*In the committee report titled 'Review of Parliamentary Entitlements' of April 2010, in referring to employment after a Parliamentary career, in chapter 2 the report states: "For those wishing to re-enter the workforce, the transition can be challenging, and the absence of accrued annual and long service leave can make a period of readjustment even more difficult. The departure from office can be sudden, for example in the event of an unexpected election result..."*

*Egan Associates acknowledge that (with changes to superannuation policy generally and limits being imposed on contributions to superannuation capped at \$25,000 (this amount to be indexed*

annually) from the 2011-12 financial year in accordance with movement in average weekly ordinary time earnings rounded down to the nearest multiple of \$5,000) two classes of participant exist in the Parliament, Members serving prior to the 2004 elections who participate in a defined benefit plan and those who have joined the Parliament at or after the October 2004 elections who participate in an accumulation plan. EA do, however, acknowledge in this context, that Members of Parliament who have only served subsequent to 2004 are experiencing a relative detriment to their retirement benefit compared to their long serving Parliamentary colleagues, though this detriment is paralleled in the private sector by those who have changed jobs and as a consequence lost the benefit of their participation in legacy defined benefit retirement plans. In this context I have formed the view that adjusting salary alone, which has a direct bearing on retirement benefits and the funding cost, cannot be separated in ensuring the equitable treatment of Members of Parliament.

...

The work value as determined by Egan Associates and Mercer was at the upper reaches of SES1 and potentially overlapping SES2 positions. This was primarily a derivative of the challenge of determining the position impact of a Member of Parliament for which perspectives varied:

- from a small business manager (that is managing the costs of serving the Member and the electorate),
- through to a shared accountability for the Federal Government's annual expenditures in the order of \$400 million or improving the nation's gross domestic product in the order of \$1.3 trillion or the economic benefit of the electorate (which the Member of the House of Representatives in particular has a clear accountability for supporting).

I am mindful of this work value tension and in particular acknowledge that the original work completed by me in 1988 did not focus on the broad electoral impact of a Backbench Member of Parliament, nor the Backbench Member of Parliament's increasing engagement in the stewardship of Government expenditure and sustainability of the nation's gross domestic product.

Having regard to the background of Backbench Members of the Parliament and the market data from all sectors, including the reference points which Members and Parliamentary parties believed to be relevant, I formed the view that an appropriate range of salaries which the Tribunal could draw upon in determining Backbench conditions of employment would be represented by the interquartile range (25<sup>th</sup> percentile to 75<sup>th</sup> percentile) of the individual, median and average salary levels across all comparator samples of sufficient size. EA acknowledge that an interquartile range of medians and averages clearly does not address the differential in the indicative hours worked by position incumbents from which data has been drawn and those of a Backbench Member of Parliament. This factor is highlighted in the report where data has been provided in relation to many skilled technical, trades and operative staffs in the resources sector who on a 38 hour week basis would draw a salary in the range of \$90,000 to \$100,000 (depending on level/ skill), though whose annual earnings arising from shift allowances, extended work days and weekend work can deliver an annual wage above \$200,000.

The interquartile range derived from the analysis referred to above is from \$176,000 to \$236,000, with the median value being \$203,000. The interquartile range of the separate median and average salary samples was comparable.

As will be noted from the material set out in this report, these figures are well below many 75<sup>th</sup> percentile salary comparators which are more likely to be representative of those Members in Government or the private sector working hours comparable to those of a Member of Parliament and would represent a range which would be regarded as competitive on the basis of some Backbench Members' employment prior to entering Parliament, and in many cases would represent

remuneration well below that which would have been received by a select group of Backbenchers given their qualifications and experience.

On the basis that any salary would be determined in the fourth quarter of the 2011 calendar year, it would be my judgement that it needs to reflect a contemporary market at that time. In light of rolling benefits arising under award agreements and the level of pay adjustment in the public and private sectors in the second half of 2011 and in addressing the aged nature of the data drawn upon for this research, EA believe that an appropriate range within which the Remuneration Tribunal should consider the salary of a Backbencher would be as set out in the table below.

	<b>Minimum</b>	<b>Median</b>	<b>Maximum</b>
Salary	\$185,000	\$211,500	\$250,000

While there are clearly a number of Backbench Members of Parliament who could command salaries at a higher level, the background of Members and their period of service is highly varied. Notwithstanding, they all work long hours. In my judgement an appropriate (albeit conservative) positioning would be to determine a salary level between the adjusted minimum and adjusted median of the interquartile range. In this context the adjusted median reflects a median salary across the distribution of averages and medians, not the arithmetic average between the highest and lowest figure within the interquartile range.

In light of the current salary level of a Backbench Member of Parliament being \$140,910, it would be my recommendation that the Remuneration Tribunal make a determination between the adjusted minimum and the median salary within the interquartile range. While there are clearly a number of Backbench Members of Parliament who could command salaries at the higher level others may not be similarly advantaged. The Tribunal needs to reflect on the fact that no performance component would be incorporated in their decision and also the alternate income opportunities, albeit that a Member's workload is considerable by any standards and their current level of experience (both prior to entering Parliament and as a Member of Parliament) is highly varied.

4.2 In general, in regard to the work of a parliamentarian, the Tribunal accepts the EA report's description of the challenges facing a backbench member of parliament and the workload on the member that those challenges demand.

4.3 The long hours of work pointed to by EA, quantified in their report as an average 70 hour work week for a member of parliament, are not the only or even the dominant factor in deciding remuneration. However, the 70 hours is a statistic that cannot be ignored. Parliamentary membership clearly demands a significant and constant level of commitment from senators and members.

4.4 It is also accepted that technological change has had a significant effect on the pressures on a local member over the last decade or so. Email, Facebook, Twitter and the like have increased community expectations on members as regards their availability to their constituents. It is not only the case that it is now easier to contact a local member; the expectation of a speedy response has also increased dramatically. This has also had, to some extent, the effect of increasing the member's profile in the electorate. As some members at interview noted, this means that they are now never off duty.

4.5 The issues broached in the introductory section of this (the Tribunal's) Report about the need for the remuneration to be sufficient to attract a wide range of capable people at various stages of their careers and with various levels of financial commitments are also important matters that have been taken into account.

4.6 The Tribunal has considered the remuneration recommendations of EA, with its conclusion that a base salary in the range of \$185,000 to \$250,000 was appropriate for

members of parliament, taking into account their accountabilities, and taking into account broader remuneration in positions which could be viewed as comparable.

4.7 The Tribunal accepts that the advice from EA is soundly based and that it is a valuable resource which has assisted the Tribunal in the present decision and will assist it in the future. The Tribunal wishes to emphasise that the decision taken by the Tribunal in relation to base salary is wholly its own decision, based on the judgment of the Tribunal having considered all of the available information. An important part of the Tribunal's assessment has been consultations with a range of interested parties, including parliamentarians, officers of the parliament and party officials. Additionally, the Tribunal's public reports over the past five or six years have drawn attention to the Tribunal's concerns about parliamentary remuneration. However the Tribunal also notes that it has long been its approach to be conservative in setting figures for public sector remuneration, which is, of course, funded ultimately by the taxpayer. Consequently, the Tribunal intends to determine a figure at the bottom of the range suggested by EA.

4.8 The Tribunal intends to determine parliamentary base salary of \$185,000 per annum. This will be done when the superannuation question (explained in Chapter 6) is resolved.

## 5 Additional Salaries of Ministers, Parliamentary Office Holders and Shadow Ministers

### Conclusions

Offices to be newly remunerated – figures are per annum:

- Manager of Opposition Business in the House of Representatives, at 27.5% additional salary;
- Shadow Cabinet minister, at 25.0% additional salary;
- Shadow minister outside shadow Cabinet, at 20.0% additional salary.

Limitations:

- There is a limitation on the number of shadow ministers who can be paid each of the additional salary rates, so that the number of shadow ministers does not exceed the number of Government Ministers.

### Background

5.1 The Tribunal's responsibilities, as set out in its establishing legislation, include reporting annually '*to the Minister on the question whether any alterations are desirable in the salaries payable to Ministers of State out of public moneys of the Commonwealth*'<sup>1</sup>; and determining, also annually, '*the allowances... to be paid out of the public moneys of the Commonwealth to members of the Parliament... by reason of their holding particular offices, or performing particular functions, in, or in relation to, the Parliament or either House of the Parliament*'<sup>2</sup>. Thus the Tribunal's role in relation to ministerial salaries is advisory ('reporting') while its role in relation to additional salary for other roles in the Parliament is decisive ('determining').

5.2 The reasoning for the Tribunal having different roles in relation to ministerial salaries and those of other parliamentary office holders, such as the presiding officers of each House of Parliament, centres on the wording of the Australian Constitution. It has been the longstanding legal interpretation that section 66 of the Constitution only gives the Parliament the power to decide on the total sum of money that can be paid to Ministers of State as salary, which it has done in the *Ministers of State Act 1952*, but does not give the Parliament the power to make laws determining the salaries of individual Ministers. Thus the Parliament cannot legislate to give the Tribunal the power to determine salaries for individual Ministers. This remains a matter for executive government.

5.3 On the other hand parliamentary offices other than Ministers have not had this restriction. Thus the Tribunal has, since its inception, had the power to determine additional remuneration for those holding particular offices or performing particular functions.

5.4 Indeed the Tribunal has continued to determine the additional salary for parliamentary office holders since 1990, even though it no longer had the power to determine base salary.

5.5 Fulfilling its functions in relation to parliamentary offices and Ministers, respectively, the Tribunal most recently made Determination 2011/22 – *Parliamentary Office Holders – Additional Salary* on 4 October 2011<sup>3</sup>; and on the same date reported to the Minister<sup>4</sup> on the additional amounts, expressed as percentages of the base salary, that should be used as

<sup>1</sup> *Remuneration Tribunal Act 1973* s 6(1) – and noting that 'Ministers of State' includes Parliamentary Secretaries

<sup>2</sup> *Remuneration Tribunal Act 1973* s 7(1)

<sup>3</sup> Available on [remtribunal.gov.au](http://remtribunal.gov.au) at 'Determinations by Year'

<sup>4</sup> By which is meant the Minister with responsibility for the *Remuneration Tribunal Act 1973* – currently the Special Minister of State for the Public Service and Integrity

ministerial salaries, in Report 1 of 2011 – *Report on Ministers of State – Salaries Additional to the Basic Parliamentary Salary*<sup>5</sup> (Report 1 of 2011).

5.6 The Tribunal made a Statement in relation to these documents on 17 October 2011<sup>6</sup> noting that the Tribunal determined, or reported on, the additional amounts as a percentage of the basic parliamentary salary, and explaining that the pre-existing percentages remained unchanged.

5.7 The Tribunal has, at periods in the past, set these amounts as dollar figures, but changed to a percentage approach in 1999. A major reason for the percentage approach was that, as the Tribunal did not in 1999 (or since) determine base salary, the percentage approach for additional salary meant that additional salary could be adjusted at the same time as any adjustment to base salary without the need for a new Determination. The Tribunal's view is also that the percentage approach has allowed the Tribunal to set out clearly the appropriate relativities between various roles in the Parliament.

### **The Tribunal's current approach to additional salaries**

5.8 The Tribunal has noted previously that the salary of a Minister has not maintained its relativity to that of other offices. For example it was noted<sup>7</sup> that in the 1960s the aggregate remuneration of a Minister was of the order of that of a Departmental Secretary while today that is far from the case. While the Tribunal had noted<sup>8</sup> previously, prior to completing its present review of Secretaries, that the remuneration of Secretaries was '*the proper reference point for the salaries of senior Cabinet Ministers*', this should not be taken to mean that ministerial remuneration should equal that of a Secretary..

5.9 There is no immediate intention to make major changes to any of the current percentages representing additional salary for the currently listed offices.

5.10 One area of concern for the Tribunal in setting parliamentary relativities, as expressed by the various percentages or dollar amounts, has concerned whether Ministers have actually been paid the amount recommended as ministerial salaries. The maximum sum that can be paid in respect of the combined ministerial salaries is a published figure, being recorded in the *Ministers of State Act 1952*, with the current annual figure being \$3,500,000<sup>9</sup>.

5.11 However, while the Ministers of State Entitlements Handbook, published on the Department of Finance and Deregulation website<sup>10</sup>, indicates that Ministers are to be paid additional salary at the percentages recommended by the Tribunal, the amount paid to Ministers is not of itself published by the Chamber Departments, who now pay Ministers.

5.12 The Tribunal understands, however, that the actual amounts of additional salaries that have been paid are exactly as recommended by the Tribunal.

### **Shadow ministers**

5.13 While the Tribunal is not, at this stage, making any changes, or commitment to change, to the relativities of the remuneration for offices listed in Report 1 of 2011 and the relevant determination, it has decided that it would now be appropriate to set additional salary for a limited number of shadow ministers in the Opposition.

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<sup>5</sup> Available on [remtribunal.gov.au](http://remtribunal.gov.au) at 'Determinations by Year'

<sup>6</sup> Available on [remtribunal.gov.au](http://remtribunal.gov.au) at 'Tribunal Statements'

<sup>7</sup> Tribunal Annual Report 2007, p 4

<sup>8</sup> Tribunal Annual Report 2009/10, p 6

<sup>9</sup> *Ministers of State Act 1952* s 5

<sup>10</sup> At [http://maps.finance.gov.au/entitlements\\_handbooks/index.html](http://maps.finance.gov.au/entitlements_handbooks/index.html)

5.14 This approach was foreshadowed by the Tribunal in its submission of 17 December 2009 to the Committee for the Review of Parliamentary Entitlements, when it stated<sup>11</sup> that:

*It is also the case that shadow ministers are not paid any additional salary. This has always been so, but should not necessarily continue to be so. It has perhaps never been a high priority issue for governments, as it is obviously of more interest to oppositions than governments.*

*However, the Tribunal considers that there is a strong case for setting additional remuneration for shadow ministers. These individuals have greater responsibilities than a general opposition backbencher and well defined parliamentary functions. In the Tribunal's view it is anomalous that a shadow minister, having the significant challenge of preparing to assume the onerous responsibilities of a minister, should be paid at the same rate as a backbencher.*

The Report of that Committee addressed this issue, stating<sup>12</sup> that:

*The committee supported the view of the Remuneration Tribunal and the two chief whips that there is a strong case for setting additional remuneration for shadow ministers. These parliamentarians have no additional remuneration yet greater responsibilities than opposition backbenchers and well-defined and recognised parliamentary functions.*

5.15 The Report supported this statement in Recommendation 6, recommending, among other things, that the Remuneration Tribunal:

*...determine an appropriate level of additional salary for shadow ministers.*

5.16 By convention under the Westminster system the two major groupings in the Parliament form the Government and the Opposition. The Government allocates responsibility for various aspects of its program to Ministers of State through Administrative Arrangements Orders. The number of Ministers that can be appointed to the Australian Parliament (and as referred to earlier the total salary amount for those Ministers) is limited by a decision of Parliament in the *Ministers of State Act 1952*. Section 4 of that Act specifies that there can be a maximum of 42 office holders of ministerial rank – comprising 12 who are designated as Parliamentary Secretaries and 30 who retain the title of Minister. In practice the Government of the day generally further divides the above group into Cabinet Ministers and Ministers outside Cabinet. The Tribunal's Report on the additional salaries for Ministers of State sets out differential rates of additional salary for these two groups of Ministers<sup>13</sup>.

5.17 The Australian parliamentary publication 'House Practice'<sup>14</sup> defines the Opposition thus:

*The Opposition is the party or group which has the greatest number of non-government Members in the House of Representatives. It is organised as a body with the officially recognised function of opposing the Government. The party (or sometimes coalition of parties) is recognised as the 'alternative Government'—that is, the body which would form the Government, with its leader as Prime Minister, if the existing Government were to lose the confidence of the House or the people.*

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<sup>11</sup> Page 9, section 3.5

<sup>12</sup> *Review of Parliamentary Entitlements, Committee Report*, April 2010, p 59

<sup>13</sup> In general, 72.5% for Cabinet Ministers and 57.5% for the outer ministry, with some variations for individuals who also perform other functions.

<sup>14</sup> <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;db=PROCEDURAL;id=procedural%2Fpractcer%2Fchapter02.38.doc;page=0;query=opposition;rec=1;resCount=Default>

*The Opposition is an important component in the structure of the House and is considered to be essential for the proper working of democratic government and the parliamentary process in the Westminster system.*

5.18 There are no legislated rules for how an Opposition should be structured, but in practice the Opposition, in taking the role of alternative government, structures itself as a Government would – with a Leader as alternative Prime Minister and a shadow ministry as an alternative to the actual ministry. That is not to say that Oppositions mirror the Government of the day exactly – indeed the division of portfolio shadow ministries is not normally identical to the Government structure of portfolio ministries.

5.19 The Tribunal considers that it is clear that shadow ministers perform identifiable functions in relation to the Parliament – notably in holding the Government of the day, and its Ministers, to account, and in preparing to form a viable Government if, and when, necessary. Accordingly, considering its powers in section 7(1) of the *Remuneration Tribunal Act 1973*, and considering legal advice on the subject which indicated that the Tribunal had the power to set additional salary for shadow ministers in regard to their particular functions in, or in relation to, the Parliament, the Tribunal intends now to determine salaries for shadow ministers in the Opposition.

5.20 As stated in the Tribunal's submission to CROPE, the fact that additional salary for shadow ministers has not been set in the past is not a cogent reason for not doing so now. It is one of the anomalies of the current additional salary system that shadow ministers tend to be, taking into account the variety of other parliamentary offices that attract additional salary, probably the lowest remunerated members of the Parliament. An Opposition member who was, for example, the Deputy Chair of a Parliamentary Committee would be likely to be paid more than the Shadow Treasurer.

5.21 It has perhaps been the view in the past that shadow ministry is a form of apprenticeship, and that the person receives their financial reward when his or her party forms Government and he or she becomes a Minister of State. This view is contrary to the Tribunal's general view that the proper way to remunerate a person is to remunerate them fairly now for what they are doing now. Allied to this is the fact that the additional salary paid to a Minister is not a reward for years of striving – rather it is set as a reasonable wage for the job that the Minister is doing at that point of time.

5.22 A shadow minister's job, done properly, is an onerous task and it is inarguable that a shadow minister has responsibilities additional to those of an Opposition backbencher, even though the two are currently paid the same amount. Shadow ministers do not have the responsibilities and decision making powers of a Minister and are perhaps not as publicly accountable, but nor does the Tribunal intend to remunerate them at the same level.

### **How shadow ministers are to be paid**

5.23 In considering how to structure the additional pay that it has determined for shadow ministers, the Tribunal has first looked at what limitations are placed on the size of the Ministry, at how remuneration is structured for Ministers, and at what additional salaries are already paid to office holders in the Opposition.

5.24 Under the *Ministers of State Act 1952* the maximum of 42 persons of ministerial rank contain 12 Parliamentary Secretaries, with the remaining 30 being Ministers. Of the 30, these are by convention split into Cabinet Ministers and Ministers outside Cabinet. While not regulated, by convention Cabinets tend to contain 20 members or slightly less - the second Gillard Ministry as at 12 September 2011, for example, contained 20 Cabinet Ministers, 10 Ministers outside Cabinet and 12 Parliamentary Secretaries<sup>15</sup>. The standard additional salary for these offices (with some variation for Ministers holding leadership or other roles) is:

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<sup>15</sup> It is understood that ministerial changes announced on 12 December 2011 have varied these figures.



- Cabinet Minister – 72.5%
- Minister outside Cabinet – 57.5%
- Parliamentary Secretary – 25%

5.25 There are also a number of Opposition office holders who already receive additional salary – such as the Leader and Deputy Leader of the Opposition and the Opposition Leader in the Senate. In the circumstances where the Opposition is a coalition, the Leader(s) of the minor party or parties will be paid additional salaries, unless they have very small numbers (less than five members in the Parliament in total). A number of these office holders in the current Opposition receive additional salary at a higher level than the Tribunal intends to pay shadow ministers. The current amounts are:

- Leader of the Opposition – 85.0%
- Deputy Leader of the Opposition – 57.5%
- Leader of the Opposition in the Senate – 57.5%
- Leader of the second coalition Party<sup>16</sup> - 45.0%.

5.26 In setting additional salary for shadow ministers the Tribunal intends to set the following limitations:

- no group of paid shadow ministers will be larger than the corresponding group of Ministers in the Government of the day. In saying this the Tribunal is not trying to impose obligations on how an Opposition can structure itself – it is setting a maximum on the number of shadow ministers who can be paid certain levels of additional salary.
- no person who is a shadow minister will be paid more than one additional salary – office holders whose additional salary for another role is higher than the additional salary for a shadow minister shall continue to be paid the higher rate for the other role only. In deciding this, the Tribunal notes that such office holders are invariably members of the shadow ministry and considers that their current additional salary remunerates them adequately.
- the office holders paid at a higher rate for their current role will be counted as shadow ministers for the calculation required as a result of the decision set out in the first dot point of the limitations.
- the Tribunal does not intend to determine additional salary for shadow parliamentary secretaries. The Tribunal does not consider that the concept of a shadow parliamentary secretary holding a Parliamentary Secretary to account has the same validity as the concept of a shadow minister holding a Minister to account. In the Tribunal's view, the functions that shadow parliamentary secretaries have in relation to the Parliament are not of sufficient weight to warrant recognition in additional remuneration. It is also the case that Oppositions will, by their nature, have fewer members normally than a Government; and it appears reasonable to the Tribunal that overall fewer Opposition members should receive additional salary for ministerial roles, in the broadest sense, than Government members.

5.27 The Tribunal, taking into account the roles and responsibilities of shadow ministers and those of other holders of parliamentary offices, intends to determine the additional salary percentage for a member of the shadow Cabinet at 25.0%. This is equivalent to the additional salary that the Tribunal recommends for a Parliamentary Secretary. This amount is almost one third of the additional salary recommended for a Cabinet Minister (72.5%), recognising the significant differences in the roles between Government and Opposition.

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<sup>16</sup> This office holder is paid this amount as the Leader of a party with more than 10 members in the Parliament

5.28 The Tribunal intends to determine that a shadow minister who is a member of the shadow outer Cabinet will be paid 20.0% additional salary per annum. The ratio of this to the additional salary payable to a shadow Cabinet Minister is 80:100. It is noted that the ratio of the recommended additional salary for a Minister outside Cabinet (57.5%) as against the additional salary for a Cabinet Minister (72.5%) is 79.3:100.

5.29 How the limitation on numbers will work in practice is this - the maximum number of Opposition members who can be paid \$36,600 will equal the number of Ministers in Cabinet at a given time, less the number of Opposition office holders entitled to an additional salary of more than 25.0%. The maximum number of Opposition members who can be paid 20.0% will be 30 less the number of shadow ministers paid \$36,600 and less the number of Opposition office holders paid more than 25.0%.

5.30 As an example of this, if there are 20 Ministers in Cabinet, and five Opposition members who already earn additional salary of more than 25.0%, then the number of shadow ministers who can receive 25.0% is 20 minus 5 = 15. Assuming there are 15 shadow ministers paid 25.0%, the number of shadow ministers who can be paid 20.0% is 30 (total number of Ministers) minus 15 (shadow ministers paid 25.0%) minus 5 (Opposition members with additional salary more than 25.0%) = 10.

5.31 In this context, the Tribunal intends to recognise one more Opposition office which will be remunerated at above the standard rate for a shadow minister. The Tribunal notes that the Manager of Opposition Business in the House of Representatives has a significant role in the running of Parliament and intends to determine additional salary for that office of 27.5%, 2.5% more than a shadow minister. This rate has been set in consideration of the fact that history shows that this office holder is a senior Opposition member also holding a shadow ministry.

5.32 The 27.5% additional salary will be set in recognition of both roles. This is in similar proportions to the additional salary of the relevant office holder in the Government as compared to that of a Cabinet Minister. The provisions above, relating to the remuneration and counting of shadow ministers, will also apply to the Manager of Opposition Business in the House of Representatives – that is to say, the holder of the office will be paid total additional salary of 27.5% and will be counted against the number of Opposition members who can be paid as shadow ministers.

5.33 There may also be a small number of Opposition office holders who receive less than 25.0%, or indeed 20.0%, additional salary for their current role. If these members are nominated as a member of the shadow ministry, they will be eligible to receive the additional salary of a shadow minister, but not remuneration for both roles.

### **What about the other parties in the Parliament?**

5.34 The concept of Ministers and shadow ministers rests to a large extent on an assumption that Parliament is a two Party, or perhaps more accurately two 'groupings', system. However in the current parliamentary system there are also parties not formally aligned to the Government or Opposition, and there are also similarly unaligned Independent members of each House. Does the concept of a shadow ministry extend to these groups?

5.35 The Tribunal already determines additional salary for office holders in parties who have sufficient members in the Parliament. Thus the Leader of the Australian Greens receives additional salary (42.5%), as formerly did leaders of the Australian Democrats (at a different amount). Whips in such parties can also receive additional salary – the current Australian Greens Whip in the Senate receives an additional 9.0%.

5.36 The Tribunal does not consider that the concept of a minor party having a 'shadow ministry' is consistent with current parliamentary practice, quoted at paragraph 5.17 above. There it was noted that the Opposition is the group with the *greatest number* (emphasis added) of non-Government members in the House of Representatives. There is one

Government and one Opposition – nowhere does the concept of an alternative or supplementary Opposition appear. Should the Government lose the confidence of the House, it is the Opposition which would form the next Government. The Tribunal does not intend to extend the determination of additional salary for ‘shadow ministers’ to any party outside the official Opposition, except in the possible scenario set out in the following paragraph.

5.37 The Tribunal notes circumstances from Parliaments around Australia, such as in Tasmania and South Australia, where members of minority parties have been made Ministers although the party they represented was not formally aligned to the Government of the day. In these circumstances those individuals would, in the Tribunal’s view, be paid as Ministers. Were a loose, rather than a formal, coalition of non-government parties to occur whereby it was agreed that a member of a minority party would fill a certain shadow portfolio, then this person would, in the view of the Tribunal, have the capacity to be paid as a shadow minister within the constraints of the total number who can be paid.

## 6 Superannuation

### Recommendation

The Remuneration Tribunal recommends that:

1. the pensions of retired parliamentarians cease to be indexed to the current salaries of current parliamentarians; specifically that the link in the superannuation scheme established by the 1948 Act:
  - a. between the current base salary of a current parliamentarian and the basic pension of a retired parliamentarian be severed;
  - b. between the current additional salary of a current office holder in parliament and the additional pension of a retired parliamentarian be severed; and
2. alternative indexation arrangements be established for both the basic pension, and the additional pension, of retired parliamentarians who derive retirement benefits from the superannuation scheme established by the 1948 Act.

6.1 Superannuation is a complicated subject. The superannuation arrangements applying to federal parliamentarians - particularly those members who joined the Parliament before 9 October 2004 - are themselves complex.

6.2 Presently - depending upon the date upon which they joined the Parliament - members derive their superannuation benefits from one of two sources:

- an unfunded defined benefit scheme (covering members who joined the Parliament before 9 October 2004); or
- a funded arrangement under which the equivalent of an 'employer' contribution is paid to a complying superannuation fund of the member's choice (this arrangement applies to members who joined the Parliament on or after 9 October 2004).

6.3 The Remuneration Tribunal does not determine the superannuation arrangements applying to parliamentarians. Rather, under the Administrative Arrangements Order, responsibility for their superannuation arrangements is vested in the Minister for Finance and Deregulation.

6.4 Accordingly, in order to ensure that its understanding of parliamentary superannuation arrangements was properly informed, the Tribunal, on 20 October 2011, wrote to the Secretary of the Department of Finance and Deregulation, Mr David Tune PSM, seeking:

*....briefing papers about each of these superannuation arrangements describing their respective particulars, including the costs and benefits to individual parliamentarians (including reversionary benefits) and the actuarial costs of each scheme.*

6.5 Materials from the Department of Finance and Deregulation are provided as an attachment to this Chapter of the Report.

6.6 The Tribunal considers that, for present purposes, this material provides a sufficient basis for understanding the attributes of the two sets of current superannuation arrangements applying to members. More detailed information is available through the Parliamentary Library website and through the 'References' document published on the Tribunal's web site which includes links to:

- the Parliamentary Superannuation Handbook;
- the *Parliamentary Contributory Superannuation Act 1948 (1948 Act)*; and
- the *Parliamentary Superannuation Act 2004 (the 2004 Act)*

## The Benefits Available to Members

6.7 The material provided by Finance summarises the benefits available under the arrangements established by the 2004 Act and the scheme established by the 1948 Act. In short the 1948 scheme provides qualifying parliamentarians, on retirement, with a reversionary pension (that is, benefits continue, at a discount, for the spouse and immediate dependents after the death the pensioner). Subject to the member's parliamentary career, this pension may have two components:

- a basic pension - for 8 years service, the pension is 50% of 'parliamentary allowance'. An additional 2.5% for each subsequent year of service is received up to a maximum of 75% of 'parliamentary allowance' (which is achieved at 18 years service).
- an additional pension payable for service as a Minister or Parliamentary Office Holder. The rate is 6.25% of the additional salary payable for each year of service as a Minister or Parliamentary Office Holder. The additional pension may not exceed 75% of the salary payable for the highest office ever held.
- up to 50% of the total pension may be commuted to a lump sum.
- at the rate of parliamentary base salary ('parliamentary allowance' being, then identical to parliamentary base salary) prevailing at 1 July 2011 - \$140,910 - the achievable basic pension amounts were as shown in the following table:

• Years of Service	• Pension percentage of Parliamentary Allowance (%)	• Pension amount
• 8	• 50.0%	• \$70,455
• 9	• 52.5%	• \$73,978
• 10	• 55.0%	• \$77,501
• 11	• 57.5%	• \$81,023
• 12	• 60.0%	• \$84,546
• 13	• 62.5%	• \$88,069
• 14	• 65.0%	• \$91,592
• 15	• 67.5%	• \$95,114
• 16	• 70.0%	• \$98,637
• 17	• 72.5%	• \$102,160
• 18 or more	• 75.0%	• \$105,683

- the Tribunal notes that, as the 1948 scheme was closed to new members on and from 9 October 2004, all current parliamentarians who are covered by the 1948 scheme are now entitled to at least a basic pension.

Under the 2004 Act, on retirement, a former member receives a standard accumulation scheme benefit - namely a lump sum made up of contributions plus investment earnings. A member, although not obliged to make contributions to the nominated scheme, may elect to do so. Where the sum of the Commonwealth's contribution and that of the member exceeds concessional tax contribution levels, excess superannuation contributions tax (ESCT) will apply. Therefore, notwithstanding the scope to make additional contributions, there is - as in the case of other current non-exempt superannuation arrangements - a practical ceiling

to such contributions and, therefore, to the benefits that may ultimately be paid to the member.

6.8 It is also relevant to note that, under the 2004 Act arrangements - as in any industry accumulation scheme - the investment risk is borne, entirely, by the scheme member.

6.9 In contrast, under the scheme established by the 1948 Act, there is no investment risk. Contributions are paid in respect of both the base salary and any additional salary received by a member while in Parliament. However, the resultant pensions are linked to the current base and additional salaries of current members, so that there is, in fact, no direct relationship between contributions and their retirement benefits. Even those members of the 1948 scheme who retired before qualifying for a pension - and who simply received a lump sum - did not bear any investment risk.

6.10 In discussions with the Tribunal, parliamentarians elected after 9 October 2004 universally expressed the view that the superannuation arrangements available to them are not as generous as those available to members covered by the scheme established by the 1948 Act.

6.11 The Tribunal has not attempted to evaluate the costs and benefits of each scheme. However, it notes that the actuarial investigation of the 1948 Scheme (as at 30 June 2008) published in February 2009 assessed the actuarial cost of each scheme as follows:

- 1948 Act - notional 'employer' contribution rate of 47.9% of salaries (this was expected to decrease at the 2011 valuation);
- 2004 Act - 15.4% of salaries.

6.12 Based on these figures, the Tribunal can understand the assessment of parliamentarians about the relative value of benefits between the 2004 Act arrangements and the 1948 Act scheme. However, the Tribunal is not proposing that there be any return to previous arrangements for those members who joined the Parliament on or after 9 October 2004.

6.13 The fact that different superannuation arrangements apply between members of the one group is not uncommon. For example, in the Australian Public Service, the defined benefit schemes were closed some years ago and new employees have since been entitled to coverage by an accumulation scheme.

6.14 It is also relevant to note that the population of current members who will draw their retirement benefits from the scheme established by the 1948 Act is declining and, at some point, will disappear altogether.

### **The Tribunal's Role in Parliamentary Superannuation**

6.15 As noted above, the Tribunal does not determine the superannuation arrangements applying to parliamentarians.

6.16 Under the 1948 Act and the 2004 Act, contributions are paid on an amount referred to as 'parliamentary allowance'. This amount is linked, by statute, to parliamentary base salary as determined by the Tribunal. Accordingly, the Tribunal, in exercising its responsibility for determining parliamentary base salary, effectively 'determines' the amounts of contributions payable under each Act.

6.17 The November 2011 advice provided by the Department of Finance and Deregulation notes that, until the date of effect of the Tribunal's determination of parliamentary base salary:

*....the parliamentary allowance (had been) the same for both the 2004 Act and 1948 Act members and is equivalent to the parliamentary base salary.*

6.18 That alignment may now be varied, as a key provision of the *Remuneration Tribunal Act 1973*, consequent upon the enactment of the *Remuneration and Other Legislation Amendment Act 2011*, enables the Tribunal to now distinguish the amount of 'parliamentary allowance' from parliamentary base salary. The Senate Supplementary Explanatory Memorandum in respect of the then Remuneration and Other Legislation Amendment Bill 2011, stated that the relevant provision would:

*....give the Tribunal the discretion to determine that those amounts do not form part of the salary used to determine contributions of current members and benefits payable to former members under the 1948 Act. Those amounts would, however, form part of the salary for superannuation purposes of members elected at the October 2004 and subsequent elections.*

6.19 Specifically, s7(1A) of the *Remuneration Tribunal Act 1973* confers this discretion on the Tribunal; it provides as follows:

*The Tribunal may determine that a portion of parliamentary base salary is not parliamentary allowance for the purposes of the Parliamentary Contributory Superannuation Act 1948.*

### **The 2008 changes to Parliamentary Base Salary**

6.20 The background to the link between parliamentary base salary and Reference Salary A in the Tribunal's Principal Executive Office (PEO) classification structure is set out elsewhere in this Report.

6.21 The Government, through the making of the Remuneration and Allowances Amendment Regulations 2008 (No. 1):

- 'froze' parliamentary base salary at its immediately 2007 level; and
- discounted future adjustments in Reference Salary A by a fixed dollar amount equivalent to the amount of the adjustment then forgone.

6.22 This has meant that, since the making of that Regulation, parliamentary base salary has been \$5470 less than Reference Salary A as determined by the Tribunal.

6.23 The Tribunal is not aware of like discounting at the same time in the broader community and would understand that a parliamentarian might regard the loss of continuing alignment between parliamentary base salary and Reference Salary A as being unjustified. Similarly, the Tribunal would also understand that, to this point, a retired member - whose benefits are linked to the current salary - might also consider the continuation of that discount unjustified.

### **Decision of the Tribunal**

6.24 Consistent with its current powers under the *Remuneration Tribunal Act 1973* the Tribunal intends to formalise the difference between parliamentary allowance and parliamentary base salary at the same time as it determines base salary.

6.25 The Tribunal intends to determine that the **portion** of parliamentary base salary not to be taken as 'parliamentary allowance' for the purposes of the *Parliamentary Contributory Superannuation Act 1948*, will be the difference between the current value of Reference Salary A (\$146,380) and the amount that the Tribunal intends to determine as parliamentary base salary (\$185,000) - that is \$38,620.

### **The Tribunal's Observations about Parliamentary Superannuation**

6.26 As noted earlier, the basic pension of a retired parliamentarian is 'indexed' to the current base salary of a current parliamentarian. This link was established in 1973 through amendments made to the 1948 Act by the *Parliamentary and Judicial Retiring Allowances Act 1973*.

6.27 Similarly, since 1981, the additional pensions arising in connection with service as a Minister or Parliamentary Office Holder have been 'indexed' to the current additional salaries of the particular office concerned in the manner described earlier.

6.28 Although the Tribunal can, under the current legislative provisions, draw a distinction between 'parliamentary allowance' and parliamentary base salary, the legislative changes allowing it to do this have not extended to allowing it to draw a like distinction to distinguish current additional salaries from the 'additional pensions' of retired members.

6.29 The Tribunal is strongly of the view that base and additional salaries for current parliamentarians should not define payments to retired members.

6.30 In the absence of a suitable legislative provision in the *Remuneration Tribunal Act* 1973, the Tribunal is of the view that this is a matter of sufficient importance for it to delay implementing its intended decisions on parliamentary salary, until there is a chance to resolve the issue through legislative change.



## Attachment to Chapter 6 - Superannuation

### *Key scheme features of the 2004 Act and 1948 Act*

	<b>Arrangements under the 2004 Act</b>	<b>1948 Act - Parliamentary Contributory Superannuation Scheme (PCSS)</b>
<b>General description</b>	Funded accumulation scheme with 15.4% employer contribution paid to a superannuation fund of the member's choice.	Unfunded defined benefit scheme. Set benefit based on years of service and salary.
<b>Membership</b>	Members who joined or re-joined the Parliament from 9 October 2004 onwards.	Members who joined the Parliament before 9 October 2004. Only members with continuous service from before this date remain as contributory members of the PCSS.
<b>Member contribution</b>	Voluntary – salary sacrifice or from other after tax salary or other income.	Compulsory from after tax salary, paid to the CRF* 11.5% up to 18 years service. 5.75% for 18+ years service. Salary sacrifice contributions are not permitted.
<b>Contributions payable on</b>	Parliamentary allowance** + additional salary for service as a Minister or a Parliamentary Office Holder.	Parliamentary allowance** + additional salary for service as a Minister or a Parliamentary Office Holder. (see also <i>Calculation methodology of contributions and pensions under the 1948 Act, including for additional offices below</i> )
<b>Qualifying period for pension</b>	N/A – lump sum benefit.	Voluntary retirement – 12 years service or 4 terms*** (whichever occurs first) Involuntary retirement – 8 years service or 3 terms*** (whichever occurs first)
<b>Preservation/ deferral of benefit</b>	Superannuation industry preservation rules apply – between 55 and 60 depending upon age of member.	Deferral of benefit to age 55 for members joining or rejoining on or after 10 November 2001. Superannuation preservation rules apply to lump sums.

\* **Note:** Members under the 1948 Act will have less take home salary as they are required to pay 11.5% (or 5.75% after 18 years service) of their after-tax salary as a 'member contribution'.

\*\* **Note:** At present, the parliamentary allowance is the same for both the 2004 Act and 1948 Act members and is equivalent to the parliamentary base salary. The *Remuneration Tribunal Act 1973* now allows the Remuneration Tribunal to set a lower parliamentary allowance for members of the 1948 Act.

\*\*\* **Note:** A term will occur on dissolution of the House of which the PCSS member was a member. For a senator with a full six year term, one term will occur after three years and another term will occur after the full six years.

## Attachment to Chapter 6 - Superannuation

	Arrangements under the 2004 Act	1948 Act - Parliamentary Contributory Superannuation Scheme (PCSS)
<b>Benefits on retirement</b>	Lump sum made up of contributions plus investment earnings.	<p>The pension has two components:</p> <p><u>Basic pension</u> based on % of parliamentary allowance depending on period of service. For 8 years service, the pension is 50% of parliamentary allowance.</p> <p>An additional 2.5% for each subsequent year of service (pro-rated for days served) is received up to a maximum of 75% of parliamentary allowance (which is achieved at 18 years service).</p> <p>An <u>additional pension</u> is payable for service as a Minister or Parliamentary Office Holder.</p> <p>The rate is 6.25% of the additional salary payable for each year of service as a Minister or Parliamentary Office Holder (pro-rated for days office is held). The additional pension may not exceed 75% of the salary payable for the highest office ever held.</p> <p>Can commute up to 50% of the total pension to a lump sum.</p> <p>(see also <i>Calculation methodology of contributions and pensions under the 1948 Act, including for additional offices below</i>)</p>
<b>Minimum SG</b>	Employer contribution rate of 15.4% exceeds Superannuation Guarantee (SG) minimum contribution rate of 9%.	Where pension eligibility is not met, a lump sum benefit is paid comprising return of member contributions plus Commonwealth supplement. Amount of supplement depends upon whether retirement is voluntary or involuntary and will not be less than what would be the minimum SG benefit.
<b>Tax</b>	15% contributions tax up to concessional contributions cap. Investment earnings taxed in the fund. Benefits paid tax free to those aged 60+.	<p>The pension is taxed differently depending on the source of the benefits:</p> <ul style="list-style-type: none"> <li>the portion comprising the member's compulsory contributions have been paid from after-tax salary and are not subject to further tax at the time the benefit is paid.</li> <li>the portion funded by the employer has not been taxed previously. On payment, it is subject to tax at marginal tax rates, with 10% offset for those aged 60+.</li> </ul>
<b>Invalidity</b>	Typically lump sum consisting of account balance, plus insured amount. Member elects level of insurance and pays for insured amount at commercial rates.	Pension is at the same rate as for retirement. Less than 8 years service - depends on class of invalidity but up to 50% of salary maximum.

## Attachment to Chapter 6 - Superannuation

<b>Death</b>	Lump sum consisting of account balance, plus insured amount. Can be paid to one or more of member's dependants as chosen by member. Member elects level of insurance and pays for insured amount.	Reversionary pension to spouse or eligible children. Spouse rate – 5/6ths of member's pension. Pension paid to eligible children where there is no spouse – eligible children are under 16, or under 25 in full time study and financially dependent on the member. The pension ceases when the child reaches 16 or 25.
<b>Pension indexation methodology</b>	N/A – lump sum benefit.	Basic pension will increase when the rate of parliamentary allowance increases. Additional pension will increase with increases to the relevant salaries for additional offices.
<b>Administration costs</b>	Depends upon member's fund – member pays administration fees (deducted from account balance).	Commonwealth funded – PCSS is administered by the Department of Finance and Deregulation.
<b>Actuarial cost of the scheme</b>	15.4% of salaries.	Notional employer contribution rate 47.9% of salaries as at 2008 actuarial valuation and is expected to decrease at the 2011 valuation.

## Attachment to Chapter 6 - Superannuation

### Calculation methodology of contributions and pensions under the 1948 Act, including for additional offices

Contributions and pensions payable under the 1948 Act are based on service as a member of Parliament. Additional contributions and pensions would be payable for service as a Minister or eligible Parliamentary Office Holder.

#### **Service as a member of Parliament - contributions and pensions**

- Serving members of Parliament are required to pay basic contributions of 11.5% of the *parliamentary allowance* for the duration of their parliamentary service. Where a member has 18 or more years of service the contributions percentage drops to 5.75%.
- Retired members of Parliament with sufficient parliamentary service receive a basic pension, which is calculated as a percentage of the *parliamentary allowance*. The percentage depends on the length of service. The minimum pension is 50% for 8 years service. Each additional year of service after 8 years will attract an additional rate of 2.5% (pro-rated for each day served where the period is less than a full year). The maximum percentage is 75%, which is achieved at 18 years of service.
- *Parliamentary allowance* is defined in the 1948 Act. The *Remuneration and Other Legislation Amendment Act 2011* (ROLA Act) amended the definition to include “base salary (within the meaning of the *Remuneration Tribunal Act 1973*) less any portion determined under subsection 7(1A) of that Act.

Under section 7(1A) of the *Remuneration Tribunal Act 1973*, the Remuneration Tribunal may determine a portion of base salary is not parliamentary allowance for the purposes of the 1948 Act.

#### **Service as a Minister or Parliamentary Office Holder - additional contributions and pensions**

- A member who holds an additional office is required to pay contributions on the additional salary that is paid to the member for that office. The rate is 11.5% of the additional salary received by the member. When the member has reached the maximum pension payable for the highest office ever held, the contribution rate drops to 5.75%.
- A member who holds an additional office will receive an additional pension for that office, based on a percentage of the salary paid for the office. The relevant percentage is 6.25% for each year (pro-rated for each day if less than a full year). The maximum additional pension may not exceed 75% of the salary of the highest office ever held.
- The salaries for additional offices are not defined in the 1948 Act but are determined by the Remuneration Tribunal.

## Attachment to Chapter 6 - Superannuation

### Some historical information on the link between pensions paid to retired members under the 1948 Act and the rate of parliamentary allowance

Retiring allowances were linked to the rate of parliamentary allowance by changes to the 1948 Act made by the *Parliamentary and Judicial Retiring Allowances Act 1973*.

A short chronology of relevant changes to the 1948 Act is as follows, noting that this information relates to the basic retiring allowance or pension - historical information relating to the additional pensions for additional offices is set out under the heading “Additional Offices” below. (Note the chronologies in this document do not reflect every legislative change that has been made to the Act):

- On commencement the Act allowed for a fixed pension amount to be paid.
- In 1959 the pension was paid on an increasing scale depending on the age of the retiree at retirement.
- In 1964 the pension changed to being a percentage of parliamentary salary based on age at retirement. Increases to Parliamentary pensions were handled by way of specific legislation (Parliamentary Retiring Allowances (Increases) Acts).
- In 1973 automatic pension increases were introduced based on the parliamentary salary as set from time to time with benefits based on years of service, not age at retirement.

The rationale for the approach in relation to increasing pensions reflects the Government’s decision at the time to reflect retiring allowances as a percentage of the parliamentary allowance paid to serving members.

In the Second Reading Speech for the *Parliamentary and Judicial Retiring Allowances Bill 1973*, the then Treasurer said:

*“The changes to the parliamentary scheme were foreshadowed by the Prime Minister (Mr Whitlam) when introducing the Remuneration and Allowances Bill on 28 March 1973. At present the parliamentary scheme provides for a retiring allowance on involuntary retirement at the rate of 50 per cent of the parliamentary allowance provided 8 years or more service has been completed.*

*The Government has concluded that this should be changed so that recognition will be given to length of service. Accordingly, the Bill provides for a retiring allowance of 50 per cent of the parliamentary allowance on involuntary retirement after 8 years service increasing with each additional completed year of service to a maximum of 75 per cent after 20 years. The 3 occasions rule will continue to apply and the retirement allowances, including those now payable, will be maintained at the level of the entitlements of serving members. The contribution rate will remain at 11 ½ per cent of the parliamentary allowance.”*

Prior to the introduction of the 1973 Act, the Prime Minister had foreshadowed the linking of the retiring allowance with the parliamentary allowance when introducing separate legislation to provide a salary increase to sitting members of Parliament – the *Remuneration and Allowances Bill 1973*. In the Second Reading Speech for this Bill, the then Prime Minister said:

## Attachment to Chapter 6 - Superannuation

*“The Government will also be bringing forward legislation to amend the Parliamentary retiring allowances scheme. The details have not yet been worked out but the legislation will be a considerable improvement on the current scheme – including, I would hope, adoption of the principles that, subject to a qualifying period, members should receive in their retirement a retirement allowance equal to half the salary determined from time to time for sitting members of Parliamentary and this retirement allowance will be increased by 2 per cent per annum for every completed year of service beyond the qualifying period up to a maximum of 75 per cent of a sitting member’s salary.”*

### **Additional Offices**

A chronology of changes to the 1948 Act in relation to additional pensions for service as a Minister and Parliamentary Office Holder is as follows:

- In 1952 the Prime Minister was granted an additional pension dollar amount.
- In 1965 the Ministerial Retiring Allowances (MRA) scheme was introduced to provide an additional pension for Ministers. This provided a set amount of additional pension depending on the length of service as a Minister (included set contribution amount for Ministers).
- In 1968 the MRA scheme was amended to change contributions from a flat amount to 11.5% of the salary of the additional office.
  - The Second Reading Speech for the relevant legislation noted that the change was made *“because rates of contributions and pensions are fixed in amount, any increase in the salary of Ministers has the effect of reducing the proportions that contributions and pension bear to salary.”*
- In 1973 the MRA scheme was abolished. Existing MRA scheme beneficiaries and accrued benefits under the scheme were allowed to continue.
- Changes in 1978 included the reintroduction of additional benefits for Ministers and office-holders. These office holders paid additional contributions at 11.5% of additional salary. The benefit was calculated taking into account basic salary and salary for additional offices, however, the pension was calculated as a single pension based on the length of time in the Parliament.
- From 1981, additional pension benefits were calculated based on the salaries of the particular office.
- In 1999 the Remuneration Tribunal changed the way salary for additional offices were expressed. Previously additional offices were expressed as a dollar figure and the change in 1999 meant the office salary became expressed as a percentage of the parliamentary base salary.

## 7 Other matters considered and their proposed handling

### Recommendations and Conclusions

#### Conclusions:

*Electorate Allowance* – The Tribunal has accepted electorate allowance as a business expense payment and intends to maintain it in its current form;

*Severance Travel* – severance travel entitlement to be five return trips to limited locations in the six months after leaving Parliament;

*Resettlement Allowance* – no change to the decision announced in October 2011;

*Overseas study travel* – to be abolished prospectively, with current accruals to be utilised in this or the next Parliament.

#### Recommendations:

*Life Gold Pass* – The Tribunal recommends that the Government move to abolish the scheme;

*Overseas travel* – The Tribunal recommends that overseas travel provisions for the Leader and Deputy Leader of the Opposition and Leaders of minor parties be enhanced.

### Background

7.1 This section of the Report deals with a number of issues in respect of which the Tribunal has made determinations for members of Parliament (including Ministers) either as allowances<sup>1</sup>, or as, in the view of the Tribunal, significantly related to those determined allowances<sup>2</sup>. It also deals with a small number of other items that are currently outside the Tribunal's determinative jurisdiction. Those issues in respect of which the Tribunal has made determinations appear principally in Tribunal Determination 2006/18 – *Members of Parliament – Entitlements*.

7.2 As 'significantly related' matters, various travel issues are also specified by the Tribunal in Determination 2011/16 – *Members of Parliament – Travelling Allowance*. The main provisions in the latter Determination – travelling allowance figures for various destinations - are set based on figures from the Australian Taxation Office. These figures are normally adjusted in August each year, as occurred in August 2011, and there is no intention or need to vary that Determination as part of this process.

7.3 The Tribunal does not intend to determine a cash-out figure for any of the entitlements discussed in this section and does not intend to cash out any items. Rather, it considers that the intended base salary figure of \$185,000 is a comprehensive remuneration figure that compensates parliamentarians adequately; and that some other anachronistic entitlements have become incompatible with the new salary structure.

7.4 A number of specific entitlements will now be considered in turn. While there may be some duplication between this Chapter and Chapter 10, the latter is intended as a compendium of current information about parliamentary entitlements existing at the time of this Report's production.

<sup>1</sup> Remuneration Tribunal Act 1973 ss 7(1) and 7(2)

<sup>2</sup> Remuneration Tribunal Act 1973 s 7(4)

## Electorate Allowance

7.5 The electorate allowance<sup>3</sup> is an expense of office allowance for senators and members. It provides them with funding for unspecified costs necessarily incurred in providing services to their constituents. There is a wide discretion for individual parliamentarians in how this allowance can be spent – indeed, part of the point of the allowance, and the way in which it is delivered, is to provide funds for parliamentarians to be able to meet a range of expenses which cannot necessarily be foreseen in nature or quantum.

7.6 The electorate allowance dates back to 1952 when the Committee of Enquiry into the Salaries and Allowances of Members of the National Parliament noted that:

*...in a number of instances the amount available to a member or senator after taking account of the expenses necessarily or actually incurred in the performance of his duties was less than half his nominal salary and in some instances was less than the basic wage.*

7.7 The base electorate allowance is now \$32,000 per annum, distributed to members and senators monthly. Two levels of additional allowance are set for members of the House of Representatives with larger electorates (in terms of land area) on the understanding that they have additional expenses. In this context, it is noted that electoral law establishes House of Representatives electorates that are roughly equal in size *by population*. This clearly has an effect on the arrangements of the various members, particularly in electorates of lower population density, where the task of serving all corners of the electorate presents logistical difficulties.

7.8 Members do not have to seek approval for how they expend the electorate allowance, nor do they have to acquit the expenditure of their allowance to the Chamber Departments<sup>4</sup> which pay it. Part, or all, of the allowance only becomes liable to income tax if the relevant senator or member cannot demonstrate, to the satisfaction of the Commissioner of Taxation, that the allowance has been used on items allowable as business deductions. Advice that the Tribunal has received from the Australian Tax Office (ATO) suggests that there is no special treatment of such an allowance for parliamentarians – rather, as with any work related claim, they need to keep the required documentary evidence of expenditure and are subject to normal compliance activity based on the ATO's risk management strategies.

7.9 In its submission to CROPE the Tribunal commented that electorate allowance appeared to be viewed by the public as merely an income supplement, and that *'the time has come when, for the sake of transparency and public confidence, the base electorate allowance should be rolled into the salary'*<sup>5</sup>.

7.10 CROPE agreed with this submission and recommended that the Tribunal *'incorporate the base rate of electorate allowance into federal parliamentary salary'*, and that the Tribunal should *'develop suitable arrangements in place of the higher levels of allowance for members... from the largest electorates'* (Recommendation 6(i)).

7.11 CROPE also recommended that the government take preventative measures so that the folding in of the allowance would not flow to the retirement benefits of members of the parliamentary contributory superannuation scheme established under the *Parliamentary Contributory Superannuation Act 1948* (Recommendation 7).

7.12 In conducting its review into base salary the Tribunal has reconsidered its 2009 submission to CROPE. That submission was made in an environment where the Tribunal's

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<sup>3</sup> Determined at Clauses 1.1 to 1.3, Determination 2006/18

<sup>4</sup> The Departments of the House of Representatives and of the Senate, established under the *Parliamentary Service Act 1999*

<sup>5</sup> Tribunal's submission to CROPE, 17 December 2009, section 3.10



principal focus was on how best to (re)structure such payments and entitlements as then existed. Indeed in its submission, the Tribunal said:

*At this stage, pending a proper review, the Tribunal does not submit that the base salary of parliamentarians should be altered, other than through the cashing-out of various items. The reasons for this are primarily twofold:*

- it is not a primary focus of the current review, and*
- the Tribunal could not at this time suggest what a different base salary for a parliamentarian should be, without undertaking a full review of the role.*

7.13 The Tribunal considers that the situation that existed at the time of the above submission is not the situation that exists now. The Tribunal has now undertaken a full review of the role of a parliamentarian and has made a judgment on what the base salary should be. As well, the Tribunal has made its initial examination of items of the package fall into the ‘remuneration’ and ‘business expenses’ categories. While the Tribunal had been inclined, previously, to the view that electorate allowance may fall into the first category, the assessment of the work of a parliamentarian has persuaded the Tribunal that, for present purposes at least, there is a more defensible rationale for its maintenance in the business expense category than the Tribunal had originally assumed. It is clear that, although any unexpended balance of the allowance in a financial year is treated as income, it is expected that parliamentarians will use funds in the context of performing various electorate functions. Electorate allowance enables them to do this within limits.

7.14 Almost universally, parliamentarians with whom the Tribunal has raised the matter regard this allowance as necessary for covering the many and varied expenses that they incur in the course of their duties – the sort of expenses which persons in other employment would in all probability regard as an unreasonable call on their personal finances.

7.15 The Tribunal has also learned in correspondence with the Chamber Departments that a small number of members and senators choose to have income tax deductions taken from Electorate Allowance on receipt, although the reason that they do this is not entirely clear. The corollary of this is that most senators and members (over 90%) do not have income tax deductions taken from their electorate allowance, presumably because they expect to spend the amount on business expenses so that a later taxation debt is unlikely to apply.

7.16 Consequently the Tribunal accepts that this allowance should be characterised more as a business expense type of payment than as one of remuneration and that it should be retained in its present form.

7.17 The Tribunal intends to keep this matter under review. The Tribunal notes that electorate allowance does not form part of superannuation salary for any current or retired member of parliament.

### **Private Plated Motor Vehicle**

7.18 The Private Plated Motor Vehicle Entitlement<sup>6</sup> enables a senator or member, at his or her request, to be provided with a private plated vehicle (PPV) at Commonwealth expense. The vehicle may be used for parliamentary, electorate or official business, with incidental family travel and for private purposes, but not for private commercial purposes.

7.19 In its submission to CROPE the Tribunal submitted that cashing out could be the standard provision in relation to PPVs. CROPE recommended (Recommendation 18) that the Tribunal:

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<sup>6</sup> Determined at Clauses 5.1 to 5.13, Determination 2006/18

- (i) *provide senators and members with the option of choosing a standard Commonwealth - leased private-plated vehicle or an allowance in lieu of the vehicle (which would not count as salary for superannuation purposes), and*
- (ii) *remove the personal contribution of \$711 paid annually by senators and members towards the cost of a Commonwealth-provided vehicle.*

7.20 As was stated in regard to electorate allowance, the Tribunal, in having undertaken a full study of the role of parliamentarian, has re-examined those items currently provided to parliamentarians that may be considered as 'remuneration' or 'business expense' items. While in many employment contracts a car is provided as part of a remuneration package, the Tribunal is not now inclined to that view in relation to parliamentarians. The provision of a PPV to a parliamentarian is not intended as an income supplement. The role of a member of parliament necessarily involves travelling, at least around the member's electorate, and the PPV is provided as a means of allowing necessary travel to be undertaken in an efficient and cost effective manner.

7.21 The Tribunal already provides an alternative to the PPV as a member can choose, in lieu of the vehicle, to receive an increased amount of electorate allowance, with the additional amount intended to be used for alternative forms of travel. This alternative was originally introduced in response to a member for a city electorate who noted that a private vehicle was, in certain circumstances, an inefficient means of transport.

7.22 The Tribunal considers that this provision adequately covers the variety of situations that arise for members of the various electorates and will retain the PPV entitlement in its current form.

7.23 However, the Tribunal accepts the second part of CROPE's submission and intends to remove the member's personal contribution. The amount that the member had to pay up to this time, compared to the cost of a vehicle, is a token amount; and there seems no point in retaining a provision the administrative burden of which outweighs its relevance.

## **Severance Travel**

7.24 The Severance Travel entitlement<sup>7</sup> allows former parliamentarians who do not qualify for a Life Gold Pass (LGP) to travel for a limited time from their departure from the Parliament (i.e. six months to five years) within Australia at Commonwealth expense for non-commercial purposes. The entitlement does not extend to spouses or de facto partners.

7.25 When the member leaves Parliament he or she establishes a 'credit' of between one half and five-sixths of a year's travel for each term of Parliament served. The factor used depends on the length of service. For the period of the entitlement, the retired member or senator can travel as described above, with the maximum travel in a year being 25 return trips (or 12 if the entitlement was only for six months).

7.26 The entitlement was introduced in 1976, with the Tribunal noting at that time that *'after a senator or member completes his term of office there is usually a period in which he is invited to public functions, asked to give talks and is involved in servicing requests from his former constituents'*.

7.27 However, there is no restriction on what the retired member can use the travel for, other than it being non-commercial purposes. It also appears that with modern communications a former parliamentarian could adequately 'service requests' from the majority of his former constituents without the need for travel outside the electorate. As well, this entitlement is one which attracts significant adverse public comment as being out of step with community expectations. The inevitable press coverage that 'ex-member X' has taken Y publicly funded trips to various destinations, perhaps including holiday resorts, can hardly be said to improve the standing of parliamentarians, past or present.

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<sup>7</sup> Determined at Clauses 8.1 to 8.5, Determination 2006/18

7.28 In its submission to CROPE, the Tribunal commented that severance travel and the LGP *'are benefits that have had their day'*. This remains the Tribunal's view.

7.29 CROPE recommended (Recommendation 21) that the severance travel scheme be abolished *'prospectively so that it would not be available to those senators and members who enter parliament at or after the next federal election'*. It also called for a reduction in *'the travel provided to existing severance travellers from 25 to 10 (and from 12 to five) return trips within Australia per annum up to the maximum of five years'*; and recommended further that for those current senators and members who had not qualified for an LGP when the changes were made, a benefit based on their service in parliament up to that time be retained.

7.30 The Tribunal has accepted the main thrust of CROPE's recommendation – that the severance travel scheme should by and large be abolished in its present form; but has reached conclusions on how to wind it down that vary from the CROPE Report's recommendations. The Tribunal recognises that there may be a need for members to have some travel entitlements after leaving Parliament to ensure a smooth transition and to wind up their parliamentary business.

7.31 The Tribunal therefore intends to modify the entitlement to provide a member with a maximum of five return trips within the six months after leaving Parliament to cover the following travel only – from their home base to Canberra, or from their home base to a location where they had a publicly funded electorate office. The latter part of this provision is intended to cover regional members who may need to wind up their affairs in more than one location.

7.32 If a residual entitlement to severance travel in its present form was retained for current members who had not yet retired, as recommended by CROPE, it would theoretically be possible that a member first elected to Parliament in 2007, who went on to serve multiple terms before leaving Parliament, could still be accessing severance travel in 20 years' time. In the view of the Tribunal this is not a desirable outcome.

7.33 The Tribunal therefore proposes to institute the new entitlement with immediate effect. The Tribunal is not of the view that there should be any grandfathering in relation to severance travel for sitting members of parliament. These members have not fulfilled all the preconditions for accessing this entitlement<sup>8</sup> and have, while they are in Parliament, not fully established their eligibility to it.

7.34 The new standard for severance travel will apply to all sitting, and future, members of Parliament, other than those who qualify for an LGP while that continues to exist. However, the travel entitlement will be retained for any former member who has a current severance travel entitlement<sup>9</sup>, although the Tribunal encourages any such retired parliamentarian to take into account the new severance travel standard before accessing travel.

7.35 The issue of the LGP itself is covered in the following Chapter of this Report.

## **Resettlement Allowance**

7.36 The Tribunal made a decision to amend the Resettlement Allowance<sup>10</sup> provisions prior to the completion of this Report. That decision took effect in Tribunal Determination 2011/20, and the reasons for the decision were announced in a Tribunal Statement of 17 October 2011. The Tribunal does not intend to make any further decision on this matter at this time.

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<sup>8</sup> Clause 8.1 of Determination 2006/18 says, 'A senator or member... shall, from the date of retirement from the Parliament, be eligible... '.

<sup>9</sup> This would apply to members who left Parliament after the 2010 and, perhaps for a small number, the 2007 elections.

<sup>10</sup> Clauses 8.6 to 8.10 of Determination 2006/18

## Overseas Study Travel

7.37 The Overseas Study Travel entitlement<sup>11</sup> enables senators and members to travel overseas for the purpose of undertaking studies and investigations of matters related to their duties and responsibilities as a parliamentarian. The senator or member is required to report to the Parliament on their findings from the trip. This is not the only source of overseas travel for members. The *Parliamentary Entitlements Act 1990*, for example, provides for travel as part of a Parliamentary Delegation<sup>12</sup>.

7.38 A senator or member establishes an initial entitlement to overseas study travel after three years in the Parliament. For each term of parliament that the senator or member serves subsequently, the overseas study travel entitlement provides him or her with a further entitlement to travel to the value of one overseas trip at Commonwealth expense, normally during the next term of Parliament after the 'entitlement' accrues. The provision for 'one trip' relates to a calculated value of that trip – the value being 'of a scheduled commercial round the world first class airfare'<sup>13</sup>. A member can make more than one actual trip so long as expenditure falls within the calculated limit.

7.39 Spouses or de facto partners may join or accompany parliamentarians utilising this entitlement. There is no additional funding for spouse travel – their travel must be paid for out of the total value of the entitlement.

7.40 Not every member of parliament accesses this entitlement. For example, by convention, Ministers do not generally avail themselves of it. It also only applies while a person remains a member of the Parliament. Notwithstanding that a member has apparently accrued an entitlement during one parliamentary term, the entitlement lapses if the member is not elected into the next Parliament.

7.41 In its submission to CROPE, the Tribunal noted that this was a provision that may have outlived its usefulness. It was introduced at a time when personal overseas travel was less common than it now is, and in an era before modern media and communications meant that a person could visit the world from their living room, as it were. The Tribunal also noted that this provision was a source of frequent criticism of parliamentarians, and expressed the view that the value of the entitlement to members was probably outweighed by the public criticism that it frequently caused.

7.42 The Tribunal submitted that *'this should be paid out – the separate entitlement should be replaced by an equivalent increase in the value of base salary'*.

7.43 CROPE's recommendation was similar to the Tribunal's submission. Recommendation 22 was that the Tribunal *'cash out overseas study travel and include in basic parliamentary salary an amount... in compensation'*. It also recommended that there be no further accrual of the entitlement from the date on which such changes are announced.

7.44 The Tribunal intends to abolish the overseas study travel scheme prospectively, noting other avenues for overseas travel by a member. (For example, as a member of a parliamentary delegation, or as a representative of the government or a minister.)

7.45 No further accruals to this entitlement will occur once the abolition is determined, although it should be noted that under the current provisions members who have fulfilled the conditions for their initial accrual (3 years' parliamentary service) access a further accrual at the beginning of a Parliament rather than at the end. In effect, this means that the vast majority of members who would accrue a further entitlement to overseas study travel in the course of the current Parliament have already done so, and there are unlikely to be further accruals between the time of this Report and the time of the intended determination.

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<sup>11</sup> Clauses 9.1 to 9.13 of Determination 2006/18

<sup>12</sup> Schedule 1, Item 9

<sup>13</sup> Determination 2006/18, clause 9.1(c)

7.46 The intended decision is not a cash-out of this entitlement. It will rather be abolished simultaneously with the determination of the new salary, which has been set on work value grounds and which renders the overseas study provision anachronistic.

7.47 However, as accruals will have occurred prior to this decision, the scheme will be 'grandfathered' to the extent that current accruals will be able to be used under the conditions of the scheme as it existed prior to this decision, subject to the proviso that there will be no option to carry over any part of the entitlement from the next Parliament into the following one.

7.48 In other words, by the proroguing of the 44<sup>th</sup> Parliament, the scheme will have been closed completely.

### **Other overseas travel issue**

7.49 Recommendation 26 of the CROPE Report concerned the subject of overseas travel by Opposition officer holders (in the House of Representatives). CROPE recommended:

*That the government increase the overseas travel entitlement for the leader and deputy leader of the opposition to the equivalent value of one round-the-world fare at business class each year.*

7.50 The overseas travel entitlement for these office holders is not determined by the Tribunal. It is provided in Table A to Schedule 1 of the *Parliamentary Entitlements Act 1990*<sup>14</sup>.

7.51 While the Tribunal can have no determinative role in the matter, it has, with the agreement of the Minister, the responsibility to review each of the CROPE recommendations and advise the Minister on each.

7.52 The Tribunal notes that the pre-existing travel entitlements for these office holders were small (a maximum of \$8,899 for the Leader and \$5,818 for the Deputy), although these figures only represent the actual travel costs of any travel undertaken. In the Tribunal's view it would be preferable to express the available travel budget fully rather than as a simple expression of airfares (with related costs not specified). This would be consistent with how overseas study travel budgets had been calculated in the past, and would be calculated on the same basis – the value of a first class, round the world airfare on a scheduled commercial airline.

7.53 Further, the Tribunal notes that there was no overseas travel entitlement for leaders of minority parties, notwithstanding the evolving nature of the Parliament and the role that a party of 10 parliamentarians in total, as now exists, can play in situations where no party has a majority in one, or indeed either, House of Parliament. The Tribunal considers that the development of the role of various parties in the Parliament means that an overseas travel entitlement for the leader of a minor party, with a reasonable core of members, may be justified.

7.54 The Tribunal considers that the current provision limiting Opposition travel to two specific office holders may be overly restrictive and considers that it would be appropriate to determine that the Opposition could access overseas travel up to a set number of such trips. For instance, each year the Opposition could have access to, say, four trips costed by the factor determined as set out in paragraph 7.53. The total sum thus calculated could then be used as travel budget for Opposition office holders, or their nominees (within Parliament), as administered by the Leader of the Opposition. The costs of any travel under this provision should be reported fully.

7.55 Similarly the leader of a minor party with sufficient members in the Parliament – the Tribunal would suggest five at least – would have access to an overseas travel budget

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<sup>14</sup> The 'conflict of laws' provision in s 10 of that Act means that the Tribunal has no capacity to make a determination on this matter.

equivalent to one trip at the cost factor above. In the case of a minor party this budget should only be utilised by the leader of the party.

7.56 The Tribunal considers that this travel budget should only allow travel by parliamentarians, and not, for instance, spouse or nominee (other than a nominee who is him- or herself a parliamentarian) travel.

7.57 The Tribunal would support action by Government along these lines.

### **Other entitlements**

7.58 There are a number of other travel entitlements, including family reunion travel and charter allowance, which the Tribunal adjusted recently to take into account increases in transport costs, that the Tribunal has decided to retain in their present form for the time being. The Tribunal will in future review whether there is any scope for improving or refining the provisions for travel within Australia (including the external territories) and will provide advice, or decide, on these matters in one or more reports. In doing so, the Tribunal will take into consideration and report on, among other things, CROPE recommendations:

- 17 Family Reunion Travel
- 19 Car Transport Allocations
- 25 Additional Travel for children of senior officers
- 27 Travel to external territories
- 33 Travelling allowance for shadow ministers, and
- 34 Travelling allowance for the second Deputy Speaker in the House of Representatives.

7.59 Charter Allowance, which the Tribunal will also reconsider, was not the subject of a CROPE recommendation.

## 8 Life Gold Pass

### Recommendations

The Life Gold Pass (LGP) is an anachronism, but one about which the Tribunal has limited determinative powers.

The Tribunal recommends that:

- a. Legislation should be put before Parliament to abolish the LGP scheme, prospectively, so that it would not be available to those who enter parliament at or after the next federal election;
- b. the number of return trips for existing pass holders should be reduced, now, from 25 to 10 within Australia per annum;
- c. the reduced benefit should apply to current senators and members who have qualified for an LGP at the date of the government's announcement of its decision; and
- d. the spouse/partner of current senators and members who have qualified for a LGP at the date of the government's announcement of its decision should be reduced from 25 to 10 return trips to Canberra per annum.

If the Government does not act to close the LGP scheme before the commencement of the next Parliament, the Tribunal will amend the qualifying periods so that the grant of the LGP becomes a very rare occurrence.

There is a strong case for providing an on-going travel entitlement to former Prime Ministers once they have left the Parliament. Such travel should be provided under special provisions for former Prime Ministers.

8.1 The LGP entitles eligible former parliamentarians, their spouses and widows/widowers to travel within Australia at Commonwealth expense, for any purpose other than commercial business. The LGP is not a modern innovation - it, or similar entitlements, have existed for much of the time of Federation.

8.2 In its current form, most of the rules that surround the LGP are prescribed in legislation, namely the *Members of Parliament (Life Gold Pass) Act 2002*. That Act contains a conflict of laws clause<sup>1</sup> which gives Tribunal determinations a relatively narrow role in relation to LGP entitlements.

8.3 This is a point that should be set out from the beginning – the Tribunal, having limited power in relation to the LGP because of the terms of the Act, also has limited power to make any actual changes to the LGP regime. Rather the Tribunal can, and will, recommend that changes should be made, but it is ultimately up to the Parliament itself to make substantive changes, or to abolish the scheme entirely.

8.4 The Tribunal's main role in relation to the LGP is that the Act requires<sup>2</sup> that:

*A determination of the Remuneration Tribunal is to make provision for the circumstances in which a member will, on retirement from the Parliament, qualify for a Life Gold Pass.*

8.5 The relevant provisions determined by the Tribunal are in clause 7.2 of Determination 2006/18. The basic qualification is that a former parliamentarian who has served 20 years, or seven terms, in the Parliament, will be entitled to an LGP on retirement. This period can be shortened by time served as a Minister (including as Prime Minister), as a Presiding Officer, or as Leader of the Opposition.

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<sup>1</sup> Section 30

<sup>2</sup> Subsection 30(2)

8.6 The actual entitlements, once the LGP has been gained, are set out in the Act as:

- a former Prime Minister (PM) is entitled to a maximum of 40 domestic return trips per year;
- other pass-holders are entitled to a maximum of 25 domestic return trips per year;
- travel must not be for a commercial purpose i.e. a “purpose relating to the derivation of financial gain or reward, whether as a board member, an office-holder, an employee, a self-employed person or otherwise”;
- travel must be on a scheduled transport service i.e. by air, rail, bus, tram, ferry or vehicular service, or on a combination of these services;
- the class of travel is to be the same as determined by the Tribunal “from time to time” for serving parliamentarians (i.e. business class or economy);
- the entitlement is only to the funding of actual travel e.g. airfares – not associated costs such as accommodation.

8.7 The spouses (or de facto partners) of pass-holders, deceased pass-holders, or of eligible sitting members also have varying entitlements under the Act. For example, the spouse of a former PM, who has retired from Parliament and is a pass-holder, is entitled to a maximum of 40 domestic return trips per year, ‘so long as no more than 10 of those trips are non-accompanying/joining trips’. The spouse of a former member who is a pass-holder is entitled to a maximum of 25 domestic return trips per year, ‘so long as each trip is for the purpose of accompanying or joining the former member’.

8.8 Spouses of current members who have fulfilled the service qualification for the LGP, but have not yet retired from the Parliament, also have family reunion travel provisions under the Act that are substantially more generous than those generally provided for senators and members by the Tribunal.

8.9 In its submission to CROPE, the Tribunal commented<sup>3</sup> that:

*There is possibly no single issue on which there is such a disconnect between parliamentarians and their constituents as the Life Gold Pass (and its ‘cousin’ severance travel). From informal discussions with parliamentarians the Tribunal understands that members value the LGP highly, more for the recognition of long service that it symbolises than for its face value in travel entitlements. Against this, the public view of actual LGP usage seems to be one of derision.*

8.10 In an attachment to its submission the Tribunal also noted<sup>4</sup> that:

*... it is now common practice to provide ‘employees’ (noting that this term is used loosely in relation to parliamentarians) with full remuneration while they remain in employment, rather than to provide them with post-employment benefits in recognition of past service. In this, the LGP has become an anachronism – it is hard to envisage any other employer structuring a remuneration package so as to provide travel entitlements to an ex-employee, other than for travel in which the employer has a direct interest.*

8.11 In its Report, CROPE recommended<sup>5</sup> that the government:

- a. abolish the LGP scheme prospectively so that it would not be available to those who enter parliament at or after the next federal election;
- b. reduce the LGP scheme for existing pass holders from 25 to 10 return trips within Australia per annum;

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<sup>3</sup> Submission of 17 December 2009, section 3.6

<sup>4</sup> Ibid, Attachment 1

<sup>5</sup> Recommendation 21



- c. retain the reduced benefit for current senators and members who have qualified for an LGP at the date of the government's announcement of this decision; and*
- d. reduce the entitlement of the spouse/partner of current senators and members who have qualified for an LGP at the date of the government's announcement of this decision from 25 to 10 return trips to Canberra per annum.*

8.12 In general, the Tribunal maintains the views that it expressed in its submission to CROPE. The Tribunal considers that CROPE's recommendation that the scheme be abolished is an appropriate one. Indeed the Tribunal considers that the Government could go further and seek legal advice on whether it is necessary that abolition of the scheme be 'prospective'; at least in relation to members and senators who have not yet served the qualifying period.

8.13 However, the Tribunal is of the view that a case can be made for providing availability to travel to former Prime Ministers (including, as it were, future former Prime Ministers) who have served a reasonable term – probably one year – in office. Such travel would not necessarily be provided under the rubric of an LGP. The travel could be included as an entitlement for former Prime Ministers under special provisions for former holders of that office. The Tribunal will provide further comment on this proposal when it completes its consideration of CROPE's Recommendation 35, which recommends a legislated head of authority for providing benefits to former Prime Ministers.

8.14 In relation to the usage of the scheme, the Tribunal supports CROPE's recommendation that allowable travel for those former members who retain an LGP entitlement be reduced. However, the Tribunal does not support number 35(iv) of the CROPE recommendations. The Tribunal considers that the Family Reunion provisions in Determination 2006/18 are adequate for all members of the Parliament. The Tribunal is of the view that any LGP travel should be restricted to actual, not potential, holders of an LGP or their eligible spouses or partners.

8.15 In the absence of future Government action to close the LGP scheme, the Tribunal will look again at the qualifying periods for an LGP. If the LGP scheme remains in existence, it is the Tribunal's view that the qualifying periods should be amended so that the grant of an LGP is a very rare occurrence.

## 9 Compensation and Insurance

### **Recommendation - Compensation**

The Tribunal recommends that government act immediately to introduce a workers' compensation scheme by implementing amendments to the PE Act to accommodate a scheme compliant with the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act). The scheme should cover all senators and members and provide for arrangements related to:

- Medical and rehabilitation costs;
- Lump sum payment for permanent impairment and non-economic loss;
- Lump sum payment for loss of future earnings;
- Exclusions;
- Dispute resolution;
- Duties covered, e.g. coverage for travel related to parliamentary, electorate or official business.

Necessary contingent legislative and administrative changes should also be made.

### **Recommendation - Insurance**

The Remuneration Tribunal recommends that government undertake an immediate examination of the current rate and coverage of public liability insurance held by all senators and members with a view to determining whether:

- a. the risk of injury or damage to members of the public is supported by the insurance held by individual senators and members;
- b. the holding of public liability insurance to an agreed level be a compulsory requirement for all senators and members;
- c. the cost of public liability insurance should be reimbursed to senators and members;
- d. the provision of public liability insurance should be included as an entitlement under the PE Act; and

The examination should provide the Special Minister of State with:

- a. recommendations for the best means of providing such an entitlement;
- b. financial costing for coverage of all senators and members with a view to that coverage commencing by 1 July 2012;
- c. the legislative means to enact public liability insurance as a business expense entitlement.

## Background

9.1 As far back at 1986 it was considered an anomaly that parliamentarians, working on behalf of the Australian community, had no access to workers' compensation whilst undertaking their electorate and parliamentary duties. The implementation of the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act) showed that Australians are in general agreement that some provision should be made in respect of work related disabilities and injuries. It is also the case that parliamentarians commit either the whole or a substantial portion of their time to parliamentary, electorate or ministerial duties. Additionally the Compensation Enquiry undertaken by the Remuneration Tribunal in 1986 found that:

*those with whom members work closely, namely members of the Australian Public Service, officers of statutory authorities and the parliamentary officers and members of their own staff, receive compensation in relation to work related disabilities and injuries. It would be incongruous if ministers and members did not receive some compensation. This is recognised by the provision which, in varying forms, is made in this regard both in Australian States and other countries.*

9.2 At the time of the 1986 Remuneration Tribunal inquiry into compensation, the States had health and safety laws and thus worker's compensation arrangements covering the employees within their jurisdiction. In 2011 the level of cooperation between the States, and between the States and the Commonwealth, has enhanced to such an extent that 2012 will see the harmonisation of work health and safety laws.

9.3 Until now, the Commonwealth, States and Territories have been responsible for making and enforcing their own model WHS laws, which this has led to the different standards of protection causing confusion, and different WHS standards across the country being applied to workers in similar occupations. The current regulatory inconsistencies are being addressed for the first time through the Intergovernmental Agreement for Regulatory and Operational Reform in Occupational Health and Safety (IGA) in which state and territory governments and the Commonwealth have formally committed to work together to achieve the harmonisation of WHS laws. The harmonised laws facilitated by the *Work Health and Safety Act 2011* will enable alignment of these standards and will address the compliance and regulatory burdens placed on employers who operate in multiple jurisdictions<sup>1</sup>.

9.4 At a time when the federal system of government is able to come to this agreement it is ironic that those that make these same laws in the Commonwealth arena are themselves not covered by worker's compensation insurance.

9.5 Again in 2010 the CROPE committee noted the absence of certain insurances. Recommendation 10 of their report stated '*that the government i) establish a legislative base to provide senators and members with workers' compensation insurance at Commonwealth expense; and ii) note the absence of public liability insurance coverage for senators and members at government expense*'. The absence of these insurances for parliamentarians rests on the role of the parliamentarian not being defined as an employee of the Commonwealth.

9.6 However, staff employed by a senator or member under the *Member of Parliament (Staff) Act 1984* (MOP(S) Act) are legally regarded as employees of the Australian government as they are employed by senators and members *on behalf of* the Australian government. Accordingly, MOP(S) Act staff are provided with workers' compensation cover through the Department of Finance and Deregulation's (Finance) policy with Comcare.

9.7 The Tribunal understands that successive governments have attempted to address this challenge and strongly agrees with the CROPE committees comments '*that the absence of workers' compensation insurance coverage for senators and members is out of step with modern community and public sector standards and should be addressed by government*'.<sup>2</sup>

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<sup>1</sup> Comcare, [Work Health and Safety Site](#)

<sup>2</sup> Review of Parliamentary Entitlements, Committee Report, April 2010, p 64.

## Worker's Compensation and the Employment Status of Senators and Members

9.8 Under Federal and State legislation, all Australian employers must insure themselves against compensation claims from employees for work related injuries or diseases. While the Commonwealth provides certain benefits to senators and members that are consistent with an employment arrangement (such as salary and superannuation), the Commonwealth is not legally regarded as the employer of senators and members. Therefore it is not possible for any Commonwealth agency to take out insurance cover for senators and members on the grounds that an employment arrangement exists. Accordingly for senators and members to be provided with workers' compensation cover, a discrete head of authority needs to be established to confer this benefit.

### The 1986 Compensation Inquiry

9.9 The Tribunal considered the issue of compensation for accident and injury to parliamentarians in the report of its compensation inquiry, tabled in March 1986<sup>3</sup> (the Compensation Inquiry). The question of compensation for members of parliament and federal judges was first raised in the Tribunal's June 1980 Review and the inquiry was opened in July 1981. The inquiry engaged in a broad investigation, including overseas comparative studies and extensive consultative work with parliamentarians and administrators of the time.

9.10 The 1986 report recommended:

1. that compensation for members of the Federal Parliament:
  - a. Who suffer personal injury in the course of the performance of ministerial, parliamentary or duties associated with their particular office; or
  - b. Who suffer from a disease where the performance of their duties was a contributing factor to the contraction, aggravation, acceleration or recurrence of the disease; or
  - c. Who die as the result of sustaining such an injury or suffering from such a disease;be arranged by appropriate amendments to the *Compensation (Commonwealth Government Employees) Act 1971* so as to apply its provisions to members;
2. The scope of the duties that would attract coverage under the Scheme would include those related activities associated with parliamentary and electorate work but not those which arise solely from a member's personal or social activities, or in the course of activities which are exclusively related to the member's party political matters;
3. The range and quantum of monetary payments, and limitations on those payments, including any limitation as to 'double benefits' and retirement benefits be the same as those provided by the *Compensation (Commonwealth Employees) Act*;
4. Claims for compensation be considered and determined by the Parliamentary Retiring Allowances Trust; and
5. Requests for reconsideration or review of determinations be decided by the Administrative Appeals Tribunal.

9.11 As we can see, this Inquiry, some quarter of a century ago, addressed the major issues that still pertain to today's circumstances for senators and members. The report's recommendation that a scheme be introduced by amending the then existing legislative schemes to cover parliamentarians has not been pursued by successive governments. The prime issues to be considered today reflect the above recommendations:

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<sup>3</sup> Commonwealth Remuneration Tribunal, *Compensation for Ministers, Members of the Commonwealth Parliament, the Federal Judiciary and Members of the Inter-state Commission*, March 1986.

1. an appropriate head of legislative authority;
2. scope of compensation coverage;
3. scope of the duties attracting compensation coverage;
4. interaction with other entitlements such as superannuation;
5. approval processes of claims; and
6. administrative appeal processes.

9.12 Whilst the 1986 recommendations may be dated in their specification of legislative authority they should be seen to reflect the fact that the issue of a workers' compensation scheme for senators and members is an ongoing and contemporary issue which has, in the past, been widely considered and in the present remains unaddressed by government.

9.13 Between 1986 and 1990, senators and members were covered for personal injury and disease sustained in the course of their duties of office by the Scheme for Payment of Special Compensation for Injury in Exceptional Circumstances, established by government in August 1986. On commencement of the Parliamentary Entitlements Act 1990 (PE Act), coverage was not continued, following legal advice that the scheme needed explicit authorisation under the PE Act or the PE Regulations. Between 1990 and 2002, compensation for injuries was paid by way of 'act of grace' payments, following assessment by Comcare. This avenue of claim was officially closed in 2002.

9.14 Currently the only avenue for compensation for senators and members who are exposed to harm while undertaking parliamentary, electorate or official business, is to pursue statutory or common law remedies in relation to a resultant injury or illness. The CROPE committee stated:

*given the diversity of roles that parliamentarians undertake, the varied environments in which they conduct their business and the politicised and frequently polarised nature of their public involvement, lack of workers' compensation coverage represents a considerable risk.*

9.15 Generally, individual workers cannot cover themselves for workers' compensation, even if they are self-employed and have an Australian Business Number (ABN). There are optional arrangements for working directors of companies but most individuals are advised by the various state compensation authorities to take out a personal accident and illness policy or an income protection policy in case they are unable to work, although this is not a statutory requirement.

9.16 Senators and members covered by the *Parliamentary Contributory Superannuation Act 1948* (1948 Super Scheme) are entitled to an invalidity benefit, which is only payable as a pension, if the Parliamentary Retiring Allowance Trust is satisfied that the retirement is due to physical or mental impairment. There is no provision for additional Total and Permanent Disability cover under the 1948 Super Scheme.

9.17 Senators and members who entered the Parliament from 9 October 2004 onwards are covered by the *Parliamentary Superannuation Act 2004* (2004 Super Act). This Act allows senators and members to choose the complying superannuation fund or Retirement Savings Account (other than a self managed superannuation fund) to receive their Government contribution. The Whips, in their submission to the CROPE committee stated that parliamentarians entering after 2004 '*do not have the invalidity provisions enjoyed by those on the old superannuation scheme. Members of Parliament are not employees. This is a serious gap in provisions for 04/07 Members and Senators and fortunately has yet to be put to the test*'.<sup>4</sup> It is worth noting that whilst this comparison is correct, senators and members in the 2004 Super Act may select a superannuation scheme from the market that provides or maximises this benefit.

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<sup>4</sup> Chief Government and Chief Opposition Whips, [submission](#) to the Review of Parliamentary Entitlement.

9.18 The New South Wales Parliament provides insurance cover for all members through the NSW Government Treasury Managed Fund Self Insurance Scheme. This fund provides insurance coverage for workers' compensation, liability, motor vehicle, property, and miscellaneous items including members' personal accident cover, travel and misappropriation of funds cover.<sup>5</sup>

9.19 The Tribunal is of the view that the provision of workers' compensation insurance would not be out of step with community standards and expectations based on previous inquiries and public submissions and also on the currency of such insurance in the state jurisdictions. It may also protect the Commonwealth against the uncertainty of the outcome of senators or members seeking other remedies.

### **Recommendation**

9.20 The Tribunal recommends that government introduces a workers' compensation scheme by implementing amendments to the PE Act to accommodate a scheme compliant with the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act). The scheme should cover all senators and members and provide for arrangements related to:

- medical and rehabilitation costs;
- lump sum payment for permanent impairment and non-economic loss;
- lump sum payment for loss of future earnings;
- exclusions;
- dispute resolution;
- duties covered, e.g. coverage for travel related to parliamentary, electorate or official business.

9.21 The SRC Act should also be amended to confer authority for Comcare to administer the scheme. Funding should be provided by ongoing special appropriation to Finance under the PE Act with drawing rights provided to Comcare. The implementing department should consider the issues raised in the Compensation Inquiry of 1986 and in the submissions to the CROPE committee in 2009-10.

### **Public Liability Insurance**

9.22 The issue of public liability insurance is another area where time has passed on the many considerations which, to date, have recommended that parliamentarians be afforded a level of cover commensurate with community standards and expectations. The Tribunal is of the view that the cost of public liability insurance for activities related to parliamentary, electorate or Ministerial duties is a basic expense that is incurred in the business of undertaking those duties. Today, senators and members are not covered by public liability insurance for activities outside their electorate office and Parliament House in Canberra.

9.23 Commonwealth funded electorate offices are covered by a general liability insurance policy, which covers circumstances where it can be demonstrated that injury or damage occurred or was sustained in connection with property controlled by the Commonwealth, and a legal liability to pay compensation has arisen.

9.24 From time to time senators and members may organise events, attended by members of the public, outside the electorate office; and some engage volunteer workers in the electorate office. It is likely that both members of the public and volunteers in some circumstances may not be covered by these policies. Currently, to cover these situations, senators and members need to seek their own independent legal advice on how to best manage their personal exposure to potential civil claims, taking into account their individual circumstances.

9.25 In their report the CROPE committee recommended that the government note the absence of public liability insurance coverage but felt that the argument for public liability

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<sup>5</sup> New South Wales Parliamentarians Entitlements accessible at this [link](#)

insurance provision to senators and members was not as compelling as that for workers' compensation. Few of the submissions to the committee addressed the issue of this type of insurance however the Tribunal considers that the risk of injury or damage outside of a senator's or member's electorate office or Parliament House is real.

9.26 It is worth noting that state jurisdictions often cover parliamentarians for public liability insurance. In Queensland for example all members have personal accident indemnity cover on a twenty-four hour basis and are indemnified in the event of injury, as defined, resulting in death and the cover is administered by the Under Treasurer.<sup>6</sup>

## **Recommendation**

9.27 Ideally senators and members should protect themselves against the financial risk of being found liable to a third party for death or injury, loss or damage of property or economic loss resulting from negligence. The mechanism to ensure this matter is resolved consistent with community standards and expectation would best be derived from an in-depth examination of the current arrangements of each senator and member.

9.28 The Tribunal recommends that government undertakes an immediate examination of the current rate of public liability insurance held by all senators and members with a view to determining whether:

- a. the risk of injury or damage to members of the public is supported by the insurance held by individual senators and members;
- b. the holding of public liability insurance to an agreed level be a compulsory requirement for all senators and members;
- c. the cost of public liability insurance should be reimbursed to senators and members;
- d. the provision of public liability insurance should be included as an entitlement under the PE Act; and

9.29 The examination should provide the Special Minister of State with:

- a. recommendations for the best means of providing such an entitlement;
- b. financial costing for coverage of all senators and members with a view to that coverage commencing by 1 July 2012;
- c. the legislative means to enact public liability insurance as a business expense entitlement.

9.30 The Tribunal has, in other entitlements, developed a view that the provision of those entitlements (i.e. Life Gold Pass) is out of step with community standards and expectations and has amended the entitlement to reflect these standards. Equally the Tribunal has identified that the provision of these two insurances to parliamentarians would be 'in step' with community standards and expectations and strongly recommends that government does not let the door close again on independent recommendations that afford parliamentarians the basic entitlements that are accepted within the Australian community - workers' compensation and public liability insurance.

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<sup>6</sup> Queensland Government, [Members Handbook](#)



## 10 Entitlements provided to Senators and Members

### Recommendation

The Remuneration Tribunal recommends that government streamlines the current entitlement framework to reflect a firm delineation between remuneration and business expenses streams. The framework, inter alia, should provide:

1. that the *Remuneration Tribunal Act 1973* cover all payments of a remuneration type for senators and members;
2. that a single Act, either the *Parliamentary Entitlements Act 1990* or a successor, should contain the legislative provisions underpinning all business expense funding provided to senators and members to undertake their electorate and parliamentary accountabilities; and
3. that there is an improved interface between the two Acts and those administering the two Acts so that the two legislative instruments operate singularly and separately with no overlap.

10.1 The majority of senators and members' entitlements are determined by Acts of Parliament and determinations of the Remuneration Tribunal. Others are determined under Executive authority. The term 'entitlement' is used to describe both the personal remuneration or salary and allowances received by parliamentarians; and also the business services and expenses required to undertake their electorate and parliamentary work. For details of each entitlement refer to Appendix 12.

10.2 The CROPE committee (2010) concluded that the current arrangements for administering parliamentary entitlements were an '*extraordinarily complex plethora of entitlements containing myriad ambiguities*'<sup>1</sup>. Much of this complexity is demonstrated by the fact that there are 11 relevant Acts of Parliament; three sets of Regulations; six Remuneration Tribunal determinations and reports; 21 determinations made by the Special Minister of State under the MOP(S) Act and nine formal procedural rules and sets of guidelines made by the Minister to give effect to Remuneration Tribunal determinations.

10.3 The interaction of these instruments and the identification of the prevailing head of authority can result in confusion not only for those administering the entitlements but also for senators, members and their staff. Notwithstanding the level of reporting undertaken by Finance regarding entitlements, to the public or community view, the entitlement framework does not provide a clear and transparent view of what parliamentarians are entitled to or how they use those entitlements. In fact the framework is quite opaque.

### Acts<sup>2</sup>

- *Parliamentary Contributory Superannuation Act 1948*
- *Parliamentary Allowances Act 1952*
- *Ministers of State Act 1952*
- *Parliamentary Presiding Officers Act 1965*
- *Remuneration Tribunal Act 1973*
- *Members of Parliament (Staff) Act 1984*
- *Parliamentary Precincts Act 1988*
- *Remuneration and Allowances Act 1990*

<sup>1</sup> Review of Parliamentary Entitlements, Committee Report, April 2010, p8.

<sup>2</sup> Copies of these Acts, Regulations and determinations are available from the Commonwealth of Australia Law website at [www.comlaw.gov.au](http://www.comlaw.gov.au).



- *Parliamentary Entitlements Act 1990*
- *Members of Parliament (Life Gold Pass) Act 2002*
- *Parliamentary Superannuation Act 2004*

#### Regulations

- *Parliamentary Entitlements Regulations 1997*
- *Members of Parliament (Life Gold Pass) Regulations 2002*
- *Remuneration and Allowances Regulations 2005*

#### Principal Determinations

- *Remuneration Tribunal Determination 2006/18 – Members of Parliament – Entitlements*
- *Remuneration Tribunal Determination 2011/22 - Parliamentary Office Holders - Additional Salary*
- *Remuneration Tribunal Determination 2011/16 – Members of Parliament – Travelling Allowance*

### **The Current Framework in relation to business expense funding**

10.4 The majority of Parliamentary entitlements are provided on a financial year basis, but the method by which senators and members receive them varies. Some entitlements, such as the provision of electorate offices, are provided by Finance for use by the senator or member. Other entitlements, such as electorate allowance which is intended for use for a variety of unspecified items, are paid directly to senators and members and acquitted by them through the taxation system.

10.5 For some benefits there is no monetary or other limit prescribed. A senator or member may access these benefits without limit provided that conditions specified in relation to the entitlement are met. For example, there is no limit to the travel within Australia that may be undertaken by a senator or member on scheduled commercial services provided such travel is for Parliamentary, electorate or official business. Accountability for the use of such entitlements is ensured through separate certification processes.

10.6 Usually, however, there is a monetary cap or a specified number of times that the senator or member may access an entitlement. An example of the former is the charter transport entitlement, and of the latter, overnight stays within the electorate. Where there is a cap on an entitlement, the senator or member is required to certify their accounts for payment, and Ministerial and Parliamentary Services checks that the entitlement limit has not been reached.

10.7 Where an entitlement is calculated on the basis of the size of a Member's electorate, only the land area of the electorate is included in the calculation, unless the Remuneration Tribunal determines otherwise.

10.8 Each senator and member is individually accountable for his or her use of entitlements as they are required to certify that use was within entitlement. The precise form of the certification required depends on the nature of the entitlement, but generally it includes certifying that the entitlement has been used for Parliamentary or electorate purposes.

10.9 Table 10a shows examples of certifications of entitlement expenditure. Those entitlement certifications concerning the Remuneration Tribunal's scope are highlighted by the red marker.

Table 10a – Examples of Certification of Business Expense Funding

Entitlement	Required Certification to Finance
Printing and communications entitlement	Senators and members are required to certify that printing and communications services have been accessed within entitlement.
Electorate allowance ■	Senators and members must declare expenditure to the Australian Taxation Office annually, and be able to substantiate use, or a taxation liability will be incurred.
Travelling allowance ■	Claims are only paid on certification by senators or members of purpose of travel and, where appropriate, there is evidence of an overnight stay in commercial accommodation. Claims must be submitted within 60 days of travel.
Overseas delegations travel	Senators and members are required to submit completed certification forms within 28 days of completion of travel.
Overseas study travel ■	Senators and members are required to report in writing on the visit within 30 days of return.
Private vehicle allowance ■	Senators and members are required to certify that private vehicle allowance claimed is for travel within entitlement.
Charter transport ■	Senators and members are required to certify on the charter certification form that travel was undertaken within and for the service of the electorate.
Electorate staff travel	Senators and members (or authorised persons) are required to certify that travel (air, cab charge, private vehicle allowance) is at his or her direction. Travelling allowance claims must be acquitted after travel.

10.10 The current system of business expense funding has been derived from a number of sources which has evolved over time as the needs and requirements of the role of a parliamentarian have changed. The effect of the various and copious legislative instruments has been to compound the complexity in an effort to provide senators and members with the remuneration and expenses of office necessary to undertake their role; and balance this with community expectations.

10.11 As society's working practices change and the tools available to the general community improve communication and access to parliamentarians, the resources and tools of trade that need to be allocated to senators and members to conduct their roles also need to keep pace.

10.12 Senators and members are provided with a range of business expense entitlements under these various pieces of legislation, including accommodation and office facilities, travel and staff. These business expense entitlements are provided to senators and members to facilitate the conduct of their duties and responsibilities as elected representatives of the Australian public.

10.13 Ministerial and Parliamentary Services, a division of Asset Management and Parliamentary Services Group in the Department of Finance and Deregulation (Finance)

oversees the provision of the bulk of entitlements of senators and members and administers the accountability mechanisms.

10.14 Whilst the various Acts provide a static reference for entitlements the Regulations and Determinations provide a level of flexibility and responsiveness for Finance and the Remuneration Tribunal to keep pace with the changes required in the framework.

### **What do the different Acts provide?**

10.15 The *Remuneration Tribunal Act 1973* established the Remuneration Tribunal which sets remuneration for parliamentarians and also allows the Tribunal to make determinations on matters that it considers significantly related to remuneration. Using this power the Remuneration Tribunal determines certain entitlements for senators and members which provide business funding but can also, in some circumstances, provide a contingent personal benefit to the parliamentarian when they are engaged in Parliamentary, electorate or official business.

10.16 The entitlements for senators and members currently set by Remuneration Tribunal determinations are:

- electorate allowance;
- travelling allowance for senators and members and office holders;
- travel within Australia by senators and members, including by scheduled services, car transport, charter, private-plated vehicles, and privately owned vehicles;
- travel by the spouse or nominee, dependent children and designated persons of a senator or member;
- overseas study travel;
- travel after retirement as a senator or member; and
- home telephone services.

10.17 The *Parliamentary Contributory Superannuation Act 1948* established the Parliamentary Contributory Superannuation Scheme (PCSS). Membership of the PCSS is compulsory for all senators and members, who entered Parliament before the general election of 9 October 2004.

10.18 *Parliamentary Allowances Act 1952* provides that the allowances determined by the Remuneration Tribunal are payable to senators and members. The Act also prescribes the days on which the allowances of senators and members commence and cease, and provides a statutory basis for the additional remuneration of certain Parliamentary office-holders. Note that remuneration for other office-holders is, in the main, dealt with by the Remuneration Tribunal in accordance with the *Remuneration Tribunal Act 1973*.

10.19 *The Parliamentary Presiding Officers Act 1965* relates the exercise in certain circumstances of Statutory Powers and Functions of Parliamentary Presiding Officers which in turn provides for the entitlements payable to these officers for their period in this role and the authority they exercise in management of certain entitlements.

10.20 The *Members of Parliament (Staff) Act 1984* provides for the employment of staff, by senators and members, on behalf of the Commonwealth. In addition to this Act, the terms and conditions of employment of staff are determined by:

- determinations made under this Act;
- the *Commonwealth Members of Parliament Staff Enterprise Agreement 2010-2012*; and
- the *Fair Work Act 2009*.

10.21 The *Parliamentary Precincts Act 1988* prescribes the identification of the Parliamentary Zone and control and management of Parliament House and surrounding

areas, including the Ministerial Wing of Parliament House. Ministers have entitlement to additional office accommodation in Parliament House managed by Finance, in conjunction with the Department of Parliamentary Services.

10.22 The *Parliamentary Entitlements Act 1990* prescribes certain entitlements for senators and members and Parliamentary office-holders, including:

- electorate office accommodation, equipment and office requisites;
- travel overseas by Parliamentary delegations;
- Australian flags and printed items related to national symbols;
- photographic services at Parliament House; and
- travel by special purpose aircraft.

Note, however, that some of these entitlements may be omitted or varied by determinations made by the Remuneration Tribunal.

10.23 The *Remuneration and Allowances Act 1990* sets the rates of remuneration and allowances, including additional salary, for certain office holders, including senators and members. Prior to the determinations being made that accompany this Report, annual salary for senators and members was linked by a Regulation made under this Act to a reference salary within the Remuneration Tribunal's Principal Executive Office Structure.

10.24 The *Members of Parliament (Life Gold Pass) Act 2002* sets the terms and conditions under which Life Gold Pass holders are eligible for travel (for non-commercial purposes) at Australian Government expense.

10.25 The *Parliamentary Superannuation Act 2004* establishes superannuation accumulation arrangements for all senators and members entering or re-entering the Federal Parliament on or after the general election of 9 October 2004. Under this Act, senators and members have a 15.4 per cent superannuation contribution paid by the Government to a complying superannuation fund (other than a self-managed superannuation fund) or to a Retirement Savings Account of their choice.

### **What do the Regulations provide?**

10.26 The *Parliamentary Entitlements Regulations 1997* provide details of the additional benefits provided to members and Parliamentary office-holders under the *Parliamentary Entitlements Act 1990*, and legal assistance for Ministers.

10.27 The *Members of Parliament (Life Gold Pass) Regulations 2002* define the phrase 'exceptional circumstances' for the purposes of the 'stop-over' provisions of the *Members of Parliament (Life Gold Pass) Act 2002*.

10.28 The *Remuneration and Allowances Regulations 2005* set the percentage of the reference salary (as determined by the Remuneration Tribunal) for the purposes of setting the annual salary of senators and members under the *Remuneration and Allowances Act 1990*. With the making of the base salary Determination that accompany this Report, this method of setting parliamentary base salary has now been superseded.

### **Entitlement Categories**

10.29 There are two basic categories of entitlements. First there are those paid directly to the senator or member. These are principally paid in the form of personal remuneration, although Electorate Allowance, which covers various unspecified items of business expenditure, is also provided to the parliamentarian as cash. Secondly, those which cannot be converted to cash, and which are often provided as a 'bank', in regard to which the senator or member can spend money on behalf of the Commonwealth up to certain limits, with the bills met by the Commonwealth. These expenses are principally for business funding, but some, such as overseas study travel (now in the process of being abolished),

and post retirement travel (also the subject of recommendations in this Report, can be construed as providing a personal benefit to the parliamentarian, without being cashable. A list of entitlements is provided in Table 10b below.

Table 10b – Entitlement Categories

<b>Paid directly to the Senator or Member</b>	<b>Paid on behalf of the Senator or Member; as reimbursement; or provided to the Senator or Member to a budget level</b>
<b>Personal Remuneration</b>	
Base Salary	Private Plated Vehicle
Additional Salary of Office Holders	Domestic & Family Travel
Resettlement Allowance	Overseas Study Travel & Overseas Spouse Travel
	Life Gold Pass
	Severance Travel
	'Employer' superannuation contributions
	Residential telephone
	Overseas delegation travel
	Private Vehicle Allowance
	Travel Allowance
	Car Transport
<b>Business expense funding for unspecified items</b>	Special Purpose Aircraft
Electorate Allowance	Charter Transport
	Staff
	Legal assistance to Ministers
	Mobile Phones for personal staff
	Printing and Communications
	Office accommodation and communications
	Office requisites and stationery (including IT)
	Commercial publications and Australian Government publications
	Photographic services
	Transfer of bulk papers
	Constituents' Request Program (flags, symbols etc)

10.30 The recommendations of the Review of Parliamentary Entitlements Report (CROPE) aimed to<sup>3</sup>:

*ensure that senators and members were given relevant and adequate resources to do their jobs within a simplified, transparent and accountable framework that has regard to contemporary community standards. In making its recommendations, the committee endeavoured to strike a balance between the needs of parliamentarians and public confidence in the appropriateness of the level of support provided to elected representatives.*

10.31 Several recommendations of the report related to value of entitlements whilst others recommended administrative and legislative changes to bring about a reduction in the complexity and ambiguity of the framework.

10.32 Recommendation 38 was implemented in March 2011 with the government approving the review and alignment of the profile of the opposition's personal staff allocation to ensure it was comparable to that of the government. Recommendation 9(i) was

<sup>3</sup> CROPE Report, p 8

implemented by the Remuneration Tribunal in September 2011 with adjustments to the Resettlement Allowance for parliamentarians.

10.33 The CROPE committee considered that it was '*important to separate remuneration from the tools of trade or means by which senators and members carry out their roles*'. The Remuneration Tribunal considers that it is timely to consider the development of a framework that supports this recommendation, including legislation that separates these two types of entitlements and allows for independent determination of remuneration – which is now enabled by the *Remuneration and Other Legislation Amendment Act 2011*.

10.34 Currently the *Parliamentary Entitlements Act 1990* Part 1, Section 10 provides for any conflict between regulations and determinations. Specifically:

(1) Where the regulations are inconsistent with a determination by the Remuneration Tribunal under paragraph 5(1) (a) or subsection 9(1), the regulations prevail and the determination is void to the extent of the inconsistency.

(2) Where the regulations are intended to cover the whole field in relation to a particular subject matter, then, for the purposes of subsection (1), any provision of a determination that deals with that subject matter is taken to be inconsistent with the regulations, whether or not they are capable of operating concurrently.

### **A New Entitlements Framework**

10.35 The Remuneration Tribunal considers that any new legislative framework must reduce the issue of determining jurisdiction and precedence by ensuring that the authority for those entitlements determined by the Remuneration Tribunal remains within one Act that is not disallowable by other legislation. This would support the current arrangements enabled by the *Remuneration and Other Legislation Act 2011*.

### **Recommendation**

10.36 The Remuneration Tribunal recommends that government streamlines the current entitlement framework to reflect a firm delineation between remuneration and business expense streams. The framework, inter alia, should provide:

- that the *Remuneration Tribunal Act 1973* cover all payments of a remuneration type for senators and members;
- that a single Act, being the *Parliamentary Entitlements Act 1990* or a successor, should contain the legislative provisions underpinning all business expense funding provided to senators and members to undertake their electorate and parliamentary accountabilities;
- that there is an improved interface between the administrators of the two Acts so that the two legislative instruments operate singularly and separately with no overlap.

10.37 A move to a simplified framework would remove much of the 'opaqueness' of the current framework and reduce the red tape currently involved in administering the plethora of legislative instruments. The Remuneration Tribunal considers that the principle of separating entitlement more clearly into remuneration and business expenses and ensuring that the legislation facilitates the provision, operation and compliance of the two streams of entitlements is a sensible and fresh approach to the difficulties experienced within the current legacy framework.

10.38 The current arrangements rely heavily on various pieces of legislation, as mentioned earlier. Ultimately, a move towards consolidation of these legislative provisions in the two, remuneration and business expense, streams can only clarify and simplify the various provisions.

10.39 Excluding superannuation and payments made after retirement from parliament, the bulk of remuneration and business expenses are administered under the following legislative instruments which cover the major scope of authority and discretion of the Special Minister of State:

#### Remuneration

- *Ministers of State Act 1952*
- *Remuneration Tribunal Act 1973*
- *Remuneration and Allowances Regulations 2005*
- *Remuneration Tribunal Determination 2011/22 - Parliamentary Office Holders - Additional Salary*

#### Business Expenses

- *Members of Parliament (Staff) Act 1984*
- *Parliamentary Entitlements Act 1990*
- *Remuneration and Allowances Act 1990*
- *Parliamentary Entitlements Regulations 1997*
- *Remuneration Tribunal Determination 2006/18 – Members of Parliament – Entitlements*

10.40 Rationalisation of the current framework into two major heads of authority would enable the repeal of several of the current Acts and Regulations and would also allow for a further rationalisation of the current 36 individual determinations, rules and guidelines administered by Finance.

## 11 State and Territory parliamentary remuneration

### Recommendations

The Tribunal recommends that the linkage between the remuneration of state and territory parliamentarians and assembly members and the base salary of federal parliamentarians in South Australia, Queensland, Tasmania and Victoria should be severed on the basis that this linkage:

- cannot be justified without a State or Territory based work-value assessment similar to that conducted for federal parliamentarians;
- will include the direct flow-on of increased base salary without the elimination of certain other entitlements, which elimination goes hand-in-hand with the increase in base salary; and
- may not differentiate salaries for superannuation purposes and inappropriately create a flow-on of the increased base salary to pension benefits.

### Current situation

11.1 Four of the eight states and territories link the remuneration of their parliamentarians and assembly members to the federal parliamentary base salary.

- the base salary of South Australian parliamentarians is tied through state legislation to the base salary of federal parliamentarians, minus a specified dollar amount.
- the federal base salary is also referenced in the various pieces of legislation governing salary for members of the Queensland, Tasmanian and Victorian parliaments. In all three jurisdictions, however, steps have been taken recently to cap salary increases.

11.2 Tribunals in the Australian Capital Territory and Western Australia determine parliamentarians' salaries independent of the federal base salary. In New South Wales and the Northern Territory, any increases are legislatively aligned with public sector salary increases in the relevant State/Territory.

11.3 The Attachment to Chapter 11 summarises the relevant legislative basis in each state and territory for determining remuneration and conditions of parliamentarians and assembly members, and whether there is a relation to federal parliamentary base salary.

### Recommendations

11.4 The linkage between the remuneration of state and territory parliamentarians and assembly members and the base salary of federal parliamentarians should be severed on the basis that this linkage:

- cannot be justified without a State or Territory based work-value assessment similar to that conducted for federal parliamentarians
- will include the direct flow-on of increased base salary without the elimination of certain other entitlements, which elimination goes hand-in-hand with the increase in base salary;
- may not differentiate salaries for superannuation purposes and inappropriately create a flow-on of the increased base salary to defined benefit pension benefits.

**11.5** The Tribunal acknowledges that the salaries of parliamentarians across all jurisdictions will continue to provide useful benchmarks or reference points to ensure that one parliament does not become significantly out of step with others.



## Attachment to chapter 11: Salaries of State and Territory Parliamentarians

State/Territory	Legislation	Linkage to federal parliamentary base salary
Australian Capital Territory (ACT)	The <i>Remuneration Tribunal Act 1995</i> (ACT) establishes the ACT Remuneration Tribunal to inquire into, and determine, the remuneration and allowances to be paid and entitlements to be granted, to members of the ACT Legislative Assembly (in accordance with s.9 of the Act).	No automatic flow on from federal base salary.
New South Wales (NSW)	<p>In 2011, the NSW Parliament passed amendments to section 4 of the <i>Parliamentary Remuneration Act 1989</i> (NSW), giving the Parliamentary Remuneration Tribunal (established by section 14G of the Act) the power to determine the 'basic salary' of NSW parliamentarians.</p> <p>The Tribunal, when making a determination, must apply the same public sector wages cap that binds the Industrial Relations Commission when making decisions relating to public sector wages.</p> <p>The Tribunal may also "make determinations of additional entitlements that are to be available to a member or recognised office holder" (s.9 of the Act).</p>	<p>Previously, basic salary was "the amount of the annual allowance by way of salary payable under the law of the Commonwealth to a Member of the House of Representatives who is not entitled to any additional salary, less \$500". This linkage has now been broken by the <i>Parliamentary, Local Council and Public Sector Executives Remuneration Legislation Amendment Act 2011</i> (NSW).</p>
Northern Territory (NT)	<p>The <i>Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act 2006</i> (NT) provides that the basic salary of an NT Assembly member (and any additional salaries of office) is tied to the annual rate of increase in pay of NT public sector employees (s.3 of the Act).</p> <p>The Act also establishes the NT Remuneration Tribunal (under s.17) which determines other entitlements of Assembly members.</p>	No automatic flow on from federal base salary.

State/Territory	Legislation	Linkage to federal parliamentary base salary
Queensland	<p>In accordance with s.109 of the <i>Parliament of Queensland Act 2001</i> (QLD) “a member of the [Queensland Legislative] Assembly is entitled to an annual salary that is \$500 less than the annual salary that a member of the House of Representatives of the Parliament of the Commonwealth, who is not entitled to any additional salary, is entitled to”.</p> <p>Members are also entitled to other allowances and benefits.</p>	<p>On 7 October 2011, the Premier of Queensland, the Hon Anna Bligh MLA, announced that the Governor in Council had approved a 2.5% salary increase for Queensland parliamentarians rather than passing on the 3.1% salary increase received by federal parliamentarians in July 2011.</p>
South Australia (SA)	<p>Under s.4 of the <i>Parliamentary Remuneration Act 1990</i> (SA), the remuneration of a member of the SA Parliament comprises a “basic salary”, “such electorate allowances and other allowances, expenses and benefits as are determined from time to time by the [SA] Remuneration Tribunal” plus, if applicable “an additional salary” for holding a specified office.</p> <p>S.3 of the Act provides that ‘basic salary’ means “annual salary at a rate equal to \$2000 less than the rate from time to time of Commonwealth basic salary”.</p>	<p>Automatic flow on from federal base salary.</p>
Tasmania	<p>Part 1 of Schedule 1 of the <i>Parliamentary Salaries, Superannuation and Allowances Act 1973</i> (Tas) provides that a member of the Tasmanian Parliament “is to be paid the basic salary”. This salary is based on a percentage of the Commonwealth basic salary. The percentage is determined by the Full Bench of the Tasmanian Industrial Commission. The Tasmanian Auditor-General determines the dollar amount equivalent to this percentage not later than 14 July each year.</p>	<p>Increase may flow on from federal base salary, subject to decision by the TIC.</p> <p>The Tasmanian Premier, the Hon Lara Giddings MP, announced on 20 June 2011 that salary increases for Tasmanian parliamentarians would be capped at 2% for the next 12 months (via the <i>Parliamentary Salaries, Superannuation and Allowances Amendment Act 2011</i> (Tas)).</p>

State/Territory	Legislation	Linkage to federal parliamentary base salary
Victoria	<p>Under s.6 of the <i>Parliamentary Salaries and Superannuation Act 1968</i> (Vic), Victorian parliamentarians are entitled to be paid “a salary at the rate per annum of the basic salary”, “a residential allowance, a travelling allowance, an electorate allowance and an electorate office allowance” plus, if applicable “an additional salary and an expense allowance” for holding a specified office.</p> <p>According to s.3 of the Act, ‘basic salary’ means “the amount of the annual allowance by way of salary from time to time payable to members of the House of Representatives under the law of the Commonwealth less \$5733”.</p>	On 16 August, the Victorian Premier, the Hon Ted Baillieu MP, announced that salary increases for Victorian parliamentarians would be capped at 2.5% until 30 June 2012 (via the <i>Parliamentary Salaries and Superannuation Further Amendment Act 2011</i> (Vic)).
Western Australia (WA)	Under s.6 of the <i>Salaries and Allowances Act 1975</i> (WA) the salaries of WA parliamentarians are determined by the WA Salaries and Allowances Tribunal independent of any statutory linkage to the remuneration of a federal parliamentarian.	No automatic flow on from federal base salary.

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**Egan Report including Questionnaire**



# **The Attributes, Role and Reward *of a* Backbencher *in the* Federal Parliament**

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November 2011

**Prepared for**

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**The Commonwealth Remuneration Tribunal**

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## 1. Introduction

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Egan Associates (EA) have been engaged to provide advice to the President and Members of the Remuneration Tribunal and its Secretariat about the role and work value of a Backbench Member of the Federal Parliament.

The report has been prepared to assist the Remuneration Tribunal in its consideration of appropriate reward for Backbenchers. The prime focus is on the Backbench Member of the Federal Parliament, not on officeholders in Government or Opposition parties. For the purpose of clarity, a Backbencher can be a Member of either the House of Representatives or the Senate. They can be from any Party in the Parliament or Independent Members.

### Executive Summary

In gaining a comprehensive appreciation of the role of a Backbench Member of Parliament John Egan was joined by members of the Remuneration Tribunal in discussions with twenty-seven Members of Parliament representing city, urban, rural and regional electorates across all States and the ACT. These interviews incorporated discussions with independent Members of both the House of Representatives and the Senate.

Additionally, an online survey was forwarded to all Members of Parliament seeking information on the nature of their work and workload, including their engagement in the Parliament and in the electorate. EA received a 60 per cent return from the online survey which was managed on their behalf by the Australian Survey Research Group.

Additionally, EA sought an alternate market based perspective from Mercer<sup>1</sup> in relation to salary levels in both the public and private sectors for work of equivalent value.

The current research in many respects was consistent with the research of others and my own earlier research into the role of a Backbench Member of Parliament at the time sittings commenced in the new Federal Parliament House in 1988.

It was evident from discussions and from questionnaire returns that Members of Parliament work long hours, both when the Parliament is sitting (around twenty weeks per year) and during weeks when they are in the electorate.

While the Tribunal's and my own principal focus was on Backbench Members of Parliament, our interviews also included discussions with Members who had held Ministerial office in a Coalition Government, Parliamentary Whips, committee Chairs and Deputy Chairs. EA also sought input from Principal Advisers and Chiefs of Staff with long experience to obtain a perspective of the role of a Member of Parliament from the staff's perspective and also held discussions with the non-Parliamentary leadership of the Labor Party, Liberal Party and National Party.

These enquiries confirmed that Members of Parliament work long hours and those in rural and regional electorates as well as those situated some distance from Canberra devote a considerable period of time each week either travelling in the electorate or travelling to Parliamentary sittings.

EA's research revealed that in respect of the 43<sup>rd</sup> Parliament the typical Member has served for a period beyond two terms of the House of Representatives, though more than ninety

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<sup>1</sup> Mercer (Australia) Pty Limited.

Members of the Parliament have served less than two terms. The average age of a Member of Parliament is 51, though the range of ages is from early 20s to early 70s.

The vast majority of Members of Parliament have undertaken tertiary education, with thirty Members of Parliament having training in the law. A number of regional and country Members have experience in farm management and small business management. A number have prior backgrounds in the trade union movement or as political advisers or commentators.

EA's research broadly confirmed that the role of a Backbench Member of Parliament remains similar to that described in the 1988 study, though subsequent to that time the demands on Members from 24/7 media and the level and speed of communication sponsored by the new electronic age has placed significant new demands on all Backbench Members of Parliament arising from these two significant changes.

While acknowledging these changed circumstances, both Egan Associates and Mercer in undertaking an independent review have determined that the work value of a Backbench Member of Parliament, while in a number of respects is more complex, is broadly aligned to my assessment in the late 80s. The most problematic and challenging aspect of determining work value experienced by both organisations is wrestling with the duality of a Backbencher's role, one in the Parliament overseeing Government expenditure, formulating policy and legislation, the other in supporting their constituency which in many electorates represent highly challenged sectors of the national economy each indicatively impacting on the wellbeing and welfare of 150,000 citizens.

The work value methodology used by Mercer at the time of this research retains the same constructs and processes that I developed for application in both the public and private sectors from the 1970s and has been retained since that time across many Government organisations to which Mercer continue to consult and formed the basis in the early 80s and subsequent to that time as the key work value foundation for the Chief Executive and Senior Executive Services across Governments throughout Australia.

In reviewing the salaries paid across a number of industry and sector settings both Egan Associates and Mercer have offered a perspective of the marketplace which is broadly aligned and which in aggregate reflected an indicative salary level drawn from data at both the end of the 2010 calendar year and from recent disclosures for positions of comparable work value, though not necessarily workload. The range in values having regard to both average and median salary levels was from \$150,000 to \$302,269. Having regard to averages the spread was from \$154,000 to \$302,269 and in relation to medians from \$150,000 to \$293,632. The average salary value drawn from both samples was \$208,780.

It was acknowledged that Members of Parliament do not receive performance aligned payments which are widely embraced at senior management level in the public sector, though particularly the private sector, and do not receive shares in Australia Inc or any equivalent which is a common benefit of senior management in listed public companies, subject to the performance of those individuals and the companies.

A matter raised by all groups with whom both the Tribunal and myself held discussions was the changes to Parliamentary superannuation which took effect from the October 2004 general election and in many respects changed attitude toward tenure and, from many potential candidates' perspectives, was a disincentive given the high risk attached to regular elections and more volatile sentiment in the constituency.

In the committee report titled *'Review of Parliamentary Entitlements'* of April 2010, in referring to employment after a Parliamentary career, in chapter 2 the report states: "For

those wishing to re-enter the workforce, the transition can be challenging, and the absence of accrued annual and long service leave can make a period of readjustment even more difficult. The departure from office can be sudden, for example in the event of an unexpected election result...”

Egan Associates acknowledge that (with changes to superannuation policy generally and limits being imposed on contributions to superannuation capped at \$25,000 (this amount to be indexed annually) from the 2011-12 financial year in accordance with movement in average weekly ordinary time earnings rounded down to the nearest multiple of \$5,000) two classes of participant exist in the Parliament, Members serving prior to the 2004 elections who participate in a defined benefit plan and those who have joined the Parliament at or after the October 2004 elections who participate in an accumulation plan. EA do, however, acknowledge in this context, that Members of Parliament who have only served subsequent to 2004 are experiencing a relative detriment to their retirement benefit compared to their long serving Parliamentary colleagues, though this detriment is paralleled in the private sector by those who have changed jobs and as a consequence lost the benefit of their participation in legacy defined benefit retirement plans. In this context I have formed the view that adjusting salary alone, which has a direct bearing on retirement benefits and the funding cost, cannot be separated in ensuring the equitable treatment of Members of Parliament.

EA note that some concessional contribution provisions remain, though understand that these changes proposed are yet to receive Royal Assent. EA presume that this inequality in retirement benefit opportunity is a matter which will be separately considered by the Remuneration Tribunal.

The work value as determined by Egan Associates and Mercer was at the upper reaches of SES1 and potentially overlapping SES2 positions. This was primarily a derivative of the challenge of determining the position impact of a Member of Parliament for which perspectives varied:

- from a small business manager (that is managing the costs of serving the Member and the electorate),
- through to a shared accountability for the Federal Government’s annual expenditures in the order of \$400 million or improving the nation’s gross domestic product in the order of \$1.3 trillion or the economic benefit of the electorate (which the Member of the House of Representatives in particular has a clear accountability for supporting).

I am mindful of this work value tension and in particular acknowledge that the original work completed by me in 1988 did not focus on the broad electoral impact of a Backbench Member of Parliament, nor the Backbench Member of Parliament’s increasing engagement in the stewardship of Government expenditure and sustainability of the nation’s gross domestic product.

Having regard to the background of Backbench Members of the Parliament and the market data from all sectors, including the reference points which Members and Parliamentary parties believed to be relevant, I formed the view that an appropriate range of salaries which the Tribunal could draw upon in determining Backbench conditions of employment would be represented by the interquartile range (25<sup>th</sup> percentile to 75<sup>th</sup> percentile) of the individual, median and average salary levels across all comparator samples of sufficient size. EA acknowledge that an interquartile range of medians and averages clearly does not address the differential in the indicative hours worked by position incumbents from which data has been drawn and those of a Backbench Member of Parliament. This factor is highlighted in the report where data has been provided in relation to many skilled technical, trades and

operative staffs in the resources sector who on a 38 hour week basis would draw a salary in the range of \$90,000 to \$100,000 (depending on level/ skill), though whose annual earnings arising from shift allowances, extended work days and weekend work can deliver an annual wage above \$200,000.

The interquartile range derived from the analysis referred to above is from \$176,000 to \$236,000, with the median value being \$203,000. The interquartile range of the separate median and average salary samples was comparable.

As will be noted from the material set out in this report, these figures are well below many 75<sup>th</sup> percentile salary comparators which are more likely to be representative of those Members in Government or the private sector working hours comparable to those of a Member of Parliament and would represent a range which would be regarded as competitive on the basis of some Backbench Members' employment prior to entering Parliament, and in many cases would represent remuneration well below that which would have been received by a select group of Backbenchers given their qualifications and experience.

On the basis that any salary would be determined in the fourth quarter of the 2011 calendar year, it would be my judgement that it needs to reflect a contemporary market at that time. In light of rolling benefits arising under award agreements and the level of pay adjustment in the public and private sectors in the second half of 2011 and in addressing the aged nature of the data drawn upon for this research, EA believe that an appropriate range within which the Remuneration Tribunal should consider the salary of a Backbencher would be as set out in the table below.

	<b>Minimum</b>	<b>Median</b>	<b>Maximum</b>
Salary	\$185,000	\$211,500	\$250,000

While there are clearly a number of Backbench Members of Parliament who could command salaries at a higher level, the background of Members and their period of service is highly varied. Notwithstanding, they all work long hours. In my judgement an appropriate (albeit conservative) positioning would be to determine a salary level between the adjusted minimum and adjusted median of the interquartile range. In this context the adjusted median reflects a median salary across the distribution of averages and medians, not the arithmetic average between the highest and lowest figure within the interquartile range.

In light of the current salary level of a Backbench Member of Parliament being \$140,910, it would be my recommendation that the Remuneration Tribunal make a determination between the adjusted minimum and the median salary within the interquartile range. While there are clearly a number of Backbench Members of Parliament who could command salaries at the higher level others may not be similarly advantaged. The Tribunal needs to reflect on the fact that no performance component would be incorporated in their decision and also the alternate income opportunities, albeit that a Member's workload is considerable by any standards and their current level of experience (both prior to entering Parliament and as a Member of Parliament) is highly varied.

## **Project Overview**

### **1.1 Report Objectives and Inputs**

Egan Associates have been advised that since Federation a single rate of pay has been set for all Members of both Houses.

EA have been further advised that the salary of State/Territory Parliamentarians; the assistance and/or administrative support provided to Parliamentarians; and the matter of

additional remuneration paid to Parliamentarians fulfilling additional roles to that of a Backbencher; are **not** of primary relevance to the study.

EA have been further advised that the current study is not required to investigate the specific roles of Ministers, Shadow Ministers or Parliamentary Officeholders.

Among the matters which the research is required to embrace is information on the following:

- Who becomes a Member of Parliament?
- What is their background and what are their qualifications?
- What sort of career would they be likely to have were they not in the Parliament?

The various roles of a Backbencher – as a representative of their electorate; as a legislator; as a Member of Parliamentary committees – both their outside and inside Canberra roles should be examined and consideration should be given to:

- Working hours,
- Level of responsibility,
- Job security,
- Other related matters.

In the above context the Remuneration Tribunal commissioned John Egan to participate, with the President and members of the Tribunal, in interviews with a minimum of twenty-five Members of the Parliament across Party lines, while concurrently having regard to the diversity of electorates and the proximity of electorates to Canberra. The purpose of these interviews was to gain their perspective on:

- the role of a Member of Parliament,
- whether it is difficult to attract appropriate candidates, and
- what the challenges in attracting candidates are.

EA was commissioned to conduct an online survey to ascertain details on Members' backgrounds prior to entering Parliament and their role as a Member of Parliament, their time commitment to the role (both when in Canberra and in the electorate).

Following the above research Egan Associates were required to outline the workload and nature of the accountabilities of a Backbench Member of Parliament and offer a perspective in relation to both the workload and accountability of relevant comparator employment groups in the public and private sector and to identify, analyse and comment on any comparators from the federal public sector that might provide indications relevant to conclusions on appropriate remuneration for a Backbench Member of Parliament.

Additionally, the research program was required to provide information in relation to remuneration arrangements in the private sector having regard to members of professions, executives or others where either work value and workload or workload are considered to be comparable.



## 1.2 The Work of a Member of Parliament

The relative weight or focus of the work of a Backbencher is influenced by a number of factors, including whether they are a Member of the House of Representatives or the Senate, the nature of their electorate and its proximity to Canberra, their role in the Parliament, their personal skills and attributes and areas of policy and legislative interest.

Members of the Parliament fulfil a variety of roles, providing leadership in their communities for the Government or in various aspects of the work of the Parliament. Their engagement is primarily influenced by their role, the Party to which they belong, the demands of the electorate, their skills and interests.

Backbenchers with whom members of the Tribunal and John Egan met had varying engagements in the Parliament extending from Shadow Ministers in the Opposition, individuals with leadership roles in their Party, Backbenchers chairing committees of the Parliament or fulfilling the role of Deputy Chair, together with those who served on a number of committees or fulfilled other roles concerned with the management of business in either House of the Parliament or involved in supporting the relevant Whip.

Members serve on a significant number of committees, including House standing committees, joint committees administered by the House or the Senate, joint select committees administered by the Senate, Senate committees or select committees of the Senate.

Additionally, Members may fulfil positions in their Party, both in the Parliament and within the administrative arm of the Party at Federal or State level and will also fulfil roles in party caucus committees and in various other groups which can include friendship groups or parliamentary groups focused on particular issues external to formal committees of the Parliament.

In facilitating a significant response to the questionnaire and obtaining a wide representation from the Parliament EA were greatly assisted by the Party Whips and their Chiefs of Staff.

To further supplement my appreciation of the role of the political parties and the nature of candidates which they were seeking to represent the constituents across Australia, both for the House of Representatives and the Senate, I met with federal representatives of the major parties.

The emphasis of a Member of the House of Representatives or a Senator's role varies between weeks they are in Canberra when the Parliament is sitting and weeks they are in their electorate or electoral division working on matters relevant to their constituents or serving on enquiries conducted by committees of the Parliament.

The work of a Member of Parliament is clearly not restricted to Monday to Friday but extends over seven days of the week, with many Members travelling on Sundays in the weeks in which Parliament sits from their electorate to Canberra, as well as travelling within their State or constituency to attend events or meet with constituents across their seven day period.

In preparing guideline questions for discussions with Members of Parliament and the questionnaire to be distributed to all Members of Parliament, Egan Associates also obtained information from a number of Infosheets from both the House of Representatives and the Senate and other resources from the Parliamentary Library which provided additional

information on the role of a Backbencher and the role of committees in the Parliament and further drew information from a number of websites.<sup>2</sup>

Drawing upon the above research, a questionnaire was designed to enable Members of Parliament to describe their role, including their membership of committees of the Parliament, and their workload. Additionally, a guideline questionnaire was provided for members of the Tribunal to assist in personal interviews. (See Attachment 2.)

### 1.3 Acknowledgements

Acknowledgement is made here of the generous help and support from a number of individuals and organisations in producing this report.

I particularly wish to thank members of the Tribunal including the President, John Conde, and members John Prescott and Jillian Segal who devoted considerable time to participating in the interview program with Backbench Members of Parliament and in the review of issues as they arose leading to the publication of this report.

I also wish to acknowledge the support of the Secretary of the Tribunal, Derren Gillespie who, together with his staff, coordinated interviews (both within the Parliament and external to the Parliament) and provided considerable background information to assist in various aspects associated with the preparation of this report.

I was particularly appreciative of the contribution made by the twenty-seven Members of the House of Representatives and the Senate who were generous with their time and willing to express their views about the role and demands of a Member of Parliament openly.

I also appreciated the willingness of the executive directors of the Labor Party, Liberal Party and National Party for making time available to provide a perspective on the challenges associated with attracting Members of Parliament across a wide spectrum of electorates, and also to the staff supporting Members of Parliament, providing insights into the work of a Backbench Member of Parliament, a Shadow Minister and a Minister, as well as committee Chairs and Whips. Their contribution was invaluable.

I also received support from Tricia Deasy and the staff at Australian Survey Research Group in the questionnaire design and in managing Member feedback. Their effort was evident in achieving a 60 per cent return.

The assistance provided by Mercer in meeting tight timelines and providing an independent view on both work value and salary levels in both the public sector and private sector marketplace was helpful.

I would also specifically wish to acknowledge the assistance of Dr Vince Murdoch and Jo Reinhard (nee Mulligan), who assisted me on the 1988 study, for their contribution in summarising research inputs and editing the document, as well as Kirsten Ross in the preparation of the analysis of the survey data in a coherent and concise form, as well as other staff at Egan Associates who were involved in typing numerous drafts of this manuscript.

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<sup>2</sup> <http://www.apf.gov.au/>  
<http://www.apf.gov.au/committee/index.htm>  
<http://www.apf.gov.au/Senate/committee/com-list.htm#Standing>  
[http://www.apf.gov.au/house/committee/comm\\_list.htm#standing](http://www.apf.gov.au/house/committee/comm_list.htm#standing)  
<http://www.apf.gov.au/house/info/infosheets/is04.pdf>  
<http://www.apf.gov.au/Senate/pubs/briefs/brief04.htm>



## 2. Structure of Enquiry

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### 2.1 Preparation

Following a detailed briefing by the President of the Remuneration Tribunal and the Tribunal Secretary a program of work was agreed in order to fulfil the objectives stated above. Interviews with Directors of political parties, support staff of Members of Parliament and Backbenchers representing a cross section of electorates and Party membership, including Independents, were scheduled. Meeting rooms were provided in the Federal Parliament for the conduct of all discussions other than meetings with Directors of political parties which were held at their headquarters.

Agreement was reached with the Tribunal in relation to a schedule for the completion of the project, including progressive updates on responses to the Member survey and the work being undertaken by the subcontractors.

### 2.2 Methodology

#### 2.2.1 Interviews

A central component of the research undertaken by Egan Associates was a series of discussions held with twenty-seven Members of Parliament, including Members of both Houses, Members of all parties and Independent representatives in both Houses, with individuals from metropolitan, regional and rural electorates, from all States and the ACT. John Egan was joined by the President and Members of the Tribunal for these discussions.

These discussions were intended to provide an insight into the role of Members of the House of Representatives and the Senate, particularly including:

- background and experience which they bring to the role,
- role in the Parliament,
- role in the electorate,
- role in the Party,
- leadership and administrative role,
- time commitment.
- whether it is difficult to attract appropriate candidates, and
- what the challenges in attracting candidates are.

#### 2.2.2. Online Survey

In order to meet the study's objectives, Egan Associates designed a questionnaire to capture appropriate information from Members of Parliament, and sought an independent service provider with appropriate expertise in the conduct of online surveys to manage the conduct of this aspect of the enquiry. Egan Associates coordinated the work of the online survey facilitator, Australian Survey Research Group Pty Ltd ([www.aussurveys.com](http://www.aussurveys.com)).

The Australia Survey Research Group (ASR) was experienced in the conduct of similar online surveys and applied their standard methodologies in relation to the management of

the online survey process and the analysis of data. In consultation with ASR, Egan Associates determined the most appropriate form of analysis to undertake reflecting the different constituencies, Party and House membership, together with other demographic attributes.

### **2.2.3 Additional Independent Work Value Assessment**

In order to ensure an independent assessment of the work value of a Backbench Member of Parliament and a collage of potentially different comparators in relation to determining their salary, at the request of the Tribunal and on John Egan's recommendation, Egan Associates commissioned Mercer ([www.mercer.com.au](http://www.mercer.com.au)) to provide that independent perspective in relation to both work value and reward.

The Mercer organisation adopted protocols which were developed by John Egan in the 1970s and with which he is thoroughly familiar. These work value methodologies were applied by John Egan in the comprehensive review of Parliamentary salaries and conditions of employment in 1988. Their methodology is set out more comprehensively in an attachment to the report and referred to in the section of the report dealing with work value and remuneration.

### **2.2.4 Review of Public and Private Sector Pay**

In drawing the widest possible base for community comparison across a number of Australian workforces Egan Associates researched pay in Local and State Governments, in listed public companies and private companies where scale and occupation were regarded as relevant, from survey data covering professions and the small to medium business sector, as well as payment to trades and other skilled staff working long hours in the resources sector in both Western Australia and the Eastern States.

A key challenge has been addressing the pay of individuals employed by public and private enterprises where they have entitlements to annual leave and long service leave, in many contexts receive the benefit of salary continuance and other insurances, as well as bonuses and loadings. This is a circumstance quite different from a Backbench Member of Parliament who is not an employee, does not have entitlements to loadings reflecting their long hours of work (both during the week and on most weekends), nor do they receive bonuses or have any security of tenure except at the behest of electors.

### **2.2.5 Review of Past Research**

Egan Associates drew upon past research prepared by others in relation to the work of a Member of Parliament and in particular a report of April 2010 titled '*Review of Parliamentary Entitlements*' commissioned by the Special Minister of State and Cabinet Secretary, Senator The Hon Joe Ludwig, a document titled '*What Lies Beneath: The Work of Senators and Members in the Australian Parliament*' by Dr Scott Brenton, 2009, an Australian Parliamentary Fellow, and a paper prepared by Professor Geoff Gallop for an address to the Australasian Study of Parliament Group in November 2008, together with a paper prepared by Jack Stillborn in May 2002 titled '*The Roles of the Member of Parliament in Canada: Are They Changing?*'.

Additionally, Egan Associates drew upon the last comprehensive review of the role and reward of a Member of Parliament, including extensive interviews which John Egan undertook for the Remuneration Tribunal in 1988 and was provided with comprehensive background from the Secretariat on adjustments to Backbencher pay, both prior to and subsequent to that review.

### **2.2.6 Review of Current Parliamentary System**

A number of websites were reviewed in order to provide Egan Associates with an appropriate and contemporary background, together with the readings referred to above, on the structure of the Federal Parliament. The key site referred to was the Federal Parliament House website ([www.aph.gov.au](http://www.aph.gov.au)).

### 3. Background to the Parliament

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As outlined a number of websites were reviewed in order to provide Egan Associates with an appropriate and contemporary background, together with the readings referred to above, on the structure of the Federal Parliament.

The material in this section draws heavily upon published documents which were sourced in providing a succinct overview of the Federal Parliament. It also draws on survey responses and additional information provided by Members.

#### 3.1 Structure, Membership and Operation of the Federal Parliament

The Federal Parliament comprises two Houses, the House of Representatives and the Senate. The House is often referred to as the Lower House, whilst the Senate is known as the Upper House; in this report I refer to the former as the House and the latter as the Senate.

At the time of conducting the research the House consisted of 150 Members representing 150 separate electorates across the States and Territories. The number of electorates by State and Territory is as set out below:

- New South Wales: 48 electorates;
- Victoria: 37 electorates;
- Queensland: 30 electorates;
- Western Australia: 15 electorates;
- South Australia: 11 electorates;
- Tasmania: 5 electorates;
- The Australian Capital Territory: 2 electorates;
- The Northern Territory: 2 electorates.

The Senate has 76 Members composed of 12 representatives from each State plus 2 from each of the Territories. Combined, the two Houses of Parliament comprise the legislative arm of the Australian political system. Representatives of electorates and Members of the Senate are elected by those eligible to vote.

At the time of the research the Parliament had independent representatives, together with representatives of four parties, including the Australian Labor Party, the DLP, the Liberal Party, the National Party and the Australian Greens.

The Parliament, through adopting the Westminster system, consists of representatives who form the Government and another group of representatives the Opposition, with Independents either supporting or not supporting the Government. Each Member of Parliament represents either an electorate or an electoral division, the latter being a State or Territory.

The Parliament meets during twenty weeks of the year for the purpose of making laws which will affect all citizens of the country. Members of Parliament have specific accountabilities,

some of which are met in committee, others in the legislature, to hold the Government accountable for its actions, to monitor the expenditure of public funds, to act as a forum for debate and discussion and for the expression of grievances.

Both Houses of Parliament are governed by protocols and procedures and there are committee processes in place in both Houses to ensure that the Parliament is conducted in accordance with these protocols.

At the time of conducting this study the Parliament would be regarded as a 'hung Parliament', with the following representing the standing of representatives:

- Australian Labor Party: 72
- Liberal Party: 60
- National Party: 12
- Australian Greens: 1
- Cross-bench Members: 5

The membership of the Senate at the time of undertaking this study was:

- Australian Labor Party Senators: 31
- Liberal Party Senators: 28
- National Party Senators: 6
- Australian Greens Senators: 9
- Other Senators: 2

There are many official positions in the Parliament to facilitate its conduct. When Parliament meets the presiding officer in the House of Representatives is the Speaker and in the Senate the President. The majority of Members of Parliament would be known as Backbenchers. A number of Members of both Houses if in Government parties have Ministerial or Parliamentary Secretarial responsibility, and in Opposition parties have a number of Members who would be referred to as Shadow Ministers or Shadow Secretaries.

Some Members represent metropolitan seats, others urban, regional or rural seats. A Senate Backbencher represents the whole State or Territory for which they were elected and in this context represents everyone (and specifically, no one), whereas a Backbencher in the House of Representatives represents a specific electorate, having broadly between 85,000 and 130,000 electors.

All Members of Parliament have electorate duties, duties to their Party and Parliamentary duties, the latter including attending Parliament, supporting their front bench colleagues, participating in debates on legislation or on other formal occasions such as matters of public importance, urgency debates, adjournment debates, as well as contributing to debate in their Party rooms and participating in the election of leaders of their Party and also contributing to the work of committees in the Parliament.

In the electorate Members deal with a diversity of constituent enquiries, complaints and problems across a wide spectrum of topics, though more frequently matters concerning

social welfare, immigration, education and health, together with other matters which will often be specific to the electorate and may concern industry or business development, agriculture, forestry or fishing interests, mining interests, unemployment or circumstances impacting specifically on the disadvantaged or indigenous peoples.

While Ministers and Shadow Ministers have specific portfolio obligations and are not active participants in committees, most Backbenchers participate in committee work, either a committee of their relevant House or joint committees of both Houses, with more experienced Backbenchers or those with specific skills being appointed by their Party Whips to chair committees or act in the capacity of deputy chair, or join committees as a member where they may have particular skills, interest or electorate concerns.

Members of the House of Representatives and Territory Senators are required to seek re-election on a three year cycle basis should Parliament go its full term. For others in the Senate their period of appointment is for six years, with half the Senate being re-elected at each general election of the Parliament, Senators commencing their term in July in the year following the election.

### **3.2 Member Demographics of the 43rd Parliament of the Commonwealth**

The 43<sup>rd</sup> Parliament includes 159 Members between the age of 40 and 59, with approximately 40 Members in each five year block over that twenty year spread. [These are set out later.] Members of Parliament include those elected for the first time to the 43<sup>rd</sup> Parliament and more than 90 representatives having served less than six years, with the length of service in both chambers as a percentage of membership being similar.

Across the Parliament there were 8 Members with doctorate degrees, 49 with masters degrees, and across the Parliament Members collectively held more than 200 university qualifications. In the 43<sup>rd</sup> Parliament at the time of commencing the current research the youngest Member of Parliament was 21 years of age, elected in 2010. The oldest Member of Parliament was over 70. The average age of a Parliamentarian at the time of the 2010 election was 51. The difference between the chambers is minimal.

Between the 183 Parliamentarians with a tertiary education they hold more than 360 qualifications, the most common being a bachelors degree (of which there were 212), 8 hold doctorates, 49 masters degrees, 25 graduate diplomas and a further 30 hold diplomas, professional or certificate qualifications. Of the qualifications 90 were in the field of law, 30 in the field of economics and commerce, 25 in administration, 24 in education and 13 in health.

In relation to the roles which Members of Parliament held before being first elected to Parliament, 30 worked in the legal profession, 57 in small to medium sized businesses, with a number being previously employed in farming or by a trade union and more than a third of the Parliament having previously worked in political related roles, including a political lobbying or consultancy firm or engaged in political research or from an electorate office. Those having a prior Party, union, administration or official Party role were much more prevalent in the Senate, with more than twice the proportion than House of Representative Members. Over the past fifteen years there has been a decline in the number of Parliamentarians from education-related professions or farming and grazing.

Of the current Parliament nearly two-thirds had served less than twelve years and 45 Members or 20 per cent had served less than three years. The longest serving Member in the 43<sup>rd</sup> Parliament was Philip Ruddock, the Member for Berowra in New South Wales, who had served in the House of Representatives for thirty-eight years.

Government statistics reveal that the careers of Members of Parliament are becoming shorter, generally lasting no more than twelve years. Statistics compiled since Federation

through to the 1980s revealed an average length of a Member of Parliament's service to be in the range of sixteen to seventeen years.

The Backbenchers interviewed revealed a pattern of prior employment and service in the Parliament not dissimilar from the aggregate statistics. The Members of Parliament interviewed by John Egan and the Tribunal are listed in Attachment 2.

### **3.3 Selection of a Backbencher – How Does a Member Enter Parliament**

While the research has had a prime focus on identifying the diversity of a Backbencher's role and on that basis determining work value and relevant comparators in both the public and private sectors, a unique feature of the appointment of a Member of Parliament is the manner in which one is selected to stand for Parliament.

For management and senior professional roles in both the private and public sectors, the overriding principle leading to appointment is that the incumbent or candidate prior to appointment is selected having regard to their prior accomplishments, experience, their education and skills, with occasional consideration being given to their physical attributes and good health. The traditional selection process for appointment to a senior role is different to the process which leads to an individual becoming a Member of Parliament.

Unless an Independent Member of Parliament and in that context, a self selected candidate for election to the Parliament, a candidate is chosen by a political Party to represent their interests at either the level of electoral division (a Senator) or an electorate (Member of the House of Representatives).

An assumed pre-condition for pre-selection of a candidate is that they are ideologically aligned with the Party. Equally from the constituent's perspective they want a Member both capable of representing their interest and contributing to the development of National policy, with the prospect that some elected members, either of the House of Representatives or the Senate will play a leadership role in Government, becoming a Minister, a Parliamentary Secretary or when in Opposition, a role shadowing those functions.

The Parliament therefore, through the Party system needs to provide for candidates who are representative of the community and capable of representing their constituency on the one hand and on the other, a sufficient number of candidates to serve their Party in Government in a leadership position. This is likely to place emphasis on the parties seeking representatives from across all facets of community life to represent its citizens and manage the business of the nation. From a Party's perspective, candidates need to be both electable and re-electable in the chosen electorate.

On the basis of EA's research and international research, there do appear to be some highly desirable attributes which would be essential in the pre-selection process. For Members of the House of Representatives, having a manner which is seen to be approachable and engaging would appear to be fundamental. Of significant importance, appears to be communication skills, intelligence, leadership qualities, research and analytical skills, negotiation skills, stamina and good health. A given is that any candidate pre-selected to stand for Parliament must have the highest level of integrity and be regarded by the community as beyond reproach.

If the above hypotheses are valid, a critical aspect of the Parliamentary process is candidate selection by parties. Notwithstanding these challenges EA's assessment of work value has had no regard to incumbency, but rather the task as described through discussion with approximately thirty Backbench Members of Parliament, and through data revealed in questionnaire responses completed by 60 per cent of Members of the Parliament including current Officeholders of the Parliament, Ministers of the Government and those who held similar positions in a prior Government, as well as Members of both Houses who have been a Backbencher for the duration of their Parliamentary service.



## 4. Role, Accountability, Workload and Attributes of a Backbencher

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In this section I provide an overview of the Role, Accountability and Workload of a Backbencher. The Overview provides a summary of this. The following sections, The Role in Parliament, the Role in the Electorate, the Leadership and Administrative Role and the Party Political Role cover in more detail what is expected of a Backbencher. The workload of a Backbencher is demonstrated in terms of time commitment and finally I list the attributes of a Backbencher

### 4.1 Overview

A Member of Parliament, from either the House of Representatives or the Senate, has a variety of roles based on political allegiances and policy interests, the attributes of their electorate, whether they are serving as a Member of the Government or the Opposition, or whether they are in a minority Party or Independent, together with their engagement in the constituency and role in the Parliament.

The work of a Backbench Member of Parliament can be varied and influenced by a range of factors, including their electoral margin, whether they serve in the House of Representatives or the Senate, whether they are a Member of the Government or Opposition and the nature of their electorate, be it urban or rural. The 43<sup>rd</sup> Parliament which commenced in mid 2010 further changed with the new House of Representatives and Senate membership differing in some respects from prior Parliaments, with the increased influence of Independents and Members of the Australian Greens leading to a circumstance of the Government having a minority membership in both chambers.

The role of a Backbencher has in recent years involved a considerable uplift in workload arising from both the volume and complexity of legislation and policy issues generated by various constituent groups which often extend beyond the boundaries of the electorate or the nation and are continuously reported in the media.

The requirement to engage with a diversity of stakeholders, principally the Backbencher's constituency, has been heightened by the rapid expansion of communication based technologies imposing greater demands on Members of Parliament who are required to respond to a diversity of media enquiries in their electorate, several hundred emails a week, tweets, response to their blogs and Facebook on a regular basis.

Members of both Houses are expected to be across the activities of their Party, the issues before the Parliament and the Government, including emerging policy initiatives and respond promptly to enquiries from their electorate. They are expected by the Parliament to fulfil an active role in the review and debate on Government policy and administration across a range of matters impacting on the nation. Constituents with whom Backbench Members interact on a regular basis not only expect them to be fully aware of matters before the Federal Parliament but also have an understanding of the principal activities of State Governments and the operational role of Local Government in their electorate and/or State or Territory.

The breadth and pace of the issues confronting a Member of Parliament appear to have increased considerably over the past twenty years, even though the core elements of the role of a Backbencher have remained broadly constant. It is the breadth of the role's content, the rate of change, the impact of a better informed electorate, the uplifted engagement of Australia internationally, including its membership of the G20, and the 24/7



media environment which have modified expectations and changed the pace of Parliamentary activity.

Over the past generation there has also been a series of global events which have focused increased attention on economic and environmental factors and the nation's demographic change which have heightened focus and expectations in the areas of health and education. A Backbench Member of the House of Representatives' engagement with their electorate continues, however, to retain common areas of required support, including social welfare and immigration related challenges.

**Within the Parliament,** Members contribute to discussion and debate on issues of public importance, public policy and legislation before the Parliament. They contribute to the formulation of policy through participation in committees, both within the Party Caucus and bipartisan Parliamentary committees. In addition to these formal committees Members also participate in informal committees, ad hoc advisory committees and friendship groups.

Many Parliamentarians are engaged in leadership roles within the Parliament, either in Government (including Ministers of State and Parliamentary Secretaries, the Speaker of the House, Managers of Parliamentary business, Whips, President of the Senate, to name the more prominent roles) or in Opposition (where Backbenchers can also be called upon to fulfil the role of a Shadow Minister, a Shadow Parliamentary Secretary, or manage Opposition business in either the House of Representatives or the Senate, or a Whip).

Outside the above nominated roles which fall to elected Members of Parliament who carry a basic accountability as a Backbencher, Members would also participate in a number of committees, with many Members chairing important committees of the Parliament (including joint committees of both Houses and select committees of the Senate) or be Deputy Chair. The latter two positions are generally aligned to whether the Backbencher is a Member of the Government or a Member of the Opposition. The breadth and complexity of committee work is set out in Attachment 1.

**Within the constituency,** Members represent the interests of their electorates on a wide range of matters affecting their constituents. A Backbencher's engagement in the community would address a diversity of involvements including community organisations, significant employers and influential groups seeking to influence public policy. Members would also be asked to respond to issues outside the direct involvement of the Federal legislature and public service, including matters which are within the province of Local and State Governments. All Members in the current electronic age receive significant numbers of emails each week and a number are proactive in social media, communicating directly with their electorate constituents on matters relevant to their needs. They react to the electorate's demands, providing an informed interface between the individual and the bureaucracy and act as a point of reference to assist constituents in personal or other difficulties they might be experiencing.

Members of the Senate are generally less focused on individual electorates than Members of the House of Representatives, though would be called upon to provide support in electorates where their Party is not represented in the Parliament and in receiving submissions or being lobbied on behalf of organisations across the State which they represent for support on matters arising from either Parliamentary enquiries, foreshadowed legislation or existing legislation. Members of the Senate (and less frequently Members of the House of Representatives) would be approached by organisations seeking Government assistance by way of grants or support to further their community based or commercial endeavours.

**Within the Party,** Members (other than Independents) are involved with their political Party at State and Federal level, particularly in respect of policy development and through engaging with branches at Federal, State and constituent level. Involvement in branch or Party meetings in the electorate contributes to informing the community of Government and Party policy initiatives and provides a forum for Members to listen to the views of their constituency.

**Leadership and Administration:** A Backbencher is expected to be a leader in their community and well-informed about a myriad of policy, regulatory and administrative issues, not only those relevant at a Federal level but also in respect of many State and Local Government issues. A Backbencher is supported generally by a staff of four, including one senior staff member, who are required to address a wide range of matters on behalf of the Backbencher in the electorate or, when Parliament is sitting, in Canberra. Managing the allocation of each staff member's workload and, where practicable, using part-time members with appropriate knowledge of policy, regulation, legislation and administrative matters, including responding to many thousands of emails during any one calendar year is a key obligation of a Backbencher in meeting the expectations of the electorate.

**Travel:** In order to meet their obligations as a Backbencher, Members of the House of Representatives and the Senate are required to undertake extensive travel in meeting their various obligations. Approximately twenty weeks of the year they are required to travel to Canberra to attend Parliamentary sittings and participate in committee work which is Canberra based. Arising from the recently extended hours of Parliament, many Members are required to travel on the Sunday prior to sittings commencing and a number are unable to make direct connections to their electorate on the Thursday evening following Parliamentary sittings. When participating in significant enquiries conducted by the Parliament Members are required to travel State-wide or nationally in the conduct of those enquiries.

A significant number of Members and most Senators also undertake extensive travel in meeting with their constituents, ranging from individuals and small businesses, to community organisations, educational institutions, major employers, schools, hospitals and other key bodies across their electorate. Members' electorates vary in size from less than 100 square kilometres to in excess of 1,000,000 square kilometres. Those Backbenchers whose electorates are a considerable distance from Canberra and whose electorates are substantial in terms of area covered undertake considerable travel and are often away from home four or more nights a week when Parliament is sitting and three or more nights a week during those periods of the year when Parliament is not sitting.

The time commitment to travel to both Canberra and within the constituency is varied, though some Backbenchers indicated that their weekly commitment to travel substantially exceeded 20 hours when in their electorate and up to a day when travelling both to and from Canberra (due to transport connections) during sitting weeks. A number of Members of rural and regional electorates revealed that they had more than one hour's travel from the nearest airport to their home which added further burden to their travel obligations. For some, road transport travel time was significantly greater than the above.

Discussions with Members of both Houses of Parliament and questionnaire returns from 60 per cent of the Parliament to the current enquiry in relation to the role, accountability and workload of a Member of Parliament highlighted the long hours demanded and the criticality of Members of Parliament possessing key attributes and skills which would be reflective of the management class and seasoned professionals across all spectrums of industry and public sector workforces nationally.

The role as described in face to face discussion and through the questionnaire responses reveals the significance of a requirement for a breadth of work experiences and higher education leading to well developed communication skills and leadership and negotiation skills, a capacity to undertake research and the possession of highly developed analytical skills, as well as personal confidence and, in the current political environment, intuitive political instinct. For a Member of the House of Representatives in particular the capacity to engage with and effectively represent the constituency was also of paramount importance.

In summary, the Principal Accountability of a Backbencher is to:

- Represent, defend and promote national interests by contributing to the development of public policy and legislation via the process of community, Party and Parliamentary engagement.
- Further the needs and interests of constituents, as far as practicable, having regard to both the national interest and Government policy, as well as administrative and operational constraints of the bureaucracy.

## 4.2 Role in the Parliament

During sitting weeks of the Parliament a Member of the House of Representatives or the Senate would be actively engaged in a diversity of issues for a minimum of twelve hours each day. This would involve responding to urgent matters raised in the constituency, undertaking research in preparation for Question Time in either the House of Representatives or the Senate, preparing materials to contribute to debate on a bill or matter of public importance in the Parliament or in Caucus meetings of the Party scheduled for the relevant sitting week.

Typically a Member also pursues areas of specific interest through Parliamentary committees which relate to a personal interest, previous occupation or skill, constituent or Party priority. Senators who do not have a specific electorate constituency devote a considerable deal of their time engaged in Parliamentary debate on proposed Government policy and legislation and matters of national interest and contribute extensively to the conduct of enquiries which involve nation-wide hearings through select or standing committees, as well as ad hoc and joint committees of the Parliament. During sitting weeks Senators would often receive delegations from industry groups in their State or parties seeking to respond to matters of significant public interest which are the subject of Parliamentary debate, media discussion or the work of Senate or joint committees.

Members of Parliament representing regional or rural constituents are actively involved in matters of particular relevance to their constituency, including infrastructure, telecommunications, agriculture and the broad footprint of resources, indigenous affairs and development. They will often participate in committees of special interest or prior experience relevant to their electorate or their State.

Work pertaining to the development of Government or Opposition policy in respect of legislation or matters of significance to the Parliament tend to be substantially completed in Caucus and formal committee work during sitting weeks, as well as through debate and Question Time in the House of Representatives or the Senate.

The nature of a Backbencher's engagement in committee work is varied, though committee Chairs on the major committees of the Parliament have quite onerous roles in leading the work of the committee and its enquiries and in this context are generally supported by additional staff. The time commitment of a Deputy Chair can be influenced by their other

committee obligations or the criticality of the work of the committee to the Parties in Opposition.

In addition to their role as a Parliamentarian, Ministers and Shadow Ministers have additional obligations in the Parliament which relate to their role in Government or in shadowing the effectiveness of the Government of the day across the entire range of Government administration.

In fulfilling the above obligations all Members devote a considerable period of time to background reading relevant to the issues before the Parliament, including their work in committees and devote considerable time in preparation for speaking in the House or preparing submissions associated with their committee engagements. While their roles are different in nature, Members of both Houses fulfilling Ministerial or Shadow Ministerial roles, or those engaged in the management of the business of Parliament are equally involved in significant preparatory work associated with their engagement with the business of the Parliament.

Under the current workings of the Parliament Members of both Houses are active participants in bipartisan committees which are the principal forum for debate and discussion on issues of public policy.

The major categories of committee of the Parliament are:

- House Standing Committee
- Joint Committee administered by the House
- Joint Committee administered by the Senate
- Joint Select Committee administered by the Senate
- Senate Committee
- Select Committee of the Senate.

Other Parliamentary committees tend to parallel ministerial areas of accountability and matters pertaining to the conduct of the Parliament.

Each Member of the House of Representatives or the Senate represents a constituency, be it an electorate or a State or Territory if a Senator. In addition to fulfilling their obligations as Backbenchers, a number of Members of Parliament hold an office in the Parliament, either in the Government or in the Opposition, and, if not a Minister or Shadow Minister or Speaker of the House or President of the Senate, are likely to have considerable engagement in committees of the Parliament. The specific accountabilities which are set out below are fulfilled to varying degrees subject to the specific obligations of a Member of Parliament in addition to the traditional role of a Backbencher.

#### **Specific Accountabilities in the Parliament**

- Contribute to the formulation of legislation and the development of public policy in the capacity of Minister, Shadow Minister, Parliamentary Secretary, Shadow Parliamentary Secretary or Officer of the Parliament for the Government or Opposition parties, or through participation in Parliamentary committees as Chairman, Deputy Chairman or Member.

- Negotiate with the major parties, if an Independent or Member of a minority Party, in determining positions on key issues coming before the Parliament.
- Participate in Parliamentary enquiries as a member of select committees investigating the effectiveness and adequacy of Government administration and/or Agencies of Government.
- Conduct research into matters before the Parliament of special/constituent interest and contribute to debate and policy/regulatory outcomes through engagement in the Parliamentary process.
- Participate in Party Caucus room discussion on policy and legislative initiatives reflecting either the concerns of interest groups or the views of constituents in respect of known Party policy or the Parliament's legislative agenda.
- Prepare questions to be addressed by Ministers or their representatives in either the House of Representatives or the Senate.
- Prepare speeches on matters of public importance, electorate interest or in contributing to Parliamentary debate.
- Conduct research and prepare submissions or comprehensive file notes to assist in committee work as either committee Chair, Deputy Chair, Secretary to the committee or Member.
- Identify conflict between national and local electorate needs, managing communications within the electorate, both in canvassing views and informing the electorate of Parliament's decisions.

### 4.3 Role in the Electorate

In the electorate the majority of Backbenchers are supported by full-time staff, those staff being engaged in a wide range of administrative activities and research, with some team members having expertise in dealing with the media, in the operation of the Government bureaucracy or in areas of significant interest within the electorate constituency. As Senators do not have a specific electorate constituency but rather represent the State, their engagement in the broader electorate will have an emphasis on major policy matters, enquiries being conducted by the Senate or joint committees of the Parliament, or in broad policy or administrative issues which cross a number of electorates though are of particular social or economic concern to the State. Members serving large electorates will generally have more than one office in order to provide comprehensive constituent representation, both by the Member's staff and the Member.

Significant and universal constituent issues addressed by Members of Parliament pertained to social welfare, the environment, immigration and related policy or administrative matters. Other issues, of which there were many, tended to be electorate specific and related to particular industry sectors including, for example, farming and agriculture, as well as infrastructure or interest groups concerned with export and investment controls.

Additionally, Members are called upon to deal with a wide variety of community concerns, this aspect of their role resembling that of an ombudsman in that they are required to be involved in solving constituent problems and associated investigative work with the view to assisting in dispute resolution. Many Members' activities may also overlap the work of their State and Local Government counterparts due to particular skills, location of their electoral office or Party representation. They may be called upon to represent constituents in a wide



variety of matters noted above, as well as telecommunications, postal services, family law, the provision of health and educational services, the environment, transport, the local economy and their engagement with financial institutions, local business, as well as the institutions of State and Local Government and community groups.

Most Members of the House of Representatives are active in a wide range of community organisations and are patrons of many, including Rotary, Apex, cultural and sporting bodies, organisations for the aged, nursing homes, hospitals, schools, business or special interest groups. They are expected, particularly in the rural areas, to show significant interest in both the endeavours and difficulties of their constituent community, to be widely travelled, readily accessible and a concerned resident of the electorate.

A significant majority of Backbenchers have an active role in the media, including local newspapers, radio stations, television networks and other forums. Backbenchers would often have a regular engagement with community or regional radio networks, have a column in local newspapers and respond to requests from regional television networks. Others with a specific portfolio interest, including Ministers and Shadow Ministers, would appear regularly in television debate and discussion on issues of electorate, State or national significance and be asked by their Party to fulfil commitments on behalf of the Government or the Opposition parties. Subject to individual skill and interest, a number of Backbenchers would attend conferences and submit papers in various forums debating on issues of national importance or emerging community interest on behalf of the Party and/or the electorate which they represent.

Many Backbenchers revealed that they are never off duty and when in the electorate attending to personal matters they are often approached by constituents seeking assistance and/or expressing a point of view. They reflect that these experiences extend over the entire week.

#### **Specific Accountabilities – Constituency**

- Represent the interests of constituents in a wide range of matters affecting their wellbeing;
- Manage the contribution of the electoral office staff in fulfilling their ombudsman role;
- Attend community functions across a wide spectrum of local organisations, including hospitals, schools, clubs, special interest groups, as well as local authorities and councils to observe the electorate's 'pulse';
- Engage with constituents across the electorate in order to gain an understanding of emerging community or interest group expectations;
- Communicate with the electorate through the effective use of electronic mail in various forms, including blogs and other social media, traditional media outlets (including newspapers radio stations and television organisations), as well as via newsletters in order to keep the community informed on legislative and regulatory outcomes, Government initiatives directly supporting the electorate, as well as enquiries conducted by the Parliament directly impacting on the community of the electorate;
- Act as Patron to constituent organisations;
- Represent Ministers, Shadow Ministers, the Prime Minister or Leader of the Opposition in the constituency, as appropriate;

- Act as a clearing house for Government decisions through the electorate office and supervise staff, ensuring courteous attention to constituent needs;
- Respond to correspondence, where appropriate, either personally, by phone, email or letter;
- Manage, or influence, the distillation of the community's contribution to legislation or policy formulation in the context of Parliamentary enquiry or matters before the Parliament considered essential by the Party in ensuring appropriate representation of constituent interests.
- Attend events, making speeches where appropriate, within the constituency, including Party meetings or public forums with a political agenda, educating the public in respect of Government policy or proposed initiatives or in the support of community protest in relation to Government policy or proposed initiatives.
- Liaise with captains of industry, interest groups, local councils and other persons of influence in the community.

#### 4.4 Leadership and Administrative Role

A Backbencher, independent of any other roles which they fulfil in the Government or the Opposition of the day or in the Parliament has a significant and growing administrative task in both managing communications during periods when the Parliament is sitting and during those periods when the Backbencher is participating in the work of the Parliament or serving constituents, either in a local electorate or more broadly as in the case of a Senator. Each week a Member of Parliament, in collaboration with their staff, would devote considerable time to managing their diary in the weeks ahead and juggling priorities in respect of the numerous invitations that they receive to participate in electorate based activities, while also setting aside time to deal with more complex matters on which constituents have sought their personal support and assistance.

Backbenchers are addressing their constituents' response in a 24/7 media environment where substantial communication arises by email or through responses to social media where a number of Backbenchers use Facebook or blogs to communicate issues of relevance to their constituents and/or reflect a particular interest or expertise of the Backbencher. Backbenchers are required to manage staff in both the electorate and with them in Canberra during the five months of the year when Parliament is sitting, those staff dealing with a diversity of matters which are time critical, often politically sensitive, and regularly arising from media speculation or competing political views expressed in the wider community and seen to have a direct impact on a Backbencher's constituents.

Time management and people management are critical leadership accountabilities of a Backbencher in meeting their numerous and diverse obligations in the constituency, often where that constituency covers well in excess of 1,000 square kilometres. Events in which Backbenchers are expected to have a degree of engagement would include those involving community organisations, including religious bodies, schools (many Backbenchers have in excess of fifty schools in their electorate) and a myriad of other community based enterprises, a number of those being under the control of either Local or State Governments.

A Backbencher and his or her staff need not only to be across the breadth of issues before the Parliament and under consideration by their Party, but also the myriad of issues which are being discussed in their electorate, be that State-wide or a more closely defined boundary, with more than 90,000 electors being continually confronted by matters of a personal, social welfare or economic matter, or those created by Government bureaucracy

at either Local, State or Federal level. A member of Parliament is required to be a leader in the constituency they represent.

#### **Specific Accountabilities – Leadership and Administration**

- Inform electorate staff in all facets of Government and/or Opposition policy and bureaucracy initiatives to facilitate their provision of assistance in the constituency.
- Encourage electorate staff to participate in training provided for their benefit, particularly having regard to the emerging 'electronic office' environment, both in the Parliament and the electorate.
- Direct electorate staff in their management of constituent communications, ensuring they are timely, cost-efficient and courteous.
- Ensure that a nominated electorate staff member maintains the accounts of the electorate office to a standard capable of independent audit.
- Ensure that electorate staff are fully conversant with all relevant entitlements affecting the conduct of their office and the Member and that thorough records, capable of independent audit, are maintained.
- Ensure that electorate staff comply with established administrative requirements which govern their conduct and that of the electorate office.
- Ensure that electorate staff have a thorough awareness of the support available within the Parliament in Canberra and through relevant Government Departments in providing administrative support to enable the Backbencher to fulfil their obligations to both the Parliament and the constituency.
- Ensure that all personal record management is completed thoroughly and that entitlements are conformed to and are in accordance with guidelines issued by either the Parliament or the bureaucracy.
- Seek and adopt support in managing the budget of the electorate office, including staff resourcing, the allocation of overtime and travel costs and other electorate based expenses in accordance with approved entitlements.
- Determine how salaries and allowances payable to electorate staff should be best allocated within approved budgets and electorate office entitlements.

#### **4.5 Party Political Role**

The majority of Members of Parliament belong to a political Party and as a consequence are actively involved in a wide range of political activities. They are expected to maintain allegiance to the Party and support it in the House, outside the Parliament and in various political promotional, campaign and fundraising activities. Members of the House of Representatives are more focused on working with branches of their Party within their constituency. Senators, however, tend to be active in constituencies where their Party is not represented Federally, as well as at State and Federal level in respect of Party policy development and Party administration.

Members of both Houses are also active in community organisations affiliated with their Party, particularly those actively engaged in the development of public policy. Re-election is important for all Members of Parliament, in the House of Representatives and the Senate,



and as a consequence Backbenchers have a continuous involvement in local Party branch activities and associated fundraising initiatives, as well as their ongoing engagement with their Parliamentary Party colleagues. Backbenchers also assume partial accountability for recruiting their successors and/or other new potential Parliamentarians in support of their Party's interest.

#### **Specific Accountabilities – Party**

- Participate in and contribute to fundraising activities in the electorate in order that the Party branches are sufficiently solvent to contribute to election and other necessary campaigns.
- Publicise issues and reflect the values of the Party widely throughout the constituency.
- Serve the Party in a variety of constituent-based roles.
- Attend branch meetings, electorate committees, area/regional conferences, State and Federal Council meetings where appropriate, administrative committees of the Party and other policy formulating entities as requested.

#### **4.6 Workload of a Backbencher**

The research in terms of hours of work by Members of the Senate and Members of the House reveals in taking an overall perspective during weeks when Parliament meets the median hours devoted to the role is 70.

The variability was not great, though 45.6 per cent of Senators revealed that during weeks when the Parliament met they devoted more than 70 hours a week to their engagement compared to 36.1 per cent for Members of the House of Representatives.

While the median in both cases was equivalent, the average hours devoted to the role when Parliament is not meeting stood at 70.85 for all Members of Parliament. For Members of the House 38.6 per cent worked more than 70 hours, of which 15 on average was travel time, whereas for Senators a similar commitment stood at 32.6 per cent.

#### **4.7 Attributes of a Backbencher**

The research revealed that the top ten attributes and skills perceived by Backbenchers of Parliament were as follows:

- Communication skills
- Honesty and integrity
- Community representation skills
- Intelligence
- Being approachable
- Leadership skills
- Negotiation skills
- Confidence
- Intuitive political instinct
- Courage
- Stamina

- Research and analytical skills
- Caring and empathic nature

Taken overall, these responses indicate that seven attributes were selected by more than 50 per cent of survey respondents. By far the two highest ranked attributes were communication skills, and honesty and integrity, both recording over 85 per cent support. Next were five attributes – community representation skills, intelligence, being approachable, leadership and negotiation skills.

All of these attributes are likely to be reasonably consistent with the generally accepted community image of what a Parliamentarian should be.

## 5. Australian and International Research

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As background research into the role of a Backbencher, Egan Associates reviewed both Australian and International Research, including a number of reports previously undertaken for the Federal Government, the Remuneration Tribunal and the Parliament. Each of these provided additional perspectives on the role of a Backbencher.

The Remuneration Tribunal Secretariat made a number of documents available to me to assist in the conduct of my research into the role and workload of a Backbench Member of Parliament. Much of that research was sourced from the Parliamentary Library which EA very much appreciated.

Among the documents which the Secretariat brought to EA's attention was a presentation by Dr Geoff Gallop on the role of a Member of Parliament, presented to a study of Parliament Group in Parliament House, Sydney in November 2008. EA were also directed to a comprehensive Study written by Dr Scott Brenton, a 2009 Australian Parliamentary Fellow, in his work titled *'What Lies Beneath'*, Sub-title *'The Work of Senators and Members of the Australian Parliament'*. EA also reviewed a report commissioned by the Federal Government titled *'A Review of Parliamentary Entitlements'* submitted in April 2010. EA were also directed to a paper prepared by Jack Stillborn, written in May 2002 on the roles of the Member of Parliament in Canada; Are they Changing?

Through the Tribunal EA also gained access to contemporary extracts to be included in the forthcoming edition of the Parliamentary Handbook, primarily on the demographics of the current Parliament.

To further enable us to undertake the work in relation to establishing a work value comparator base with senior positions in the Australian or broader public sector environment, the Tribunal made available to us on a confidential basis, copies of advices provided to the Government by Mercer.

### Observations

In the comprehensive research report prepared by Dr Brenton, he made a number of observations following his research which also reflected on international research. He noted, for example, that Sweden found that a majority of Senators perceived scrutiny of legislation as their most important function, followed by reviewing and improving Government policies. His research in relation to the work of Members of the Parliament focused on the 42<sup>nd</sup> Commonwealth Parliament, where the number of Parliamentarians were comparable to the current Parliament. As only one Parliament separated the conduct of the research, demographics of the Parliament remained broadly consistent. In addition to surveying current Members of Parliament, Dr Brenton's research also involved questioning former Parliamentarians. In respect of sitting Parliamentarians the survey had 80 responders and in respect of prior Parliamentarians, 153 respondents. The response rate was commented upon as favourable.

Given the online questionnaire response rate (137 Members) was higher, I believe EA were favourably advantaged, given that the research was to inform my work and advise the Tribunal on appropriate levels of salary for Members of Parliament.

The findings in the Brenton Report about the difference in the focus of the work of a Member of the House of Representatives and the Senate were consistent with the current research. While EA did not specifically focus on the difference in the role of campaigning, the additional comments and feedback from the interviews reflected a different nature of

dependence upon the electorate of a Member of the House of Representatives compared to a Member of the Senate.

Members of the House of Representatives reported that their role was very different from that of a Senator in approximately 50 per cent of cases, compared to marginally more than 20 per cent in the case of a Senator.

The views of current as compared to prior Members, were more stark in highlighting this difference. Both House and Senate respondents in the study thought that the work patterns were very different or quite different. Dr Brenton's observation in this regard is that these perceptions were based more on ignorance than fact.

In respect of hours committed during Parliamentary weeks, the 2009 study reflects a broadly comparable result, particularly in non-sitting weeks when Senators are more heavily engaged in Committee work compared to the House of Representative colleagues. The Brenton 2009 research of Members of the prior Parliament revealed that approximately half of the Members of the House of Representatives worked between 12 and 15 hours a day during both sitting and non-sitting weeks, with a further third working longer hours, though during sitting weeks Members of the Senate revealed a higher workload.

The observations in the Brenton 2009 report in relation to the impact of technology and the speed with which information is distributed widely in a community, was consistent with both my discussions and the response to questionnaires.

The time devoted to travel in the electorate which revealed a higher commitment in non-sitting weeks of Members, compared to Senators was confirmed in EA's research, though Senators revealed considerable travel involved when they were serving on Committees, conducting hearings nationally.

EA's research in relation to the differences between urban, rural and regional areas in respect of issues before Members of the House of Representatives and those of Members of the Senate observed by Dr Brenton, were also consistent with research undertaken in 2000 by the Australian Parliamentary Fellow, Jennifer Kirkham.

The relative time commitment of Senators in liaising with lobbyists and interest groups compared to Members of the House of Representatives reported in the 2009 study was confirmed in interviews conducted by myself with members of the Tribunal. The general observations of the 2009 study in relation to work in the Parliament were closely aligned, particularly the time commitment of Senators to Committee work.

The observations in relation to cross bench or independent or minor Party representatives in the Brenton Report were confirmed by the current discussions and comments made by minor Party representatives to the questionnaire.

While the focus of EA's research was not on who or what a Member of Parliament believed to be their core representative role, discussions and feedback clearly revealed the importance for Members of the House of Representatives of the needs and interests of their direct electorate constituency, with Senators having in part a broader perspective in representing the Party in their State. It was evident during the individual meetings when a number of Members had to interrupt the discussion to attend to a Division in their relevant House for a short period, that the Party's perspective was highly critical.

The perspective highlighted in the Brenton Study on who or what current Parliamentarians think they primarily represent was clearly supported in individual meetings with Backbench Members of the Parliament, though also broadly supported in discussion.

The observation of Senators in relation to the criticality of their review role was strongly supported, though equally the independent Members of the House of Representatives with whom the Tribunal met revealed a significant focus of their engagement in both that context and in the context of meeting their perception of their obligations in representing the interests of their electorates.

The observations presented by Dr Geoff Gallop, to the Parliamentary Group that the various activities of a Member of Parliament and differing priorities, are both influenced by the House in which a Member sits and whether they are a representative of the Government or Opposition were clearly supported in the current research.

Dr Gallop's paper, also referred to in the *'Review of Parliamentary Entitlements'*, described an extensive range of regular activities for a Parliamentarian: "Working with electors and organisations within the electorate, informing the electorate about important issues or initiatives, attending Party meetings (conferences, electorate councils, branches, policy committees), attending Parliamentary Party meetings, participating in Parliamentary debates, working on a Parliamentary committee, developing a portfolio of interest if they are a Minister (or indeed a Shadow Minister), attending functions on behalf of the Government (or Opposition), issuing media statements or responding to the media...".

The key areas of accountability which Dr Gallop highlighted were confirmed in the current study with individual discussions with both myself and the members of the Tribunal supporting his observations in relation to the role of the Backbench Member in the community. The observations of the Gallop Paper in relation to the work of a Member in the constituency, was fully endorsed by both questionnaire responses and Backbench Members of the Parliament with whom the Tribunal met.

As a long serving Member of Parliament and a Premier of Western Australia, Dr Gallop's paper was in part used to inform the questions which were put to Backbench Members of Parliament through the online questionnaire. The one area where there was less focus and probing in the questionnaire and less comment in Dr Gallop's report than the current research revealed, although it was nominated as a key role by Dr Brenton, was the increasing importance of the 24/7 media and the demand on Members of Parliament from the media and electronic response to a far greater level of expectation by the community to respond to emails or through social media outlets.

In the 2010 Review of Parliamentary Entitlements the Committee's research revealed that over the past 13 years sittings of the House of Representatives have occurred on average 18.5 weeks each year (excluding years disrupted by election campaigns), and for the Senate 16.5 weeks respectively<sup>3</sup>. The Report goes on to state that most sittings call for Members to spend four days in Canberra, usually arriving on a Sunday night and leaving on a Thursday evening or Friday morning. With the addition of travel time the best part of a working week is accounted for. This means that for nearly one in every three weeks a Parliamentarian is expected to be away from home and, quite often, away from family. These time demands cover Parliamentary business only; they do not include the many days and nights spent travelling for electorate or Party business, or matters related to additional Parliamentary positions which a Member may hold.

EA further note in the review that when the Australian Constitution was written it was assumed that Backbench Members would earn a living outside Parliament, so provision was made for an allowance rather than a salary. The workload of a Minister was considered to represent a full time role and a salary was provided. By the 1950s, the evolving role of a

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<sup>3</sup> Parliament of Australia (2009), Senate Statistical Summary number 14/2009.

Member had the clear implication that carrying on an external occupation was increasingly difficult if Parliamentarians were to remain effective.<sup>4</sup>

The report goes on to reflect that the notion of the full-time Parliamentarian is now accepted and the significant workload demands of the electorate and the Parliament, not least from increased committee work, are acknowledged.

The Canadian research presented by Jack Stillborn was broadly consistent with research focussing on the Commonwealth Parliament in respect of the contemporary role of a Member of Parliament, particularly the criticality of serving the constituency where Stillborn's observations that the constituency service activity could in part be fulfilled by public servants, particularly appointed to perform the role of Ombudsman or citizen liaison functions. Stillborn highlights arguments by others that the purpose of Parliament is not merely to reflect local opinion and interest, but to define the National interest and in through this process relies centrally upon deliberative discussion, compromise and independent judgement.

He comments on the role of a Member as being a delegate or Trustee. In relation to the latter the observation was that a Backbench Member of Parliament would vote on the basis of personal conviction and judgment and in that context be seen as a representative of the constituents' concern, resulting in Government that is demonstrably responsive to the public. These pluralistic publics of the constituent and the Party while potentially embedded in ideology clearly required an independence from Party discipline, which did not appear evident in the questionnaire responses.

While the research informed EA's approach to enquiry both through personal interview and the questionnaire distributed to Members of Parliament, it did not explore some of the issues in depth. While EA did explore the differences in time commitment, attributes and the relative rank of activities of a Member of both Houses of Parliament, the work did not require us to focus on the role of Parliament as a forum for reform, or the conflict if it exists between the role of a delegate representing the Party or a Trustee representing constituents. Nor did it explore in detail the ways in which Members of Parliament might better address preparing themselves for improved performance and effectiveness or acquiring skills in areas where they might be deficient.

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<sup>4</sup> Young, L (1996) Parliamentarians, Outside Employment and Outside Income. Research note 50 1995-1996, Parliamentary Library.



## 6. Work Value of the Role of a Backbencher

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For the purpose of Egan Associates' research, based on the profile of the Members of the Federal Parliament in 2011, my analysis in relation to the nature of the work and the expertise required assumes that a majority of Backbench Members of Parliament have a thorough appreciation of the nature of the work, with the majority having served two or more terms in the Parliament, a majority having post secondary or tertiary education, with a significant number having experience in business, in agriculture or a profession prior to entering Parliament.

Backbench Members must have the capacity to undertake appropriate research and background reading and prepare briefs on matters of importance to their constituents or the Party. They also contribute to the work of parliamentary committees (most Backbench Members serve on between three and four committees covering a significant breadth of matters of national importance (*from economics, education and employment, the environment, foreign affairs, immigration, defence and trade, law enforcement, agriculture, resources, fisheries and forestry, climate change, infrastructure and communications or regional Australia, to name but a few* – see Attachment 1), in a number of cases as a Chair or a Deputy Chair. They most certainly need the capacity over a nine year period in Parliament to have occupied both roles, one in Opposition and the other in Government.

A Backbencher needs to be able to prepare a series of briefs on a regular basis in relation to matters before the Parliament and before committees of the Parliament and present those in the Parliament, to the media and in their electorate, particularly to highly engaged and/or influential constituents. Where there is a difference of view between their constituency and the Party or the legislation being proposed in the Parliament, the Backbencher is required to engage in the constituency and in the Party in policy debates in order to ensure that legislation under consideration is drafted in a manner which addresses constituent concerns and reflects the ideological position of the Party.

In the constituency, Members need to be able to address a wide range of matters requiring an understanding of the bureaucracy and the responsibility of not only the Federal Parliament and the manner in which legislation or regulation impacts on their constituents, either as individuals, as small businesses or as enterprises of significant scale, but also where the Federal Government's obligations are peripheral, though representation might be required to businesses in the community on behalf of constituents, Local Government or the State Government.

Members also need to have leadership skills in managing a minimum staff of four, and in larger electorates or where Members have additional obligations in the Parliament a larger staff, managing those staff concurrently as two teams for approximately half the year, with some supporting the Backbencher in Canberra and others continuing to address issues arising in the electorate.

A Backbencher also needs computing skills and a capacity to prepare correspondence and respond to constituents who send on average well over 1,000 emails to Backbenchers each week. While electorates differ in their scale, typical occupation, age profile and wealth, as well as proximity to Canberra, Members need to be able to adapt to the changing needs of their constituents, ensuring that they represent those constituents appropriately.

In order to fulfil these obligations a typical Backbencher, requires a period of service in the Parliament in many instances in order to become familiar with all the nuances and sensibilities relevant to the community's expectation of their obligations to them as their representative. The indicative Member of Parliament needs significant communication skills,

skills in analysis and research, an ability to listen, to present constituents' and the Party's ideas in the Parliamentary forum in Question Time and at other times and in committees, to be able to represent the Party and occasionally Ministers or Shadow Ministers in their electorate, face the media in all its forms (print, radio, television and internet) and respond to questions which are either national or regional in character and/or related to specific policy initiatives or proposals.

The breadth of issues which a Member of Parliament is required to be across is substantial and while there may be variations in the nature of a Backbencher's involvement in policy formulation, committee work, debates in the Parliament and addressing the media or dealing with a wide array of constituent matters, the breadth of knowledge required and of issues is significant.

Members of the House of Representatives have a far more engaged role with their constituents on matters of social welfare, immigration, employment and other matters of economic importance, whereas Senators would often have a more intimate engagement in the review of the effectiveness of Government administration, the consideration of legislation and new policy proposals by the Government of the day and dealing with the more significant organisations in the constituency, commercial, cultural and other.

The level of interpersonal skill required by a Member of Parliament, including their communication skills, while not required to be exceptional, needs to be at a level of a seasoned and accomplished professional. The nature of problem-solving required and the degree to which structure is provided in addressing a wide variety of challenges, arising from the administration of Government at the three levels of Government, the impact of foreshadowed Government initiatives through legislation or regulation on their constituents is significant.

Clearly the demands on a Backbencher are not as significant as those on Ministers or Shadow Ministers and Parliamentary Secretaries or significant officeholders in either House of the Parliament, though do represent an order of magnitude that would be required of a senior professional or middle manager in an enterprise of some scale.

Determining the accountability of a Backbencher is somewhat more challenging. At one level they have accountability for managing the costs of their electorate office, including travel, accommodation and all staff costs (including their own) which would indicatively be in the range of \$500,000 to \$1,000,000 per annum, accounting to the Parliament, the Auditor-General and their own Party in relation to those expenditures. Further, through their work in committees Members are addressing matters of significant economic consequence or social consequence affecting the nation and the constituency which they specifically represent. In this context they are a prime source of advice to their Party and the Parliament, advising on constituent needs which collectively impact on the wellbeing of the nation.

Equally, while their influence in relation to national Government expenditures and the Australian economy (GDP) may well be modest, the scale of expenditures and/or revenue initiatives, albeit they are one of more than 200 individuals addressing such circumstances, would often be in the order of tens, if not hundreds, of millions of dollars on an annual basis.

Taking a public sector view and reflecting on my work in 1988, I have formed the view that the accountability, though not the workload, of a Backbench Member of Parliament is equivalent to a substantive Level 1 SES position.

This assessment reflects a role in the Australian Public Service of a key executive or specialist advisor in a major Department. This work value assessment acknowledges the significant growth in administration and communication demands on Members of Parliament



which has arisen primarily as a result of email and electronic communication and a media environment which is 24/7, addressing a wide range of Local, State and Federal policy, regulatory and community support initiatives. The breadth of legislation has also retained, if not increased, its intensity in relation to international affairs, trade and economic matters generally, as well as issues straddling the environment, employment and education, with health and allied research absorbing a greater proportion of global GDP as citizens are living longer lives. Applying the same work value principles as in the 1988 study and a range of possible scenarios with respect to a Backbencher's accountability to the Parliament, the national policy agenda or the oversight of a '*global electorate budget*' for the role all outcomes were on the cusp of the work value range attributed to an SES Level 1 and Level 2 position across Commonwealth Public Sector employers as reported in Mercer's August 2011 report and remain consistent with their research which was specifically commissioned for this study.

The above assessment does not embrace the additional obligations that some Members of Parliament have in relation to chairing significant committees of either House or, in the case of the Opposition, assuming accountability as Shadow Ministers or Shadow Secretaries, nor does it take into account any additional obligations and the attendant accountabilities of Members of Parliament who are officeholders, either with the Government or Opposition parties. It is my understanding that many of these roles, though not the Shadow Minister or Secretary roles, attract loadings.

## 6.1 What the Public Might Think

A question to consider is ***what would the average member of the public expect to see of their Member of Parliament – what profile would they expect their Member to have?***

There are a number of factors which could be the basis on which the electorate votes in a particular member of the House of Representatives and the Senate, including:

- political party preference,
- knowing the local member or senator,
- a vote against the incumbent party,
- position on a particular policy issue,
- perception of the local member based on media coverage and performance in Parliament as seen through the media, and
- feelings about the member's contribution to the electorate and its constituents at a macro and personal level.

It is probably safe to say that the electorate would be more familiar with the local member or Ministers than they would be with non ministerial Senators given the focus of work in the electorate of Members of the House of Representatives.

Which of the factors outlined above will dominate a voter's decision will depend on the voter's personal experience and level of involvement in the political process. For some that involvement extends to political party membership, at the other end it is limited to what they see on television at night, the 30 second grabs from the House that day from a door stop interview covered by TV and radio, columns in local press or newsletters from the member to the household. Somewhere in between there are various sources of informed political debate and discussion via a multitude of media and internet outlets. To generalise on what

the public wants from its politicians is therefore challenging but is an important consideration in terms of understanding the experience and/or level of expertise which the electorate seeks from its representative and accordingly appreciating what level of remuneration the public might accept as reasonable for a Member of Parliament.

In the Government commissioned report *'Review of Parliamentary Entitlements'* it was stated that despite the demanding level of work, community activity and disruption to private life, the Australian public has a traditionally distrustful attitude towards its representatives. It further went on to state that, as noted in the Parliamentary research paper number 18 in 2002<sup>5</sup>: "Where there is respect, it is grudging or belated. The desire to serve is equated with excessive ambition and, as a generalisation, those entering public life are viewed with suspicion as self-seeking".

The changing and intensified coverage of politics by the media has no doubt impacted on the voting public's perception of politicians, be that the instant nature of most coverage, the showcasing of feisty debates in Parliament and the presence of members late into the night sleepy or the constant replaying of gaffs, and the questioning of every remark made by a member, as well as television coverage reflecting body language. Much of the media coverage focuses on the person, the drama, the snippets of the day rather than the substance of political policy or Members' daily Parliamentary and electorate work.

***So how does the public take into account some of the factors considered in the profiling of a Backbench Member of Parliament?***

**Age** – local Members range in age from their early twenties to their seventies, with the average age around fifty. This would indicate that most voters are supporting an experienced member of the community, be they long serving in the Parliament or differently experienced in various facets of employment, either in the Government or private sectors. **Qualifications** – the level of qualifications of Backbench Members of Parliament varies considerably with some older Members, while long in experience in the Parliament completed little beyond their secondary education and more recent Members are more highly qualified, many having post graduate education. The extent to which the voting public are provided with comprehensive CVs on their potential Member would vary across electorates and the strategy determined by their political party. Given the high level of post secondary qualifications of Members of Parliament, I believe it is probable that a reasonable proportion of the voting public believe that candidates are suitably qualified for office. Within this context the more likely expectation of voters would be that candidates are qualified in terms of experience, education and understanding of both local and national issues to be effective as a local Member or Senator for the State.

**Experience** – the extent to which experience or political allegiance is critical is unknown, though given the median age of Members of Parliament and the fact that the majority have served more than two terms in Parliament, it would be my expectation that the voting public have an expectation that candidates have an appreciation of the political process and the issues in their electorate and are capable of representing their interests in Parliament and are able to get things done on their behalf in the electorate.

**Background** – the voting public clearly accepts a range of backgrounds in its local Members and Senators, with people of a range of backgrounds voted in each election, although not necessarily each electorate. It is evident from an analysis of the background of current Members that many Liberal Members have a legal or commercial background as do many in

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<sup>5</sup> Candidates, Members and the Constitution. Research paper number 18, Parliamentary Library Canberra, page 37.

the Labour Party as well as many in the Labour Party having smaller business or trade union backgrounds. Again making a generalisation, it appears that the voting public does not as a whole have a particular bias towards a certain background, that depending on the electorate, candidates from a wide variety of backgrounds can become a Member of Parliament.

**Skills** – Given that the public vote in a certain way for a number of reasons, it is likely that they vote for an individual assuming a certain level of expertise, including that the candidate can:

- represent their views
- communicate effectively (including listening and influencing) in Parliament, with the media and in the electorate
- respond to electorate concerns
- manage their time to deliver the most for their electorate
- manage the many interests of the electorate
- balance the interests of the electorate with those of the political party
- find a way to resolve any particular issues which arise for them as a Member of the electorate.

#### ***How would they assess their performance?***

All Members of Parliament acknowledge that the Ballot Box is the primary assessment of both their and their Party's performance. In this context they share accountability with the Party in many instances which may outweigh their effectiveness as a local representative. A Backbench Member of Parliament's tenure every three years is in the hands of the electorate.

Research would indicate that the performance of Senators has a significant impact on their endorsement by the Party, whereas the performance of a Member of the House of Representatives is under more regular scrutiny by the voting public.

#### ***What is more likely to be judged, the performance of the individual or the performance of the political party?***

This is an issue over which the local Member or Senator can have a varying degree of influence. A good local Member can often be re-elected despite their party losing favour. The political process in a democracy for Members of the House of Representatives clearly places them in a position where their contract is up for renewal every three years and for a Member of Senate, every six years. The general public probably do not factor in this tenuous and uncertain employment setting when considering appropriate levels of pay.

If I were to assume that the broader public have an appreciation of the background of their local Member and some appreciation of the background of a Senator, they would be increasingly aware that Members of Parliament have experience in the Parliamentary process in policy setting in many areas which directly impact on their well being, are tertiary qualified and work long hours.

There is also likely to be a perception that a Member of Parliament is in their forties or fifties and thus have twenty or more years work experience. Would they look to salary levels of

clerical and administrative staff, trades or technical staff or are they more likely to reflect on senior professionals and the managerial class as indicative of candidates they would support in representing them in the Federal Parliament?

It would be my assessment that it would be the latter rather than the former employment categories that would broadly represent the community's '*straw man*' of a Member of Parliament.

## 7. Appropriate Remuneration for a Backbencher in the Federal Parliament

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Given that the average age of a Member of Parliament is over 50 and that more than 80 per cent of Members of Parliament have post secondary qualifications, that figure having risen from 15 per cent at the time of Federation, it would be reasonable to consider the types of occupations that graduates with twenty or more years' experience, working 50 hours or more per week in meeting the obligations of their role, might be paid.

EA's research (drawn from approximately 60 per cent of Members of Parliament) reveals that the indicative time commitment (exclusive of travel) to their work during both sitting weeks and non-sitting weeks would exceed 50 hours per week, and in approximately 25 per cent of cases exceed 70 hours per week.

It is also noted that Backbenchers, in addition to the breadth of their accountabilities, have some attributes of a hard-working small business person with a staff of four to six working across a range of policy, research, community engagement and administrative matters, handling an indicative budget in the order of \$500,000 to \$1,000,000 per annum, subject to the scale of the electorate and their resourcing.

More than half the Members of Parliament have qualifications in the law, administration, economics and commerce, though before entering the current Parliament only 30 had worked in the legal profession, 57 had a background in business, 8 in the farming sector, with more than a third of Members of Parliament having prior work experience in politics and related occupations.

More than half the Parliament had served the equivalent of two or more terms of the House.

While a Member of Parliament has a modest direct operating budget, all 226 Members of Parliament representing an electorate or State are the principal forum upon which 22.75 million Australians have a significant dependence in relation to their welfare, including their access education, health and employment. They are the principal forum overseeing the Commonwealth's budget of \$400 billion and its broader workforce of several hundred thousand and the Nation's gross domestic product of \$1.3 trillion.

All Members of Parliament through their participation in the form of Parliament and its committees and their engagement with organisations throughout the nation and internationally have an obligation to contribute to both their electorate's and the Nation's economy and the well being of its citizens. Their shared and contributory engagement at the level of GDP approximates \$6 billion per Member and in more direct terms in relation to the national Government's direct budget expenditures approximates \$1.75 billion.

Each Member of the House of Representatives has an engagement in supporting families and enterprises within electorates directly affecting around 150,000 citizens, with Senators having a wider though less intimate involvement in substantive matters at State and National level with a higher degree of engagement with large organisations in both the private and public sectors. In this context, finding counterpart positions in Government or the private sector is in itself challenging. The potential tentacles of impact through a Backbencher's contribution to the Nation's good is both different and more far reaching than senior management in medium sized enterprises or seasoned professionals in accounting, architecture, engineering, exploration, the health professions, law or science. They equally face an entirely different environment in relation to their tenure and while performance assessment on a universal basis is challenging to compare with other forms of employment, they are effectively required to resign at the time of each election and resubmit for a further

period of appointment. This '**scorched earth model**' of employment is not a common feature of middle management and senior professionals across the country.

A politician's continuing employment is also not entirely within their grasp. Members of the House of Representatives in particular need to be effective in supporting a myriad of needs in their electorate though also require endorsement and support for their Party in the broader electorate. In this context, Member performance across the entire spectrum of assessment may or may not determine their continuing employment their re-election to Parliament will be influenced by issues outside their control.

In the committee report titled '*Review of Parliamentary Entitlements*' of April 2010, in referring to employment after a Parliamentary career, in chapter 2 the report states: "For those wishing to re-enter the workforce, the transition can be challenging, and the absence of accrued annual and long service leave can make a period of readjustment even more difficult. The departure from office can be sudden, for example in the event of an unexpected election result. Depending on how long they have spent in the Parliament, members' skills in former occupations may well be out of date. At the same time, former members may find themselves branded as 'overqualified' when trying to return to their profession due to the high-level skills they have developed while in Parliament, working closely on significant national issues."

In endeavouring to determine a market level of reward for a Backbench Member of Parliament I have had a sole focus on base salary, acknowledging that the Tribunal address job facilities and various allowances relevant to the role of a Member of Parliament separately from their consideration of the base level of a Backbencher's pay. In this context I acknowledge that the market generally, in securing and retaining individuals with comparable accountability, though less often a similar workload, would also provide job facilities and meet obligations under the superannuation guarantee legislation.

I also acknowledge that in both public and private sectors a number of individuals with similar work value and accountability to a Backbench Member of Parliament would also participate in bonus plans, though those bonus plans would be highly variable in terms of both payment and reward opportunity. In the public company sector a proportion would also participate in a long term incentive plan which would be broadly equivalent in time to the term of a Member of the House. These represent additional reward for service and performance.

## 7.1 Comparative Reward

In endeavouring to have access to a number of viewpoints in relation to pay I have drawn upon a broad collage of information from the private sector, the public sector (including Local Government), the resources sector, the legal profession and medium sized businesses, as well as calling upon Mercer to provide a public and private sector view aligned to the work value methodology which they continue to apply and which I developed and applied in the 1988 study.

### Egan Associates Research

Members of Parliament have experience in working across the broad dimensions of the national economy and are engaged in a diversity of policy and administrative issues impacting on electorate communities, industries and community organisations. With this experience alternative employment opportunities could be found in the private sector.

EA's research team compiled data on the top five executives reporting to the Chief Executive Officer in these companies, both inclusive of the Chief Financial Officer and exclusive of the Chief Financial Officer. In this context I have not considered that senior executives in the top



200 companies which reflect the nation's largest companies represent an appropriate comparator.

The financial attributes of the companies surveyed (ASX 200-300) are set out in the table below.

	<b>Median</b>	<b>25th Percentile</b>	<b>Average</b>
Annual Revenues	\$94.5 million	\$9.2 million	\$244.4 million
Operating Expenditure	\$80.5 million	\$3.5 million	\$229.0 million
Market Capitalisation	\$348.0 million	\$297.0 million	\$354.0 million

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The above data reflects that this grouping of companies is quite diverse in relation to its range of operating expenditures and annual revenues and is reflective of both a developing business with modest revenues and expenditures through to a medium sized enterprise among the larger companies in this group, where revenues and expenditures exceed \$200 million.

Having regard to the breadth of roles upon which EA collected information, none is accountable for achieving the group's revenues, managing its entire expenditures or allocating its entire resources. EA drew information on a number of advisory or functional management positions such as Chief Financial Officer, Chief Legal Officer, Commercial, Product Development, Sales & Marketing or Factory Manager. These executives in the larger companies among the group sampled generally have oversight of a facet of the enterprise's operations, though would require significant skill, a breadth of experience, a capacity to negotiate internally and externally, manage a workforce and accept accountability for the outcome of their endeavours.

The work value of these management positions was considered comparable to that of a Backbench Member of Parliament. I assumed that senior management in these companies would work a minimum of fifty hours a week. The data which appears below excludes any benefit which executives or senior professionals in these companies receive by way of entitlement to participation in employee share or rights plans which can deliver further remuneration in alignment with their company's success.

The tables below report the outcome of EA's research.

***Top Five Executives: ASX 200-300 (exclusive of the CEO)***

	<b>Median</b>	<b>25<sup>th</sup> Percentile</b>	<b>Average</b>
Salary	\$243,083	\$188,079	\$256,385
Fixed Remuneration	\$273,469	\$211,590	\$288,433
Total Reward	\$351,103	\$254,640	\$409,432

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***Top Five Executives: ASX 200-300 – Sector Exclusive (exclusive of the CEO)***

	<b>Median</b>	<b>25<sup>th</sup> Percentile</b>	<b>Average</b>
Salary	\$261,422	\$202,241	\$279,442
Fixed Remuneration	\$294,100	\$227,522	\$314,373
Total Reward	\$411,147	\$293,296	\$456,415

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**Top Five Executives: ASX 200-300 (exclusive of the CFO)**

	Median	25 <sup>th</sup> Percentile	Average
Salary	\$242,237	\$193,736	\$259,216
Fixed Remuneration	\$272,517	\$217,093	\$291,800
Total Reward	\$349,852	\$257,867	\$410,261

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**Top Five Executives: ASX 200-300 – Sector Exclusive (exclusive of the CFO)**

	Median	25 <sup>th</sup> Percentile	Average
Salary	\$256,666	\$198,815	\$279,691
Fixed Remuneration	\$288,750	\$223,667	\$314,653
Total Reward	\$398,488	\$292,491	\$447,272

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Indicative positions from which data was drawn in the above Private Sector sample include:

- Business Development/Corporate Development Manager
- Business Group Head
- Chief Financial Officer
- Chief Geologist/Exploration Manager
- Chief Information/Technology Officer
- Chief Legal Officer
- Commercial Manager
- Company Secretary
- Engineering Manager
- Government/Regulatory Affairs/Public Affairs Manager
- Logistics/Supply Chain/Distribution Manager
- Mine Superintendent
- Product Development Manager
- Production/Manufacturing Manager
- Research & Development Manager
- Sales & Marketing Manager

## 7.2 Local Government

A number of Backbench Members indicated that they believe that their role was equivalent to senior members of the profession from which they may have come prior to entering Parliament or General Managers of Local Council, the latter being frequently mentioned.

In the context of the above, I note that the New South Wales Local Government Remuneration Tribunal, in their determination on 28 April 2011 prepared a document which reflected on the workload and complexity of issues associated with both executives and elected Members of a Local Government organisation.

Section 239 of the NSW Local Government Act 1993 requires the Tribunal to determine categories for Councils and Mayoral Officers for the purpose of determining fees, and Section 240 of the Act requires the Tribunal to determine categories according to the following criteria.

- the size of areas;
- the physical terrain of areas;



- the population of areas and the distribution of the population;
- the nature and volume of business dealt with by each Council;
- the nature and extent of the development of areas;
- the diversity of communities served;
- the regional, national and international significance of the Council;
- such matters as the Remuneration Tribunal considered relevant to the provision of efficient and effective Local Government;
- such other matters as may be prescribed by the regulations.

The Act clearly confirms that Councillors comprise the governing body of a Council and make decisions by passing resolutions and that the role of a General Manager is to implement Council decisions and carry out functions imposed by legislation.

The Act sets out the key responsibilities of the General Manager of a Council as follows:

“The general manager is generally responsible for the effective and efficient operation of the council’s organisation and for ensuring the implementation of the council’s decisions without undue delay. The general manager carries out all their functions within the guidelines and policy framework approved by the council.

The general manager also has a role to play in assisting the governing body of council develop its strategic direction. The general manager is responsible for guiding the preparation of the Community Strategic Plan and the council’s response to it via the Delivery Program. The general manager is responsible for implementing the Delivery Program and will report to the governing body of council on its progress and conduct regular updates and reviews.

The general manager is responsible for recruiting and appointing staff within the organisation structure determined by the governing body of council. This must be in accordance with the budget approved by the council’s governing body and be for the purpose of carrying out the council’s statutory functions and implementing council’s Community Strategic Plan, Delivery Program and Operational Plan.

The general manager must consult with the governing body of council before appointing or dismissing senior staff. The general manager must report to the council at least annually on the contractual conditions of senior staff (cl.217 of the Regulation).

The general manager is responsible for performance management of staff, including staff discipline and dismissal.

The general manager is also responsible for ensuring councillors are provided with information and the advice they require in order to make informed decisions and to carry out their civic duties.

The governing body of council may direct the general manager to provide councillors with advice or a recommendation, but cannot direct as to the content of that advice or recommendation.

Generally, requests by councillors for assistance or information should go through the general manager, except where he or she has authorised another council officer to undertake this role. The Guidelines for the Model Code of Conduct contemplate that a council should develop a policy to provide guidance on interactions between council officials. This policy should be agreed to by both the council's governing body and the general manager.

Councillors could reasonably expect general managers will report routinely on significant industrial issues and/or litigation affecting the council, particularly those that impact on the council's budget or organisation structure."

In the context of these observations and observations set out in the summary of feedback from discussion with Backbench Members (see Attachment 5) the following provides information reported in metropolitan and regional press, commenting on disclosed remuneration arrangements for principal executives in Councils.

<b>Council</b>	<b>Remuneration</b>
City of Sydney	\$392,062
Lake Macquarie	\$311,000
Wollongong	\$314,000
Perth	\$242,000
Clarence Valley	\$240,000
Tweed	\$271,000
Lismore	\$235,000

In Western Australia the Government Salaries & Allowances Tribunal, reporting on Local Government Chief Executives, has had regard to factors which influence its determination of Regional Government Chief Executives. The Tribunal indicate that some Regional Local Governments employ a part-time CEO, however the determination is based on an assumed full-time role. The Tribunal also indicated that their research revealed that in some regions there was considerable pressure on CEO remuneration resulting in Local Governments paying above the Tribunal's recommendation. This was particularly the case in the Pilbara, the Midwest and the Goldfields Esperance regions.

The Tribunal has established a band of rates in relation to the nature of a Local Government CEO and also acknowledged that in addition to salary those CEOs required to work in remote areas and regional areas of the State would receive allowances reflective of that circumstance. They also acknowledged that there was some pressure on CEO pay levels arising from the demand for engineers and planners, where some of the skills required in Local Government were also in demand from the Western Australian resources sector. In the more significant Local Government areas pay ranges were higher than those in less demanding Local Government entities.

For major centres including the City of Perth, Stirling and Wanneroo the remuneration package was set between \$241,382 and \$327,034. For other major centres, including Armadale, Canning, Fremantle, Joondalup, Kalgoorlie-Boulder, Mandurah and Swan the pay range was established between \$222,216 and \$300,081. Total reward package was to include base salary, annual leave loading, provision of a motor vehicle or allowance, superannuation and any other benefits, including fringe benefits tax, deemed appropriate by the Council. Exclusive of the base package were travel and relocation costs, provision of computer facilities, entertainment allowance, expense of office allowance, isolation or

location allowance, a mobile phone, rental subsidy, water and power subsidies as appropriate, professional development and library allowance.

While the above data provides information on Local Government General Managers, I am of the view that their accountability for substantial budgets, significant staff numbers and a breadth of community services, that the majority of these roles are more substantial in work value terms than the position of a Backbench Member of the Federal Parliament.

I acknowledge that the breadth of issues addressed by a General Manager at a Local Government level would be less than a Backbench Member of Parliament, serving on three or four Committees of the Parliament and fulfilling the obligations set out above.

I would however be of the view that the work value of a Backbench Member of Parliament would be more broadly equivalent to the most senior staff reporting to a General Manager of a significant local Government organisation.

It would be my judgement that in considering the salary levels of executives and General Managers of Local Governments, that the level of time commitment exclusive of travel, would not be dissimilar.

### 7.3 The Legal Profession

In relation to payment levels for lawyers EA note that one of the well-known practitioners in this field is Mahlab Recruitment, and that their research reveals that legal officers of varying levels of seniority received annual remuneration indicatively in the range of \$163,000 to \$205,000 per annum (SA3), though up to \$300,000 below Partner level. Their research reveals that small CBD firms' median Partner's annual remuneration stands at \$478,000 in Sydney and in Adelaide \$310,000.

In relation to the information on payments to experienced legal officers or partners in small CBD firms, it would be my judgement that their level of expertise in many respects would be comparable to a number of Backbench Members of Parliament, though I would anticipate that their hours of work would be considerable and they would have absolute accountability for the quality of service and advice which they provide, rather than shared accountability. In that context I would see those roles as more onerous in terms of accountability, though in a significant majority of cases the briefs which they would be engaged in either preparing or reviewing would be significantly less broad in scope or consequence.

### 7.4 The Resources Sector

Given that a number of Backbench Members of Parliament had an industrial/technical/trades background and a number are representative of regional and rural areas across Australia where mining is a significant industry, a further point of general market comparison in terms of wage outcomes for positions in the mining sector (where long hours are required) would be trades and operative staff (as distinct from management staff) in the mining sector. In this context EA have sought to obtain information on shovel operators, earthmoving equipment operators, haul truck operators and shot-firers in open-cut mining, as well as operators of haulage and loader operators in underground mines.

EA note from survey material which they have been able to source that the average hourly rate for a shovel operator is around \$50 (though they can extend up to \$60), for operators of earthmoving equipment the average hourly rate is around \$45 (though they can also increase to around \$55), that truck operators' average hourly rate is around \$40 (though they can be paid upward of \$60) in the open-cut environment, whereas in the underground environment a loader operator's average hourly rate would be above \$50 (and upward of

\$60), and for an underground service technician average hourly rates would be around \$45 (and would extend above \$50).

On the basis of this data, with an indicative hourly rate for an experienced operator to be deemed to be around \$50, this would equate to \$3,500 per week without the benefit of shift loadings, penalty rates or overtime. I understand that the work of these employees would embrace shifts often of a twelve hour duration and shift cycles over a twenty four hour period and seven days per week.

In the eastern state coal fields experienced locomotive drivers operating across numerous regions from mine to port would typically be in receipt of a base hourly rate in the \$40 to \$55 range. While their normal 40 hour work week delivers a nominal rate of pay reflective of their hourly rate, data covering over 700 locomotive drivers reveals average annual earnings in the order of \$200,000. These earnings arise from shift penalties, overtime penalties and other allowances, including disability allowances arising from working in enclosed spaces, working at heights, working on rail tracks of substantial length, working with corrosive substances, working in tunnels, being required to handle cement, working in wet places, in wet weather and so on. These rates of pay for a 70 hour week for the above skilled operatives and trades staff, without penalty and overtime premiums, deliver annual salaries for the same period of work well above that of a Member of Parliament whose indicative hourly rate, without premiums, would be less than \$40.

On a work value, as distinct from a workload, basis, while the intensity of their work is unquestioned and the hours of their work are long and in continuous shifts not dissimilar from a Backbench Member of Parliament, I believe that these operatives while working in trying conditions, often in remote areas, are fulfilling obligations where the work value is significantly less than that of a Backbench Member of Parliament, though the environmental setting within which they work is more harsh.

Contract engineering draftsmen and other skilled technicians employed in the mining industry indicatively receive contract payments between \$60 and \$80 per hour, they often work 12 hour shifts rostered on every day for 21 days and then have a 7 day break. They provide for their own superannuation, their own annual leave, long service leave and insurances and on an annualised basis receive contract payments between \$200,000 and \$250,000. These professional staff in the majority of cases have no management accountability but rather play a key role in the provision of technical support and documentation on projects which represent the backbone of activity in many resource companies. Many are graduates and highly experienced. They work long hours, often in remote locations and have expertise in a defined, though specialised, technical field.

For professional staff engaged in community and Government affairs in the mining sector EA's research reveals indicative salaries for seasoned professionals to be in the range of \$180,000 to \$200,000, with fixed remuneration being in the range of around \$215,000 through to \$240,000. For those involved in industrial relations, OH&S or environmental management I understand from survey data that the range of reward in the mining sector nationally would be similar to the position nominated above.

## 7.5 Mercer Research

EA also drew upon work completed by Mercer for the Commonwealth Government in August 2011<sup>6</sup> in providing some comparative information in relation to positions of comparable work

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<sup>6</sup> 2010 APS SES Remuneration Survey (data as at 31 December 2010).  
2010 Broader Market Comparison – APS SES and Non-SES Remuneration (data as at 31 December 2010).

value to SES 1 and SES 2 positions across the combined Public Sector, including Commonwealth and State Governments, as well as the Private Sector, for positions of comparable value. The tables below set out relevant market data in respect of SES 1 and SES 2 positions at either the median or average, where such data was readily sourced from the above reports. In the Mercer report commissioned by Egan Associates specifically for this study they have rounded the figures in the tables below. Private Sector data also provides information on the market 25<sup>th</sup> percentile.

#### ***Commonwealth Public Service SES 1***

	<b>Median</b>	<b>Average</b>
Salary	\$158,277	\$160,972
Fixed Remuneration	\$210,175	\$210,459
Total Reward	\$213,017	\$214,300

In relation to the work value of the positions of SES 1 executives in the Commonwealth Public Service or at State level, while I believe there would be broad comparability in relation to work value at the upper band level, it would be my assessment that Members of Parliament would have a workload which demands a time commitment at least thirty percent greater than their public sector counterparts in significant SES 1 or equivalent roles.

#### ***Commonwealth Public Service SES 2***

	<b>Median</b>	<b>Average</b>
Salary	\$200,726	\$205,288
Fixed Remuneration	\$262,680	\$264,364
Total Reward	\$266,763	\$269,862

#### ***Composite Public Service Equivalents***

	<b>SES 1 Median</b>	<b>SES 2 Median</b>
Salary*	\$161,537	\$202,740
Fixed Remuneration	\$179,144	\$224,839
Total Reward	\$189,027	\$236,812

\* Fixed remuneration figures have been discounted by 10.9 per cent - see Mercer Report, Table 14, Attachment 10.

#### ***Private Sector SES Equivalents***

	<b>SES 1 Median</b>	<b>SES 2 Median</b>
Salary*	\$201,656	\$293,632
Fixed Remuneration	\$226,864	\$330,336
Total Reward	\$250,040	\$371,117

\* On the basis of Egan Associates' experience benefits, including superannuation, was deemed to represent 12.5 per cent of salary.

Additionally, Egan Associates commissioned Mercer specifically to provide work value and remuneration information in relation to the contemporary role of a Backbench Member of Parliament as a further touchpoint to assist me in preparing advice to the Remuneration Tribunal.

Mercer provided both a work value assessment and market data (see Attachment 10) based upon the description of the role of a Backbencher set out above. Their report confirmed Egan Associates' views in terms of work value, though took a slightly different perspective in

relation to the position impact, though the outcome remained consistent with my work value observation expressed above.

Their research revealed a diversity of salary payments across a variety of positions from which they sourced information from their extensive databases. The information which they have provided has been collected over the period December 2010 through to October 2011 and is reported accordingly.

The information which they provided in relation to the general market for positions of comparable work value revealed the following:

	<b>75<sup>th</sup> Percentile</b>	<b>Median</b>	<b>25<sup>th</sup> Percentile</b>
Salary	\$229,500	\$190,800	\$157,900

Drawing on a position based analysis from their Quarterly Salary Review (September 2011), the following tables reflect the interquartile range for a number of nominated positions deemed by Mercer to be relevant to the study of Backbench Member salaries. I did observe a reasonable degree of variability between the figures reported in their June Quarterly Salary Review and their most recent Salary Review. That variance was both up and down.

<b>Annual Salary</b>				
	<b>75<sup>th</sup> Percentile</b>	<b>Median</b>	<b>25<sup>th</sup> Percentile</b>	<b>Average</b>
General Manager	\$283,000	\$207,000	\$170,000	\$228,000
Division Manager	\$190,000	\$150,000	\$100,000	\$154,000
Principal Human Resources Executive (Tier 3*)	\$226,000	\$200,000	\$177,000	\$209,000
Industrial Relations Manager	\$188,000	\$165,000	\$126,000	\$158,000
Principal Finance & Accounting Executive (Tier 3*)	\$278,000	\$236,000	\$191,000	\$245,000
Head of Audit	\$194,000	\$164,000	\$145,000	\$182,000
Principal Information Technology Executive (Tier 3*)	\$286,000	\$246,000	\$195,000	\$236,000
Principal Sales & Marketing Executive (Tier 3*)	\$261,000	\$215,000	\$190,000	\$231,000
Principal Marketing Executive (Tier 3*)	\$260,000	\$238,000	\$188,000	\$230,000
Principal Sales Executive (Tier 3*)	\$273,000	\$230,000	\$200,000	\$239,000
Principal Manufacturing Executive	\$231,000	\$203,000	\$174,000	\$202,000
Head of Logistics	\$245,000	\$179,000	\$134,000	\$193,000
Head of Supply Chain Solutions	\$201,000	\$169,000	\$151,000	\$176,000
Principal Legal Officer	\$255,000	\$227,000	\$191,000	\$230,000
Corporate Secretary	\$256,000	\$161,000	\$114,000	\$196,000

\* Tier 3 reflects a position reporting to an executive who in turn reports to the Chief Executive Officer of the company.

In drawing upon their database from Local Government their research revealed the following salaries of key roles reporting to General Managers (Local Government Remuneration Review - October 2011):

	<b>75<sup>th</sup> Percentile</b>	<b>Median</b>	<b>25<sup>th</sup> Percentile</b>	<b>Average</b>
Salary	\$186,000	\$174,000	\$159,000	\$175,000

## 7.6 Australian Institute of Management's 2011 National Salary Survey

In my judgement it is worthwhile in addition to the above private sector comparators, to consider alternate sources of information on reward which exist in the private sector for a



typical Member of Parliament who has tertiary training and more than twenty years experience. In doing so, I have examined the remuneration for other key support roles in the private sector.

In this context, as an alternate comparator I have drawn information from the Australian Institute of Management's 2011 National Salary Survey. This survey includes information from employers in all States, in both urban and regional areas. It includes data from more than 180 organisations with revenues of less than \$20 million to more than \$200 million, the majority with annual revenues between \$20 million and less than \$100 million.

A Chief Executive of a small business with revenues of less than \$20 million received an annual salary on average \$237,545. Their fixed remuneration on average was \$288,690. Among companies with annual turnovers between \$100 million though less than \$200 million, the average salary was \$302,269, and fixed remuneration \$359,363

Taking by way of illustration the role of Chief Financial Officer in the manufacturing sector, the range of average salaries was from \$174,518 through to \$205,969. The range in averages across all States was from \$180,572 (Vic/Tas) through to \$201,596 (Qld).

For a Head of Human Resources in a company with revenues above \$200 million the average salary was \$179,597 and the fixed remuneration \$212,306. The variance in average salary by state was from \$176,207 (Qld) through to \$206,005 (SA/NT).

For a principal engineering executive in a company with turnover of \$200 million or more the average salary was \$185,312 and the average fixed remuneration was \$252,242.

## 7.7 A Backbencher's Perspective on Pay

Many Backbench Members of Parliament with whom discussions were held identified a variety of key external comparator roles in both the private sector and in Government where Members of Parliament are exposed to and work with senior public sector staff engaged in Committees of Enquiry and Senate Estimates.

As a significant number of Members of Parliament have training in the law and others have experience of Local Government and in small business, regular points of reference as an appropriate benchmark for determining their salary included General Managers of a major regional or urban city council, Deputy Secretaries of Commonwealth Government Departments and/or their counterparts in State Government, and members of the judiciary. While reference was not made to Justices of the High Court, reference was made to Judges in the Federal or Family Courts or Federal Magistrates where current salaries range from \$305,070 to \$391,140.

In relation to senior positions in State Government to which a number of Backbench Members referred, while they did not have possession of the necessary detail, I note that Assistant Commissioners or Chairs of varying Tribunals where a legal qualification was generally a requirement, the range in remuneration was from around \$230,000 to \$330,000.

Positions of Deputy Secretary in the Commonwealth were also referred to as relevant comparators. EA acknowledge there is a significant diversity of responsibilities assumed by Deputy Secretaries in the Commonwealth. It is, however, my understanding that the range in current salaries of those reporting to a Secretary are from around \$240,000 to \$400,000 and, as reported elsewhere in this document, a nominal range in payments to General Managers of substantial Local Government organisations would be in the range of around \$220,000 to \$320,000, excepting major cities which are outside that range.

While being offered these perspectives as an appropriate and reasonable comparison and in part representing an alternate career path which could have been considered by some Backbench Members of Parliament, I have formed the view that these comparators are not appropriate and represent positions where the basic requirement, while many of the basic requirements for these positions might be possessed by some Members of Parliament, the nature of accountability and the direct impact of their judgements is significantly different.

A number of Backbench Members of Parliament with whom we met had also been successful in small business, whether that was in rural and farming pursuits or another form of small business, in all instances the Members revealed that they worked long hours, they were highly challenged, though their salaries were substantially more than their income as a Backbench Member of Parliament.

A number of Members, also seeking to attract candidates for future elections or for past elections, revealed that in approaching potential candidates aged between their late 30s and late 40s who were actively engaged in the community and successful in a profession or a small business, and in many respects would be a suitable representative of community interests and also able to bring to the Parliament specific skills relevant to the matters before the Parliament were not able to consider such a career change because of the current costs associated with providing for their family, particularly their children's education.

To this extent I formed the view that pursuing a career as a Member of Parliament has for many more of an attribute of a vocation than employment which will be financially rewarding. Most acknowledge there are substantial psychic or other benefits associated with the privilege of participating in national debate and also having the opportunity when in Government to serve in a leadership role in that Government.

## **7.8 Recommended Salary for a Backbench Member of Parliament**

The range in median salary values from the principal sources of data was from a low \$150,000 to a high of \$293,632, with the median of the medians being \$202,740. The range in averages was from \$154,000 to \$302,269, with the median value of averages being \$201,596.

The work value as determined by Egan Associates and Mercer was in the top decile of work value for Commonwealth Government SES1 positions and tangential with the first decile work value of SES2 positions. The primary challenge in assessing work value was determining the position impact of a Member of Parliament for which perspectives varied from a small business manager (that is managing the costs of the serving Member and the electorate office) through to a shared accountability for the Federal Government's annual expenditures in the order of \$40 billion or improving the nation's gross domestic product in the order of \$1.3 trillion or the economic contribution of the electorate, for which the Member of the House of Representatives in particular has a clear indirect accountability. Varying perspectives shared with Backbench Members and members of the Remuneration Tribunal made me particularly mindful of this work value tension.

Accordingly, and having regard to the background of Backbench Members of the Parliament and the market data from all sectors, including the reference points which Members and Parliamentary parties believed to be relevant, on a historic basis I formed the view that an appropriate range of salaries which the Tribunal could draw upon in determining Backbench conditions of employment would be represented by the interquartile range (25<sup>th</sup> percentile to 75<sup>th</sup> percentile) of the individual, median and average salary levels across all comparator samples of sufficient size. The interquartile range derived from this analysis is \$176,000 to \$236,000, with the range median being \$203,000. As will be noted from the material set out in this report, these figures are well below many 75<sup>th</sup> percentile salary comparators which are



more likely to be representative of those Members in Government or the private sector working hours comparable to those of a Member of Parliament and would represent a range which would be regarded as competitive on the basis of some Backbench Members' employment prior to entering Parliament, and in many cases would represent remuneration well below that which could be commanded for individuals with their qualifications and experience.

In relation to senior management in medium size listed public companies, other than the Chief Executive Officer, I believe in many respects that a Backbench Member of Parliament would be fulfilling a role of similar complexity and demand, having regard to work value, though would equally accept that, in the challenging environment of the private sector, dealing with shareholders' expectations, pursuing growth and improved profitability as well as the constant challenges associated with rapid changes in technology and science, the workload and commitment of these executives would not fall significantly short of that of a Backbench Member of Parliament.

In light of rolling wage reviews arising under award agreements and the level of pay adjustment in both the public and private sectors in the second half of 2011 in addressing the aged nature of the data drawn upon for this research, I believe that an appropriate range within which the Remuneration Tribunal should consider the salary of a Backbencher would be as set out in the table below.

	<b>Minimum</b>	<b>Median</b>	<b>Maximum</b>
Salary	\$185,000	\$211,500	\$250,000

In light of the current salary level of a Backbench Member of Parliament being \$140,910, it would be my recommendation that the Remuneration Tribunal make a determination between the adjusted minimum and the median salary, that is \$185,000 to \$211,500. This restricted salary range within the first half of the interquartile range is:

- broadly reflective of a private sector 25<sup>th</sup> percentile for positions of comparable work value,
- pitched below that of a chief executive of a Local Government organisation,
- reflective of an experienced professional in legal services though substantially below a partner in a small CBD professional practice, and
- pitched below that of a seasoned graduate working in a variety of professions or a manager overseeing a diversity of functions in a medium sized business.

In preparing this recommendation I am mindful that Backbench Members of Parliament who are either a Chair or Deputy Chair of a substantive Committee of the Parliament, receive additional remuneration for the fulfilment of that obligation, that Officers of the Parliament also receive additional remuneration as do Ministers of the Crown and the Prime Minister.

This report has not focused on those allowances or the established relativities between a Backbench Member of Parliament and office holders within the Parliament, which I understand will be the subject of further enquiry by the Tribunal.

I am fully aware that in meeting their obligations Members of Parliament receive support, including the provision of facilities in their electorate office, in the Parliament, the provision of a vehicle to enable them to travel around their electorate and where convenient to locations where Committee enquiries are taking place, to airports or indeed to the Parliament in

Canberra. I am equally aware of other provisions including contributions to a Backbench Member of Parliament's superannuation, travel allowances, electorate allowances and separation benefits. It is my experience that where appropriate in other settings, employers provide similar allowances or support for their staff.

A concern which I have in relation to the recommendation is that should the salary of a Backbench Member of Parliament be adjusted between the minimum and the maximum of the proposed salary range, then approximately 100 Backbench Members of Parliament who are members of the accumulation superannuation program established under the Parliamentary Superannuation Act 2004 will be receiving contributions from their employer (the Parliament of Australia) which exceeds the prescribed concessional caps or limits and would be subject to a penalty tax – the excess contributions tax. This tax would be imposed on the Member of Parliament, not the superannuation fund, although the tax can be deducted from the individual Member's superannuation account. The current rate of penalty tax is 31.5 per cent and is payable in addition to the 15 per cent tax which applies to superannuation plan contributions.

The penalty tax may not commence to apply until July 2012 when concessions for those over 50 will be removed, subject to Parliamentary legislation receiving Royal Assent, and for all Members who have been elected to the Parliament from October 2004 their contribution would exceed the concessional rate of \$25,000. This penalty would not apply to those Backbench Members of Parliament and other Members whose service to the Parliament pre-dates the October 2004 general election as they would remain members of the Parliamentary Contributory Superannuation Scheme (PCSS) which is a defined benefit program with preserved retirement provisions. Should a Backbench Member's salary be increased to \$185,000 the accumulation plan contribution would be \$28,490, should the maximum within the nominated range be approved by the Tribunal the contribution would be \$32,571. This circumstance would be further aggravated by those Backbench Members of Parliament who have a leadership role in Parliamentary committees for which they receive a superannuable loading and also impact on Government Ministers and officeholders of the Parliament who first entered the Parliament at the 2004 elections.

A key difference in the adjudication on appropriate reward for a Backbench Member of Parliament and a significant proportion of the private sector, where reward is not predicated on inputs or hours worked but rather output, their reward is adjusted in a manner which reflects contribution. This circumstance is reflected in the payment of partners in professional firms and executives in the private sector and is highlighted in the tables above, where there is a clear differential between salary or fixed remuneration and total reward for positions which I have determined to be comparable in work value – the performance reward component.

Where bonus payments for example are taken into account, deeming the employment benefits associated with a Backbench Member of Parliament being set at around \$40,000 per annum (a vehicle and superannuation for those Members joining the Parliament since 2004), the private sector reward for comparable positions at the median are rewarded at around \$350,000 and in many sectors substantially above. These payments in an appropriate reward framework reflect an employee's effectiveness and contribution to the prosperity of the organisation. The manner in which salaries are determined for a Backbench Member of Parliament does not embrace such considerations, though in my adjudication I have assumed that electorate responsibilities are broadly similar, participation in all aspects of Parliamentary work and engagement with the Party are similar, and that the typical Backbench Member has served two or more terms in the Parliament and in that context is a seasoned Member of the Parliament.

I acknowledge that there are opportunities for additional reward as noted above, through chairing committees, occupying a key office in the Parliament including Speaker of the House, Deputy Speaker, President or Deputy President of the Senate, Party Whip, etc., as well as for those in Government additional payments for assuming accountability as a Minister with stewardship over a significant proportion of Government administration and National welfare.

In the context of the role of a Backbench Member of Parliament, I also acknowledge that in the majority of instances the Party plays a significant role in managing the pre-selection process, though the ultimate test of Parliamentary membership is support from the electorate.

I understand that the Remuneration Tribunal will address the level of electorate support available to a Member of Parliament, and in particular financial demands which may be made on them which impact on their financial circumstance.

### Service and Responsibility Loadings

A matter not canvassed, though one which may encourage commitment to appropriate tenure in serving the nation's constituents, would be to introduce a loading which reflected Parliamentary tenure such that a Member of Parliament within the recommended range nominated above might receive progressive increments, those increments being capped in their third term, reflecting their experience as a Member of Parliament while concurrently all allowances and premiums paid for additional responsibilities assumed by both Backbenchers and those in Ministerial roles would retain their relativity to the base or minimum rate for a Member of Parliament. The chart below reflects the application of this principle if it were considered to have merit either at the time of the next review or a subsequent detailed review of a Backbencher's salary incorporating appropriate market based wage adjustments.

It is acknowledged, in highlighting the above, that such a strategy may not be considered consistent with equality of pay across all electorates irrespective of a Member's length of service to the Parliament.

\$211,500	Third Parliamentary Term Salary
\$198,250	Second Parliamentary Term Salary
\$185,000	First Parliamentary Term Salary

The above construct reflects the introduction of a premium for both experience and commitment to serve in the widest stakeholder context. It would also provide an incremental reward which may attract an additional superannuation contribution for those Members who have joined Parliament at or after the 2004 general election.

In the above context and to mitigate further disparity between long serving and more recent serving Members of Parliament, it would be my judgement that the Remuneration Tribunal should address the superannuable salary upon which Members of Parliament who participate in the Parliamentary Contributory Superannuation Scheme is based. That is, I have formed the view that adjusting salary which has a direct bearing on retirement benefits and associated funding costs cannot be separated in ensuring the equitable treatment of Members of Parliament.

## 7.9 Nexus with State Legislatures

### State Backbencher Members of Parliament

Egan Associates formed the view that State Backbench Members of Parliament were not an appropriate comparator in work value terms. While many of the attributes required to be an effective State Member of Parliament were common to both groups, I formed the view that the indicative electorate of a Federal Member of Parliament, including the size and breadth of economic activity by constituency was larger; further Federal Backbench Members of Parliament had an engagement in a more diverse portfolio of issues as their focus was both National and global when in the legislature, though when in the electorate clearly embraced obligations to deal with constituents in addressing matters arising from Local Government, the State Government, as well as the Federal Government.

The depth of research and requirement to engage in complex Committee matters in a Parliament with a budget substantially larger than any single State and a direct obligation to enhance the Nation's prosperity and grow its GDP, clearly fell upon Members of Federal Parliament. In almost every dimension the role was more substantial.

The average travel time to attend Parliamentary sessions was greater and due to the size of the electorates, travel time within the electorate in managing local constituents' issues, be they individuals, small business or major employers, was also more significant and generally the consequence of inadequate Government support, more critical.

I note that many State Governments have traditionally adjusted Backbenchers' remuneration in accordance with common principles to those adopted by the Commonwealth Members of Parliament, though in this context the majority have established a proportional relationship in setting Backbench salaries compared to those of the Commonwealth.

Given the greater engagement of the Council of Australian Governments (COAG) in addressing a significant number of issues involving integrated solutions for the benefit of the Nation's citizens between State Governments and the Federal Government, I acknowledge that the challenges which face State Governments through this coordination process and in meeting the needs of their constituents (which are clearly more intense in relation to infrastructure, energy, education and health, by way of example. I understand that Members of State Legislatures are required to work long hours and actively engage in their constituency, including addressing the crossover of constituent expectations in relation to the role of State and Local Governments which would contribute to a reasonable view that there is a high degree of comparability in relation to background, workload and essential attributes for Members of State and Commonwealth Legislatures. Notwithstanding this circumstance, my general observation is that the legislative policy and committee work engagement of Members of the Federal Parliament is more intense and the consequence of error, both nationally and internationally, more profound.

In light of these observations and my recent research which comprehensively updates work over the last two decades, in my judgement, given the substantive changes in the world, any adjustment to the Commonwealth Parliamentary Backbenchers' salary should not lead to a direct flow-on to State Parliaments without an equivalent and comprehensive assessment of the role, workload and accountability of Members of State legislatures.

## Attachment 1 – Committees of the Parliament

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## Preamble

To assist in understanding the breadth of the role of a Backbench Member of Parliament I believe it is important to have an appreciation of the breadth, depth and significance of the work which Backbenchers fulfil on committees of the Parliament.

EA's research revealed that Senators in particular, though all Backbench Members of the House of Representatives that do not have other onerous obligations in the Parliament, typically serve on either three or four committees. Outside these formal committees many Backbenchers serve on other advisory and friendship committees and serve their parties on caucus committees in areas where they have a policy interest, a constituent interest or where their expertise is sought by the Party. The preparatory work required of a Backbench Member of Parliament in being an effective Member of a Parliamentary committee was revealed to us as being particularly onerous.

In discussions with members of the Tribunal I had the benefit in meeting with a number of Backbenchers, a number of whom had been Ministers in a prior Government, many of whom currently or had previously, chaired demanding committees of the Parliament, to gain further insight into the nature of committee work and in particular the demands on Backbenchers serving on committees which represented the source of legislation impacting on all facets of the nation.

The material which appears below is substantially extracted from the Government websites

### 1. Purpose of Parliamentary Committees

The **purpose of Parliamentary committees** is mainly to conduct inquiries into specified matters which includes taking submissions, hearing witnesses, sifting evidence, discussing matters in detail and formulating reasoned conclusions.

An important function of committees is to **scrutinise Government activity** including legislation, the conduct of public administration and policy issues. Committees may oversee the expenditure of public money and they may call the Government or the public service to account for their actions and ask them to explain or justify administrative decisions.

A Parliamentary committee consists of a **group of Members or Senators** (or both in the case of joint committees) appointed by one or both Houses of Parliament. Through its committees the Parliament obtains information from Government agencies and peak bodies and advice from experts on the matters under investigation.

Under the current workings of the Parliament Members of both Houses are active participants in bipartisan committees which are the principal forum for debate and discussion on issues of public policy.

### 2. Major Committees of the Parliament

- House Standing Committees
- Joint Committees administered by the House of Representatives
- Senate Committees
- Joint Committees administered by the Senate
- Select Committees of the Senate



- Joint Select Committees administered by the Senate

A House of Representative Committee is comprised of Members of the House only.

A Senate Committee is comprised of Members of the Senators only.

A joint committee is one on which both senators and Members of the House of Representatives serve. Joint committees are established where it is considered that matters should be the subject of simultaneous inquiry by both houses.

Joint committees may be statutory, select or standing committees. Joint statutory committees are established by statute (an Act of Parliament). Joint select or standing committees are established under the standing orders of each house. The powers and proceedings of joint committees are determined by resolution of both houses.

### **3. List of all Current Committees as at October 2011**

#### **3.1 House of Representative Committees**

##### ***House Standing Committees***

Aboriginal and Torres Strait Islander Affairs  
 Agriculture, Resources, Fisheries and Forestry  
 Appropriations and Administration  
 Climate Change, Environment and the Arts  
 Economics  
 Education and Employment  
 Health and Ageing  
 Infrastructure and Communications  
 Petitions  
 Privileges and Members' Interests  
 Procedure  
 Publications  
 Regional Australia  
 Selection  
 Social Policy and Legal Affairs

##### ***House Select Committees***

There are currently no House Select Committees.

##### ***Joint Committees administered by the House***

Australia's Clean Energy Future Legislation (Select)  
 Broadcasting of Parliamentary Proceedings  
 Cyber-Safety (Select)  
 Electoral Matters  
 Foreign Affairs, Defence and Trade  
 Intelligence and Security  
 Migration  
 National Broadband Network  
 National Capital and External Territories  
 Public Accounts and Audit  
 Public Works  
 Publications  
 Treaties

## 3.2 Senate Committees

### ***Senate Committees***

Appropriations and Staffing  
Community Affairs  
Economics  
Education, Employment and Workplace Relations  
Environment and Communications  
Finance and Public Administration  
Foreign Affairs, Defence and Trade  
Legal and Constitutional Affairs  
Privileges  
Procedure  
Publications  
Regulations and Ordinances  
Rural Affairs and Transport  
Scrutiny of Bills  
Selection of Bills  
Senators' Interests

### ***Joint Committees Administered by the Senate***

Australian Commission for Law Enforcement Integrity  
Law Enforcement (Formerly Australian Crime Commission)  
Corporations and Financial Services

### ***Select Committees***

Australia's Food Processing Sector  
Scrutiny of New Taxes

### ***Joint Select Committees Administered by the Senate***

Australia's Immigration Detention Network  
Gambling Reform

There are also other types of committees such as party (eg Australian Labor Party, Australian Greens, Liberal Party, National Party) committees, Government committees or inquiries (eg Productivity Commission inquiries) and judicial inquiries.

## 4 House of Representative Committees

### 4.1 Role of House of Representative Committees

Parliamentary committees investigate specific matters of policy or Government administration or performance. They are able to do things which would not be possible to undertake in the formal environment of either House, such as finding out the facts of a case or issue, gathering evidence from expert groups or individuals, sifting evidence and drawing up reasoned conclusions.

Parliamentary committees are one mechanism the House uses to keep a check on the activities of the Government. Because they have extensive powers to call for people, including public servants, and documents to come before them, committees can thoroughly investigate questions of Government administration and service delivery. Committees may oversee the expenditure of public money and they may call the Government or the public service to account for their actions and ask them to explain or justify administrative decisions.



Committees can contribute to better informed policy-making and legislative processes. They help Members to access a wide range of community and expert views so that through the committee process, the Parliament is able to be better informed of community issues and attitudes. Committees provide a public forum for the presentation of the various views of individual citizens and interest groups.

In a sense committees take Parliament to the people and allow direct contact between members of the public and groups of Members of the House. Because they can travel extensively throughout Australia and have flexible procedures, they provide opportunities for people to have their say on the issues being investigated. By simply undertaking an inquiry a committee may promote public debate on the subject at issue.

#### **4.2 Categories of House of Representative Committees**

Committees can be categorised in several ways and a particular committee may fall into more than one category:

- Standing Committees are committees appointed for the life of a Parliament and they are usually re-established in some form in successive Parliaments. They have a continuing role
- Select Committees are appointed as the need arises, for a specific purpose, and thus have a more limited life which is normally specified when the Committee is established. Once a select Committee has carried out its investigation and presented its final report, it ceases to exist.
- Joint Committees draw their membership from, and report to, both Houses of Parliament.
- Statutory Committees are those established by an Act of Parliament, that is, by statute. All existing statutory Committees are Joint Committees
- Domestic or internal Committees are those with investigatory powers. Generally speaking the term is used to describe all Committees other than the Main Committee and domestic or internal Committees.
- General purpose standing Committees are investigatory or scrutiny Committees, appointed at the commencement of each Parliament to enquire into and report upon any matters referred to them by the House or a Minister. They cover most Government activity, with each Committee covering a particular spread of subjects and thus a number of related Government departments and authorities. The House of Representatives does not have dedicated legislation Committees.
- The Main Committee is a committee established to be an alternative venue to the Chamber for debate of a range of business (i.e. the second reading and consideration in detail stages of bills, Committee and delegation business, private Members' business and papers presented to the House). It cannot hear witnesses and is not an investigatory Committee.

#### **4.3 Membership of House of Representatives Committees**

Most Members of Parliament, except Ministers and Parliamentary Secretaries, serve on Committees – even the Speaker is a member of certain Committees. Committees vary in size and may have as few as seven or as many as thirty four members. They are normally composed of Members from the various parties or independent Members in proportion to the numerical strength of each group in the House. In practice Government Members have the

majority on each Committee and chair the Committee. Committee work is an important part of the duties of a Member and generally places considerable demands on a Member's time.

#### **4.4 Powers of House of Representatives Committees**

Committees have considerable powers, usually delegated by the House appointing them. Committees established by law have particular powers set out in the relevant legislation. They are normally given powers to order people to attend. The House is able to punish offences which interfere with the work of its Committee. Committee proceedings are considered to be "proceedings in Parliament" and therefore "privileged", with Members and others participating being protected from being sued or prosecuted for anything they may say during such proceedings.

#### **4.5 House of Representatives Investigatory Committees in Operation**

The scope and purpose of each inquiry undertaken by an investigatory Committee is set out in the terms of reference for the inquiry. The first step is to advertise its terms of reference in the press and invite people and organisations to make submissions. Experts and those with interest in the subject may be approached to make a submission. An analysis of existing material on the subject is made by the Committee staff and information is sought from Government departments and agencies.

Having considered the information Committees may invite those who have made submissions to attend public hearings. Committees may also conduct seminars, public meetings to hear the opinions of the public and experts. After examining the evidence, the Committee then prepares a report setting out its conclusions and making recommendations. This report is presented to the House, or to both Houses, in the case of a joint Committee.

A feature of most Committee work is the ability of Members from all parties to work constructively together to develop proposals they can agree on. Depending on the scope of the subject matter, enquiries may take only a few weeks, or may last many months when wide community input is required.

#### **4.6. Current Issues Being Addressed by Committees**

##### **4.6.1 Standing Committees**

##### ***Standing Committee on Aboriginal and Torres Strait Islander Affairs***

The Standing Committee on Aboriginal and Torres Strait Islander Affairs conducts inquiries into matters referred to it by the House of Representatives or a Minister of the Commonwealth Government.

The Committee is currently inquiring into language learning in Indigenous communities.

This Committee consists of seven members; four Government Members and three non-Government Members.

##### ***Reports***

Inquiry into language learning in Indigenous communities.

##### ***Standing Committee on Agriculture, Resources, Fisheries and Forestry***

The Standing Committee on Agriculture, Resources, Fisheries and Forestry conducts inquiries into matters referred to it by the House of Representatives or a Minister of the Commonwealth Government.

This Committee consists of 8 members; 4 Government Members, 3 non-Government Members and 1 non-aligned Member.

#### *Reports*

- *Constitutional Corporations (Farm Gate to Plate)*
- *Environment Protection and Biodiversity*
- *Wild Rivers (Environmental Management)*

#### **Standing Committee on Appropriations and Administration**

The Committee has been established to:

- consider estimates of the funding required for the operation of the Department of the House of Representatives each year;
- provide to the Speaker for presentation to the House and transmission to the Minister for Finance and Deregulation, the committee's estimates of amounts for inclusion in appropriation and supply bills for the Department of the House of Representatives;
- consider proposals for changes to the administration of the Department of the House of Representatives or variations to services provided by the Department;
- consider and report to the Speaker on any other matters of finance or services as may be referred to it by the Speaker;
- consider and report to the House on any other matters of finance or services as may be referred to it by the House;
- make an annual report to the House on its operations;
- consider the administration and funding of security measures affecting the House and advise the Speaker and the House as appropriate; and
- consider any proposals for works in the Parliamentary precincts that are subject to Parliamentary approval and report to the House on them as appropriate.

When conferring with the Senate Standing Committee on Appropriations and Staffing, the House Appropriations and Administration Committee may:

- consider estimates of the funding required for the operation of the Department of Parliamentary Services each year; and
- provide to the Speaker for presentation to the House and transmission to the Minister for Finance and Deregulation, estimates of amounts for inclusion in appropriation and supply bills for the Department of Parliamentary Services.

This Committee consists of nine members; five Government Members, and four non-Government Members.

#### **Standing Committee on Climate Change, Environment and the Arts**

The Standing Committee on Climate Change, Environment and the Arts conducts inquiries into matters referred to it by the House of Representatives or a Minister of the Commonwealth Government.

This Committee consists of seven members; four Government Members and three non-Government Members.

*Committee activities*

- Inquiry into Australia's biodiversity in a changing climate.
- Inquiry into the Offshore Petroleum and Greenhouse Gas Storage Amendment (Significant Incident Directions) Bill 2011.

***Standing Committee on Economics***

In summary, the role of the Standing Committee on Economics is to carry out inquiries into matters referred to it by the House of Representatives or a Minister of the Commonwealth Government. Material that can be referred includes any pre-legislation proposal, bill, motion, petition, vote or expenditure, other financial matter, report or paper.

Annual reports of Government departments and authorities and reports of the Auditor General tabled in the House stand referred to the relevant committee for any inquiry the committee may wish. Reports stand referred in accordance with the schedule tabled by the Speaker to record the areas of responsibility of each committee.

This Committee consists of seven members; four Government Members, three non-Government Members.

***Standing Committee on Education and Employment***

The Standing Committee on Education and Employment conducts inquiries into matters referred to it by the House of Representatives or a Minister of the Commonwealth Government. In summary, the role of the Standing Committee on Education and Employment is to carry out inquiries into matters referred to it by the House of Representatives or a Minister of the Commonwealth Government.

This Committee consists of seven members; four Government Members and three non-Government Members.

*Committee activities*

- Inquiry into mental health and workforce participation.
- Inquiry into the Schools Assistance.
- Inquiry into school libraries and teacher librarians in Australian schools.

***Standing Committee on Health and Ageing***

In summary, the role of the Standing Committee on Health and Ageing is to carry out inquiries into matters referred to it by the House of Representatives or a Minister of the Commonwealth Government.

*Committee activities*

- Inquiry into Registration Processes and Support for Overseas Trained Doctors.
- Inquiry into Tobacco Plain Packaging.
- Inquiry into Early Intervention Programs Aimed at Preventing Youth Suicide.

### ***Standing Committee on Infrastructure and Communications***

The Standing Committee on Infrastructure and Communications conducts inquiries into matters referred to it by the House of Representatives or a Minister of the Commonwealth Government.

The Committee is currently inquiring into:

- Smart Infrastructure.
- The ratio of cabin crew members on aircraft.

This Committee consists of eight members; four Government Members, three non-Government Members and one non-aligned Member.

#### ***Committee activities***

- Inquiry into the role and potential of the National Broadband Network.

### ***Standing Committee on Petitions***

The Committee receives and processes petitions, and inquires into and reports to the House on any matter relating to petitions and the petitions system.

A petition is basically a request for action. The right to petition Federal Parliament has been one of the rights of citizens since federation, and it is the only way an individual can directly place grievances before the Parliament. Petitions may be received by the House on public or individual grievances provided that they relate to matters on which the House has the power to act. Hundreds of petitions are received by the House every year on a variety of matters.

### ***Standing Committee of Privileges and Members' Interests***

The Committee of Privileges and Members' Interests is established to:

- inquire into and report on complaints of breach of privilege or contempt which may be referred to it by the House or any or related matter referred to it by or in accordance with a resolution of the House; and
- inquire into and report on the arrangements made for the compilation, maintenance and accessibility of a Register of Members' Interests;
- consider proposals by Members and others on the form and content of the Register of Members' Interests;
- consider specific complaints about registering or declaring interests;
- consider possible changes to any code of conduct adopted by the House; and
- consider whether specified persons (other than Members) ought to be required to register and declare their interests.

The committee may report when it sees fit, and must report to the House on its operations in connection with the registration and declaration of Members' interests during the year.

### ***Standing Committee on Procedure***

The Standing Committee on Procedure is a domestic committee of the House of Representatives. It is appointed to inquire into and report on the practices and procedures of the House and its committees.

As a result of reports of the Procedure Committee a number of initiatives have been taken relating to the business of the House, including significant developments relating to private Members' business and procedures for the consideration of legislation, including the establishment of the Main Committee.

As a result of reports of the Procedure Committee a number of initiatives have been taken relating to the business of the House, including significant developments relating to private Members' business. Major changes in the procedures for the consideration of legislation, including the establishment of the Main Committee, also followed recommendations of the Procedure Committee. More recently the committee initiated a complete rewrite and reorganisation of the standing orders to make them easier to understand for Members and the public.

The committee consists of seven Members of the House (four Government and three non-Government).

### ***Standing Committee on Publications***

The Publications Committee makes recommendations to the House on which documents that have been presented to the House (and on which the House or the Senate has not already made a determination), should be included in the Parliamentary Papers series.

Each House of the Parliament has a Publications Committee which has the power to confer with each other. In practice most meetings are joint meetings of the two committees. The standing orders of each House permit the publications committees to undertake inquiries and make reports on:

- the printing, publication and distribution of Parliamentary and Government publications, and
- other matters which may be referred by the relevant Minister.

This Committee consists of seven Members; four Government Members and three non-Government Members. The Members of the House of Representatives may, in conference with the Senate Committee on Publications, meet as the Joint Committee on Publications. Both the House and Senate Committees can recommend that documents presented to the Parliament be incorporated into the Parliamentary Papers series, however only the Joint Committee has the power to conduct inquiries.

### ***Standing Committee on Regional Australia***

In summary, the role of the Standing Committee on Regional Australia is to carry out inquiries into matters referred to it by the House of Representatives or a Minister of the Commonwealth Government.

This Committee consists of nine members; four Government Members, four non-Government Members and one non-aligned Member.

#### ***Committee activities***

- Inquiry into the use 'fly-in, fly-out' (FIFO) workforce practices in regional Australia.

- Inquiry into the impact of the Murray-Darling Basin Plan in Regional Australia.

### ***Selection Committee***

The Selection Committee has been established primarily to determine the program of business for committee and delegation business and private Members' business for each sitting Monday, to recommend items of private Members' business to be voted on, and to select bills for referral to committees.

The Committee is comprised of eleven Members of the House of Representatives.

### ***Standing Committee on Social Policy and Legal Affairs***

The Standing Committee on Social Policy and Legal Affairs conducts inquiries into matters referred to it by the House of Representatives or a Minister of the Commonwealth Government.

This Committee consists of seven members; four Government Members and three non-Government Members.

#### ***Committee activities***

- Inquiry into the operation of the insurance industry during disaster events.
- Inquiry into the Family Law Legislation Amendment (Family Violence and Other Measures).

## **4.6.2 Joint Committees Administered by the House of Representatives**

### ***Joint Committee on the Broadcasting of Parliamentary Proceedings***

The primary role of the committee is to regulate the radio broadcast and rebroadcast of the proceedings of Parliament.

### ***Joint Select Committee on Cyber Safety***

The Joint Select Committee on Cyber-Safety was established to inquire into and report on:

- the online environment in which Australian children currently engage, including key physical points of access (schools, libraries, internet cafes, homes, mobiles) and stakeholders controlling or able to influence that engagement (Governments, parents, teachers, traders, internet service providers, content service providers);
- the nature, prevalence, implications of and level of risk associated with cyber-safety threats, such as:
  - abuse of children online (cyber-bullying, cyber-stalking and sexual grooming);
  - exposure to illegal and inappropriate content;
  - inappropriate social and health behaviours in an online environment (e.g. technology addiction, online promotion of anorexia, drug usage, underage drinking and smoking);
  - identity theft; and
  - breaches of privacy;
- Australian and international responses to current cyber-safety threats (education, filtering, regulation, enforcement) their effectiveness and costs to stakeholders, including business;



- opportunities for cooperation across Australian stakeholders and with international stakeholders in dealing with cyber-safety issues;
- examining the need to ensure that the opportunities presented by, and economic benefits of, new technologies are maximised;
- ways to support schools to change their culture to reduce the incidence and harmful effects of cyber-bullying including by:
  - increasing awareness of cyber-safety good practice;
  - encouraging schools to work with the broader school community, especially parents, to develop consistent, whole school approaches; and
  - analysing best practice approaches to training and professional development programs and resources that are available to enable school staff to effectively respond to cyber-bullying;
- analysing information on achieving and continuing world's best practice safeguards;
- the merit of establishing an Online Ombudsman to investigate, advocate and act on cyber-safety issues; and

Such other matters relating to cyber-safety referred by the Minister for Broadband, Communications and the Digital Economy or either House.

### ***Joint Standing Committee on Electoral Matters***

The Committee was established for the purposes of its current inquiry into the funding of political parties and election campaigns.

### ***Joint Standing Committee on Foreign Affairs, Defence and Trade***

The Joint Standing Committee on Foreign Affairs, Defence and Trade is to consider and report on such matters relating to foreign affairs, defence, trade, and human rights as may be referred to it by either House of the Parliament; the Minister for Foreign Affairs; the Minister for Defence; or the Minister for Trade.

#### ***Committee activities***

- Inquiry into Australia's Human Rights Dialogues with China and Vietnam.
- Inquiry into Australia's trade and investment relationship with Japan and the Republic of Korea.
- Inquiry into Australia's Relationship with the Countries of Africa.
- Inquiry into Australia's trade and investment relations with Asia, the Pacific and Latin America.

### ***Parliamentary Joint Committee on Intelligence and Security***

There are two main activities that the PJCIS is tasked with. These are:

- conducting a Review of the Administration and Expenditure of the Australian Intelligence Community; and
- preparing an Annual Report of Committee Activities for the Parliament.



The Committee may review the listing of organisations as terrorist organisations.

#### *Committee activities*

- Review of the Listing of Al-Qa'ida in the Arabian Peninsula (AQAP) and the re-listing of six Terrorist Organisations:

Al Qa'ida (AQ),  
Jemaah Islamiah (JI)  
Al-Qa'ida in the Islamic Maghreb (AQIM)  
Jamiat ul-Ansar (JuA)  
Abu Sayyaf Group (ASG); and,  
Al Qa'ida in Iraq (AQI).

#### ***Joint Standing Committee on Migration***

The joint committee is one of ten joint committees administered by the House of Representatives and is established by a resolution of the House of Representatives and the Senate.

#### *Current Inquiry*

- Inquiry into Multiculturalism in Australia.

#### ***Joint Committee on the National Broadband Network***

The Joint Committee on the National Broadband Network has been established to inquire into the rollout of the project until the NBN is operational.

To report to the Parliament and the Ministers for Broadband, Communications and the Digital Economy and the Minister for Finance every six months on:

- The rollout of the NBN, including in relation to the Government's objective for NBN Co. Limited:  
  
connect 93 per cent of Australian homes, schools and businesses with fibre-to-the premises technology providing broadband speeds of up to 100 megabits per second, with a minimum fibre coverage obligation of 90 per cent of Australian premises; and service all remaining premises by a combination of next-generation fixed wireless and satellite technologies providing peak speeds of at least 12 megabits per second;
- the achievement of take-up targets (including premises passed and covered and services activated) as set out in NBN Co.'s Corporate Plan released on 20 December 2010 as revised from time to time;
- network rollout performance including service levels and faults;
- the effectiveness of NBN Co. in meeting its obligations as set out in its Stakeholder Charter;
- NBN Co.'s strategy for engaging with consumers and handling complaints;
- NBN Co.'s risk management processes; and
- Any other matter pertaining to the NBN rollout that the Committee considers relevant.

### ***Joint Standing Committee on the National Capital and External Territories***

The Joint Standing Committee on the National Capital and External Territories conducts inquiries into matters referred to it by the House of Representatives or a Minister of the Commonwealth Government.

### ***Joint Committee of Public Accounts and Audit***

It is one of only seven statutory committees in the Commonwealth Parliament.

The Joint Committee of Public Accounts and Audit exists to hold Commonwealth agencies to account for the lawfulness, efficiency and effectiveness with which they use public monies.

In performing its duties the JCPAA works closely with the Auditor-General and the Australian National Audit Office (ANAO). The Auditor-General provides the Parliament with an independent view of the performance and financial standing of public sector agencies. To help ensure the independence of the Auditor-General, the JCPAA Act empowers the Committee to consider and make recommendations to the Parliament on the annual draft budget estimates of the ANAO. Prior to the federal budget, the Auditor-General provides a series of briefings to the Committee on the ANAO's expected requirements each year. The Chair of the Committee makes a statement to the House of Representatives, on budget day, outlining whether the Committee believes the ANAO has been given sufficient funding to carry out its functions. A corresponding statement is delivered to the Senate by one of the Committee's Government Senators.

### ***Parliamentary Standing Committee on Public Works***

The Committee was established in 1913. It is one of the oldest investigative committees of the Parliament. The Committee is constituted by the Public Works Committee Act 1969.

The Act empowers the Committee to inquire into and report to the Parliament on each public work referred to it. The Act requires that all public works for the Commonwealth which are estimated to cost more than \$15 million must be referred to the Committee. There are some exceptions to this rule, but essentially all public works sponsored by Commonwealth departments and major statutory authorities with large building programs come within the ambit of the Committee's investigatory powers.

Essentially, the Committee is required to report as expeditiously as practicable on:

- the stated purpose of the proposed work and its suitability for that purpose,
- the need for the work,
- the cost-effectiveness of the proposal,
- the amount of revenue it will produce if the work is revenue producing,
- the current and prospective value of the work.

### ***Membership***

The Committee is bipartisan and consists of six Members of the House of Representatives and three Senators.

### ***Joint Committee on Publications***

Each House of the Parliament has a Publications Committee which has the power to confer with each other. In practice most meetings are joint meetings of the two committees. The

standing orders of each House permit the publications committees to undertake inquiries and make reports on:

- the printing, publication and distribution of Parliamentary and Government publications, and
- other matters which may be referred by the relevant Minister.

Both the House and Senate Committees can recommend that documents presented to the Parliament be incorporated into the Parliamentary Papers series, however only the Joint Committee has the power to conduct inquiries. When undertaking an inquiry, the committees are known as the Joint Committee on Publications.

### ***Joint Standing Committee on Treaties***

The committee was appointed to inquire into and report on:

- matters arising from treaties and related National Interest Analyses and proposed treaty actions and related Explanatory Statements presented or deemed to be presented to the Parliament;
- any question relating to a treaty or other international instrument, whether or not negotiated to completion, referred to the committee by:
  - (i) either House of the Parliament, or
  - (ii) a Minister; and
- such other matters as may be referred to the committee by the Minister for Foreign Affairs and on such conditions as the Minister may prescribe.

## **5. Senate Committees**

### **5.1 Role of Senate Committees**

The role of Senate Committees is to investigate and to draw attention to what they find. They throw 'light in dark corners' and give advice.

Like many deliberative assemblies, the Senate finds it useful to delegate responsibility for certain tasks to small groups. The Senate may refer a particular matter to a committee because the matter warrants detailed examination, because the Senate wants information to be collected, or because it wants to hear views on the matter. These tasks are more easily undertaken by a small group of senators rather than by the Senate as a whole. Committees encourage and enable senators to develop special interests and expertise in particular aspects of public policy. They also provide an opportunity for organisations and individuals to make representations to Parliament and to have their views placed on the public record.

### **5.2 Categories of Senate Committees**

- A select Committee is created as required to inquire into and report upon a particular matter. It may be established at any time by a resolution of the Senate which will specify the committee's composition, terms of reference and powers. A select committee has a limited life and ceases to exist when the time allocated for it to do its work expires upon the presenting of its final report.

Select committees often inquire into controversial or politically sensitive matters.

Where a particular policy area is considered to merit continuous review, a select committee may have an extended life.

- Standing committees are appointed at the beginning of each Parliament under Senate standing orders. They continue to function until the end of the day before the commencement of the next Parliament. Senate standing committees, covering every area of Government operations, have developed a reputation as the backbone of the Senate's committee work.

Standing committees permit a continuing surveillance of defined fields of Government activity, call upon scholarly research and advice and create an awareness of the Senate's 'watchdog' function. There are a number of different kinds of standing committees: domestic, legislative scrutiny, legislative and general purpose, and joint.

- There are eight domestic committees dealing with matters relating to the internal operations of the Senate including publications, appropriations and staffing, procedure, library services, the provision of other facilities in Parliament House and senators' interests. The Committee of Privileges, which inquires into matters relating to the power and immunities of the Senate (for example, the protection of witnesses before Senate committees) is regarded as one of this group.
- All bills and subordinate legislative instruments that come before Parliament are scrutinised by either the Scrutiny of Bills Committee or the Regulations and Ordinances Committee to ensure that they conform to certain principles mainly concerned with civil liberties.
- The Scrutiny of Bills Committee examines proposed laws before they are debated by the Senate.

The committee does not usually recommend specific changes to bills. It simply highlights those provisions which may offend its criteria—leaving it to senators to propose any changes in the chamber.

- Many of the matters on which Parliament makes laws are extremely complex and it is neither possible nor desirable to include all the details in an Act of Parliament. Many Acts therefore contain a provision that delegates to the Government the power to draw up legislative instruments covering detailed or technical matters required for the purpose of the Act. An Act will usually have a power authorising the Governor-General to make regulations. An Act may also authorise a minister to make other forms of legislative instruments such as determinations, orders, guidelines, standards and airworthiness directives.

A legislative instrument carries the full force of the law it has the same effect as an Act of Parliament. The power to make legislative instruments is therefore an important one which needs to be monitored closely to ensure that it is not abused. For this reason the *Legislative Instruments Act 2003* requires that all legislative instruments be tabled in both houses of Parliament and gives either house the right to disallow (that is, veto) a large number of them.

The Regulations and Ordinances Committee, with the assistance of an independent legal adviser, meets every week that the Senate sits to check all disallowable legislative instruments tabled in the Senate.

The committee works in a bipartisan manner and since its establishment in 1932 the Senate has not rejected a committee recommendation that a legislative instrument be disallowed.

- Central to the Senate's committee system are the legislative and general purpose standing committees. These committees were first established in 1970, along with a dedicated stream of estimates committees, to examine legislation, Government administration and references of a general nature.

The departments and agencies allocated to the eight legislation committees by order of the Senate are as follows:

<b>Legislative and General Purpose Standing Committees</b>	<b>Departments and agencies</b>
Community Affairs	Families, Housing, Community Services and Indigenous Affairs; Health and Ageing
Economics	Treasury; Innovation, Industry, Science and Research; Resources, Energy and Tourism
Education, Employment, and Workplace Relations	Education, Employment and Workplace Relations
Environment and Communications	Sustainability, Environment, Water, Population and Communities; Broadband, Communications and the Digital Economy; Climate Change and Energy Efficiency
Finance and Public Administration	Finance and Deregulation; Human Services; Parliament; Prime Minister and Cabinet
Foreign Affairs, Defence and Trade	Defence; Veterans' Affairs; Foreign Affairs and Trade
Legal and Constitutional Affairs	Attorney-General; Immigration and Citizenship
Rural Affairs and Transport	Agriculture, Fisheries and Forestry; Infrastructure and Transport

- References committees inquire into and report upon various general matters referred to them by the Senate. The scope of inquiries and their terms of reference may range from the very broad and comprehensive to the quite specific. Examination can require evaluation of policy areas and assessment of implementation within and across allocated portfolios.

Since 1982, it has been the practice to forward petitions presented to the Senate to standing committees for consideration. If a committee wishes to pursue an issue raised in a petition, it must seek the reference of the matter by the Senate.

- Legislation committees have a number of functions:

#### ***Consideration of proposed Government expenditure***

Legislation committees inquire into and report upon the Government's budget proposals (estimates of expenditures) referred to them by the Senate. These estimates are contained in the main appropriation bills introduced into Parliament as part of the Budget in May (budget estimates), and in the additional appropriation bills introduced in November (additional estimates).

Public hearings are held at which the relevant Senate ministers, together with senior officials from the organisations whose estimates are being examined, appear before the committees to explain expenditure proposals and to answer questions concerning the effectiveness and efficiency of various programs.

Each committee is allocated four days to conduct hearings during budget estimates and two days or more to consider additional estimates.

Supplementary hearings may be held after consideration of budget estimates.

Once committees have completed their consideration of the estimates expenditure they report their deliberations to the Senate.

### ***Consideration of legislation***

Committees also inquire into and report on any bills or draft bills referred to them.

Some bills may require consideration only from a technical point of view while others may need to be examined in terms of their substance and impact. Committees endeavour to seek evidence from a wide range of witnesses in the time available, both by receiving written submissions and by oral evidence. The committees meet in public to hear evidence from the appropriate minister and officials, and usually a number of independent experts or representatives of organisations affected by the bill. Often these hearings are held at various locations around Australia relevant to the subject matter of the bill.

The practice of routinely referring bills to committees has given Senate committees a greater role in the consideration of legislation. A committee has no power to amend a bill referred to it, but it may recommend amendments or it may advise the Senate to agree to the bill without changes.

### ***Consideration of annual reports and examination of Government administration***

The committees are required to report to the Senate on whether the annual reports are satisfactory, to investigate any matters requiring closer scrutiny, and to monitor whether annual reports are received on time. Committees also report to the Senate if an agency fails to present its annual report. Annual reports of departments and agencies may also be considered by committees in conjunction with their examination of estimates.

Committees may also report on the performance of departments and agencies allocated to them.

### ***Estimates***

Annual and additional estimates, contained in the documents presenting the particulars of proposed expenditure and additional expenditure, shall be referred to the legislative and general purpose standing committees for examination and report.

The committees shall hear evidence on the estimates in public session.

The committees may ask for explanations from ministers in the Senate, or officers, relating to the items of proposed expenditure.

## **5.3 Establishment and Membership of Senate Committees**

The Senate's standing orders specify the membership of legislative and general purpose standing committees and the number of positions to be allocated to senators from the Government, opposition, minority parties and independents.

Legislation committees consist of three Government members, two opposition members and one member from the minority groups and independent senators. References committees consist of three opposition members, two Government members and one member from the minority groups and independent senators. Government senators chair the eight legislation committees and opposition and minority party or independent senators are elected as deputy



chairs. Opposition or minority party senators chair the eight references committees and Government senators are elected as deputy chairs.

Senators who are interested in the work of a particular committee but are not members of it may be appointed by the Senate as participating members which gives them all the rights of membership except the right to vote on matters before the committee. Senators may also be appointed to committees as substitute members, to replace an existing member for a specified time, for a particular inquiry or for the consideration of certain issues. Unlike participating members, substitute members have voting rights in respect of those matters for which they are substitute members.

The membership of select committees is specified in the resolution establishing them. They have varied between five and nine members and the chairmanship of the committees may be held by senators from any of the political parties. The size of statutory committees is specified in the legislation which authorises their establishment. Joint committees, because they consist of members of both Houses of Parliament, are larger, ranging in size from ten to 30 members.

Legislative and general purpose standing committees may appoint subcommittees consisting of three or more of its members and refer to any such subcommittee matters which the committee is empowered to consider. Subcommittees usually have the same powers as their parent committees but may not, however, report directly to the Senate; their task is to report their findings back to their parent committee. The Appropriations and Staffing Committee and the Scrutiny of Bills Committee are also authorised to appoint subcommittees to assist them in carrying out their business. Subcommittees increase the flexibility of committees and enable them to pursue several tasks simultaneously.

#### **5.4 Powers of Senate Committees**

The direction and extent of a Senate committee's inquiry is determined by its terms of reference. Committees do not have powers of their own: they possess only the authority delegated to them by the Senate itself.

#### **5.5 The Inquiry Process of Senate Committees**

The senators serving on a committee are assisted by a small secretariat consisting of a secretary and research and administrative staff. The secretary is a committee's principal adviser on committee procedures and manages all aspects of the committee's research and operations.

Committee inquiries are usually advertised in the national press, reaching the people and organisations most likely to make submissions. The committee conducting the inquiry will also seek submissions from Government and non-Government agencies known to have an interest in the matter under inquiry. Persons or organisations with a specialist knowledge or interest may be specifically invited to make submissions.

Committees analyse the material submitted to them, sometimes with the assistance of expert advisers. Some witnesses who have made submissions are invited to attend public hearings so that submission material can be further investigated and tested.

As well as hearing evidence in Canberra, committees frequently travel to other cities and regional areas to listen to witnesses. In this way, they are able to obtain first-hand experience of the issues under consideration. Committees may also arrange informal briefings, seminars, and site inspections to augment their formal evidence-gathering.

The proceedings of committees are recognised as proceedings of Parliament and attract the same privileges and immunities as Parliament itself. This means that witnesses receive very wide protection and immunity enabling them to give evidence freely and honestly without fear of recrimination. Parliamentary privilege also means that witnesses cannot be sued or prosecuted for what they say in evidence to a committee.

Senate requires the chair of a committee to prepare a draft report and submit it to the committee for consideration. In practice, the chair gives drafting instructions to the secretary who prepares a draft with secretariat assistance. After a final report has been agreed to, committee members may add a minority or dissenting report or attach relevant conclusions and recommendations.

The Senate's comprehensive committee system has significantly strengthened the Federal Parliamentary system of Government. It assists the Senate to perform its law-making and inquiry role more effectively and to keep the Government accountable for its actions.

Committees also provide a formal channel of communication between Parliament and the public and this encourages greater community participation in the Parliamentary process. Travelling to stakeholders in town and country, committees hear local views on Government policy. Media attention is drawn to matters that might otherwise have been overlooked.

## **5.6 Current Issues Being Addressed by Senate Committees**

### **5.6.1 Senate Standing Committees**

#### ***Procedures***

A Procedure Committee, consisting of the President, the Deputy President, the Leader of the Government in the Senate, the Leader of the Opposition in the Senate and six senators, shall be appointed at the commencement of each Parliament, with power to act during recess and to confer with a similar committee of the House of Representatives.

The committee may consider any matter relating to the procedures of the Senate referred to it by the Senate or by the President.

The Deputy President shall be the chair of the committee.

#### ***Privileges***

A Committee of Privileges, consisting of seven senators, shall be appointed at the commencement of each Parliament to inquire into and report upon matters of privilege referred to it by the Senate.

The committee shall consist of seven senators, four nominated by the Leader of the Government in the Senate and three nominated by the Leader of the Opposition in the Senate.

The committee shall elect as its chair a member nominated by the Leader of the Opposition in the Senate.

#### ***Appropriations and Staffing***

A Standing Committee on Appropriations and Staffing shall be appointed at the commencement of each Parliament.

The committee shall inquire into:

- proposals for the annual estimates and the additional estimates for the Senate;



- proposals to vary the staff structure of the Senate, and staffing and recruitment policies; and
- make an annual report to the Senate on the operations of the Senate's appropriations and staffing, and related matters; and
- consider the administration and funding of security measures affecting the Senate and advise the President and the Senate as appropriate.

The committee shall consist of the President and eight other senators: the Leader of the Government in the Senate or a Senate minister nominated to represent the Leader of the Government in the Senate from time to time, and three other members of the Government party nominated by the Leader of the Government in the Senate, and the Leader of the Opposition in the Senate or a senator nominated to represent the Leader of the Opposition in the Senate from time to time, and three other senators not being members of the Government party, nominated by the Leader of the Opposition in the Senate or by any minority groups or independent senators; and in the absence of agreement between the opposition and any minority groups or independent senators as to nominations, any question as to representation shall be determined by the Senate.

The chairman of the committee shall be the President, who may from time to time appoint another member of the committee to be deputy chairman, who shall act as chairman at any time when there is no chairman or the chairman is not present at a meeting of the committee.

### ***Publications***

A Publications Committee, consisting of 7 senators, shall be appointed at the commencement of each Parliament, with power to act during recess and to confer and sit as a joint committee with a similar committee of the House of Representatives.

All documents presented to the Senate which have not been ordered to be printed by either House of the Parliament shall stand referred to the committee, which shall make recommendations on the printing of documents.

When sitting with a similar committee of the House of Representatives, the committee shall also have power:

- to inquire into and report on the printing, publication and distribution of Parliamentary and Government publications and on such related matters as are referred to it by the relevant minister; and
- to send for persons and documents.

The committee shall elect as its chair a member nominated by the Leader of the Government in the Senate.

### ***Senators' Interests***

A Committee of Senators' Interests shall be appointed at the commencement of each Parliament:

- to inquire into and report upon the arrangements made for the compilation, maintenance and accessibility of a Register of Senators' Interests;

- to consider any proposals made by senators and others as to the form and content of the register;
- to consider any submissions made in relation to the registering or declaring of interests;
- to consider what classes of person, if any, other than senators ought to be required to register and declare their interests; and
- to make recommendations upon these and any other matters which are relevant.

The membership of the committee shall as closely as possible reflect the composition of the Senate and, until modified by a subsequent resolution, shall consist of 8 senators, 3 nominated by the Leader of the Government in the Senate, 4 nominated by the Leader of the Opposition in the Senate and 1 nominated by any minority groups or independent senators.

The nominations of the minority groups or independent senators shall be determined by agreement between the minority groups and independent senators and, in the absence of agreement duly notified to the President, the question of the representation on the committee shall be determined by the Senate.

The committee shall elect as its chair one of its members nominated by the Leader of the Opposition in the Senate.

The committee shall have power to confer with a similar committee of the House of Representatives.

The committee shall, as soon as practicable after 31 December in each year, prepare and table in the Senate a report on its operations during that year, and shall also have power to report from time to time.

Current Inquiry: Draft code of conduct for Senators

### ***Regulations and Ordinances***

A Standing Committee on Regulations and Ordinances shall be appointed at the commencement of each Parliament.

All regulations, ordinances and other instruments made under the authority of Acts of the Parliament, which are subject to disallowance or disapproval by the Senate and which are of a legislative character, shall stand referred to the committee for consideration and, if necessary, report.

The committee shall scrutinise each instrument to ensure:

- that it is in accordance with the statute;
- that it does not trespass unduly on personal rights and liberties;
- that it does not unduly make the rights and liberties of citizens dependent upon administrative decisions which are not subject to review of their merits by a judicial or other independent tribunal; and
- that it does not contain matter more appropriate for Parliamentary enactment.

The committee shall consist of six senators, three being members of the Government party nominated by the Leader of the Government in the Senate, and three being senators who are not members of the Government party, nominated by the Leader of the Opposition in the Senate or by any minority groups or independent senators.

### ***Scrutiny of Bills***

At the commencement of each Parliament, a Standing Committee for the Scrutiny of Bills shall be appointed to report, in respect of the clauses of bills introduced into the Senate, and in respect of Acts of the Parliament, whether such bills or Acts, by express words or otherwise:

- trespass unduly on personal rights and liberties;
- make rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers;
- make rights, liberties or obligations unduly dependent upon non-reviewable decisions;
- inappropriately delegate legislative powers; or
- insufficiently subject the exercise of legislative power to Parliamentary scrutiny.

The committee, for the purpose of reporting upon the clauses of a bill when the bill has been introduced into the Senate, may consider any proposed law or other document or information available to it, notwithstanding that such proposed law, document or information has not been presented to the Senate.

The committee shall consist of six senators, three being members of the Government party nominated by the Leader of the Government in the Senate, and three being senators who are not members of the Government party, nominated by the Leader of the Opposition in the Senate or by any minority groups or independent senators.

### ***Selection of Bills***

A Selection of Bills Committee shall be appointed at the commencement of each Parliament to consider all bills introduced into the Senate or received from the House of Representatives, except bills which contain no provisions other than provisions appropriating revenue or moneys, and to report:

- in respect of each such bill, whether the bill should be referred to a legislative and general purpose standing committee; and
- in respect of each bill recommended for referral to a standing committee:
  - the standing committee to which the bill should be referred,
  - the stage in the consideration of the bill at which it should be referred to the standing committee, and
  - the day which should be fixed for the standing committee to report on the bill.

The committee shall consist of the Government Whip and 2 other senators nominated by the Leader of the Government in the Senate, the Opposition Whip and 2 other senators nominated by the Leader of the Opposition in the Senate, and the whips of any minority groups.

A report from a standing committee relating to a bill referred to it under this order shall be received by the Senate without debate, and consideration of the report deferred until the order of the day relating to the bill is called on.

### 5.6.2 Senate Select Committees

#### **Select Committee on Australia's Food Processing Sector**

##### *Terms of Reference*

- the competitiveness and future viability of Australia's food processing sector in global markets;
- the regulatory environment for Australia's food processing and manufacturing companies including but not limited to:
  - taxation,
  - research and development,
  - food labelling,
  - cross-jurisdictional regulations,
  - bio-security, and
  - export arrangements;
- the impact of Australia's competition regime and the food retail sector, on the food processing sector, including the effectiveness of the Competition and Consumer Act 2010;
- the effectiveness of anti-dumping rules;
- the costs of production inputs including raw materials, labour, energy and water;
- the effect of international anti-free trade measures;
- the access to efficient and quality infrastructure, investment capital and skilled labour and skills training; and
- any other related matter.

The committee consist of nine senators, four nominated by the Leader of the Opposition in the Senate, three nominated by the Leader of the Government in the Senate and two nominated by any minority party or independent senators.

#### **Senate Select Committee on Scrutiny of New Taxes**

The Select Committee on New Taxes initiated an inquiry into the following matters:

- new taxes proposed for Australia, including:
  - the minerals resource rent tax and expanded petroleum resource rent tax,
  - a carbon tax, or any other mechanism to put a price on carbon, and
  - any other new taxes proposed by Government, including significant changes to existing tax arrangements;
- the short and long term impact of those new taxes on the economy, industry, trade, jobs, investment, the cost of living, electricity prices and the Federation;
- estimated revenue from those new taxes and any related spending commitments;

- the likely effectiveness of these taxes and related policies in achieving their stated policy objectives;
- any administrative implementation issues at a Commonwealth, state and territory level;
- an international comparison of relevant taxation arrangements;
- alternatives to any proposed new taxes, including direct action alternatives; and
- any other related matter.

### ***Community Affairs Committees***

#### Community Affairs Legislation Committee

- Currently there are no inquiries for the Legislation Committee

#### Community Affairs References Committee

- Commonwealth contribution to former forced adoption policies and practices
- Commonwealth Funding and Administration of Mental Health Services
- The factors affecting the supply of health services and medical professionals in rural areas
- The Regulatory Standards for the Approval of Medical Devices

#### Review of the Professional Services Review (PSR) Scheme

### ***Economics Committees***

#### Economics Legislation Committee

- Constitutional Corporations (Farm Gate to Plate) Bill 2011
- Consumer Credit and Corporations Legislation Amendment (Enhancements) Bill 2011

#### Economics References Committee

- The impacts of supermarket price decisions on the dairy industry
- Finance for the not for profit sector

### ***Education, Employment and Workplace Relations Committees***

#### Education, Employment and Workplace Relations Legislation Committee

- Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Bill 2011; Education Services for Overseas Students (TPS Levies) Bill 2011; and Education Services for Overseas Students (Registration Charges) Amendment (Tuition Protection Service) Bill 2011

#### Education, Employment and Workplace Relations References Committee

- All aspects of higher education and skills training to support future demand in agriculture and agribusiness in Australia
- The administration and purchasing of Disability Employment Services in Australia

#### ***Environment and Communications Committees***

##### Environment and Communications Legislation Committee

- Australian Renewable Energy Agency Bill

##### Environment and Communications References Committee

- The capacity of communication networks and emergency warning systems to deal with emergencies and natural disasters

#### ***Finance and Public Administration Committees***

##### Finance and Public Administration Legislation Committee

- The performance of the Department of Parliamentary Services (DPS)

##### Finance and Public Administration References Committee

- Currently there are no inquiries for the References Committee

#### ***Foreign Affairs, Defence and Trade Committees***

##### Foreign Affairs, Defence and Trade Legislation Committee

- Currently there are no inquiries for the Legislation Committee

##### Foreign Affairs, Defence and Trade References Committee

- An equity and diversity health check in the Royal Australian Navy—HMAS Success
- Effectiveness of the Federal Government's response to Australian citizens who are kidnapped and held for ransom overseas
- Procurement procedures for Defence capital projects

#### ***Legal and Constitutional Affairs Committees***

##### Legal and Constitutional Affairs Legislation Committee

- Native Title Amendment (Reform) Bill 2011

##### Legal and Constitutional Affairs References Committee

- International Child Abduction to and from Australia

## ***Rural Affairs and Transport Committees***

### **Rural Affairs and Transport Legislation Committee**

- Air Navigation and Civil Aviation Amendment (Aircraft Crew) Bill 2011; Qantas Sale Amendment (Still Call Australia Home) Bill 2011
- Quarantine Amendment (Disallowing Permits) Bill 2011

### **Rural Affairs and Transport References Committee**

- Animal welfare standards in Australia's live export markets
- Biosecurity and quarantine arrangements
- Examination of the Foreign Investment Review Board National Interest Test
- The management of the Murray-Darling Basin
- Operational issues in export grain networks

## **5.6.3 Joint Committees Administered by the Senate**

### ***Joint Select Committee on Australia's Immigration Detention Network***

The Joint Select Committee on Australia's Immigration Detention Network will conduct a comprehensive inquiry into Australia's Immigration Detention Network, including its management, resourcing, potential expansion, possible alternative solutions, the Government's detention values, and the effect of detention on detainees.

The committee will also inquire into the reasons for and nature of riots and disturbances, their management, and the length of time detainees have been held in the detention network, the reasons for their stay, the processes for assessment of protection claims and any other matters relevant to the terms of reference.

Inquire into and report on:

- any reforms needed to the current Immigration Detention Network in Australia;
- the impact of length of detention and the appropriateness of facilities and services for asylum seekers;
- the resources, support and training for employees of Commonwealth agencies and/or their agents or contractors in performing their duties;
- the health, safety and wellbeing of asylum seekers, including specifically children, detained within the detention network;
- impact of detention on children and families, and viable alternatives;
- the effectiveness and long-term viability of outsourcing immigration detention centre contracts to private providers;
- the impact, effectiveness and cost of mandatory detention and any alternatives, including community release; and

- the reasons for and nature of riots and disturbances in detention facilities;
- the performance and management of Commonwealth agencies and/or their agents or contractors in discharging their responsibilities associated with the detention and processing of irregular maritime arrivals or other persons;
- the health, safety and wellbeing of employees of Commonwealth agencies and/or their agents or contractors in performing their duties relating to irregular maritime arrivals or other persons detained in the network;
- the level, adequacy and effectiveness of reporting incidents and the response to incidents within the immigration detention network, including relevant policies, procedures, authorities and protocols;
- compliance with the Government's immigration detention values within the detention network;
- any issues relating to interaction with States and Territories regarding the detention and processing of irregular maritime arrivals or other persons;
- the management of good order and public order with respect to the immigration detention network;
- the total costs of managing and maintaining the immigration detention network and processing irregular maritime arrivals or other detainees;
- the expansion of the immigration detention network, including the cost and process adopted to establish new facilities;
- the length of time detainees have been held in the detention network, the reasons for their length of stay and the impact on the detention network;
- processes for assessment of protection claims made by irregular maritime arrivals and other persons and the impact on the detention network; and,
- any other matters relevant to the above terms of reference.

The committee consist of eleven members, two Members to be nominated by the Government Whip or Whips, two Senators to be nominated by the Leader of the Government in the Senate, two Members to be nominated by the Opposition Whip or Whips, two Senators nominated by the Leader of the Opposition in the Senate, one Member and one Senator nominated by the Australian Greens Whip, and one non-aligned member.

### ***Gambling Reform—Joint Select Committee***

Inquire into and report on:

- The Productivity Commission report on gambling, released in June 2010, including a national response to the full set of its recommendations;
- The design and implementation of a best practice full pre-commitment scheme – that is uniform across all States and Territories and machines - consistent with the recommendations and findings of the Productivity Commission;



- Legal advice commissioned and received by the Commonwealth by 1 February 2011 regarding the Commonwealth's constitutional competence and prospects for successfully legislating in this area, including the reasoning supporting the legal advice and financial and other consequences flowing from it;
- Any gambling-related legislation that has been tabled in either House, either as a first reading or exposure draft;
- Appropriate terms of reference, to be set by no later than 30 June 2013, of a further Productivity Commission Inquiry to examine the impact of pre-commitment schemes on problem gambling and to determine what further harm minimisation measures may be necessary.
- Monitoring the impact of reforms to address problem gambling; and
- Such other matters relating to gambling referred by either House.

Make recommendations to the Minister for Families, Housing, Community Services and Indigenous Affairs and the Assistant Treasurer, to inform any position that the Commonwealth will take to the COAG Select Council on Gambling Reform.

### ***Australian Commission for Law Enforcement Integrity Joint Committee***

The Committee has the following duties:

- to monitor and review the Integrity Commissioner's performance of his or her functions;
- to report to both Houses of the Parliament, with such comments as it thinks fit, on any matter:  
  
connected with the performance of the Integrity Commissioner's functions; or  
relating to ACLEI;

That the Committee considers should be directed to the attention of Parliament:

- to examine:  
  
each annual report prepared by the Integrity Commissioner under section 201; and  
any special report prepared by the Integrity Commissioner under section 204;  
and report to the Parliament on any matter appearing in, or arising out of, any such  
annual report or special report;
- to examine trends and changes in:  
  
law enforcement in so far as they relate to corruption; and  
corruption generally in, or the integrity of staff members of, Commonwealth  
Government agencies with a law enforcement function;
- and report to both Houses of the Parliament on any change that the Committee thinks  
desirable:  
  
to the Integrity Commissioner's functions or powers; or  
to the procedures followed by the Integrity Commissioner; or  
to ACLEI's structure;

- to inquire into any question in connection with the Committee's duties that is referred to it by either House of the Parliament, and to report to that House upon that question.

Subsection (1) does not authorise the Committee:

- to investigate a corruption issue or an ACLEI corruption issue; or
- to reconsider the Integrity Commissioner's decisions or recommendations in relation to a particular corruption issue or ACLEI corruption issue; or
- to reconsider a special investigator's decisions or recommendations in relation to an ACLEI corruption issue.

The Committee shall consist of ten members, namely, five members of the Senate appointed by the Senate, and five members of the House of Representatives appointed by that House.

### ***Parliamentary Joint Committee on Corporations and Financial Services***

The committee is established by the *Australian Securities and Investments Commission Act 2001*. The duties of the committee as follows:

- to inquire into, and report to both Houses on:  
  
activities of ASIC or the Panel, or matters connected with such activities, to which, in the Parliamentary Committee's opinion, the Parliament's attention should be directed;  
or  
the operation of the corporations legislation (other than the excluded provisions), or of any other law of the Commonwealth, of a State or Territory or of a foreign country that appears to the Parliamentary Committee to affect significantly the operation of the corporations legislation (other than the excluded provisions); and
- to examine each annual report that is prepared by a body established by this Act and of which a copy has been laid before a House, and to report to both Houses on matters that appear in, or arise out of, that annual report and to which, in the Parliamentary Committee's opinion, the Parliament's attention should be directed; and
- to inquire into any question in connection with its duties that is referred to it by a House, and to report to that House on that question.

### ***Parliamentary Joint Committee on Law Enforcement***

#### *Functions of the Committee*

The Committee has the following functions:

- to monitor and to review the performance by the ACC of its functions;
- to report to both Houses of the Parliament, with such comments as it thinks fit, upon any matter appertaining to the ACC or connected with the performance of its functions to which, in the opinion of the Committee, the attention of the Parliament should be directed;
- to examine each annual report on the ACC and report to the Parliament on any matter appearing in, or arising out of, any such annual report;
- to monitor and to review the performance by the AFP of its functions;

- to report to both Houses of the Parliament, with such comments as it thinks fit, upon any matter appertaining to the AFP or connected with the performance of its functions to which, in the opinion of the Committee, the attention of the Parliament should be directed;
- to examine each annual report on the AFP and report to the Parliament on any matter appearing in, or arising out of, any such annual report;
- to examine trends and changes in criminal activities, practices and methods and report to both Houses of the Parliament any change which the Committee thinks desirable to the functions, structure, powers and procedures of the ACC or the AFP;
- to inquire into any question in connection with its functions which is referred to it by either House of the Parliament, and to report to that House upon that question.

#### 5.6.4 Additional Joint Committees

##### ***Library***

A Library Committee, consisting of the President and 6 senators, shall be appointed at the commencement of each Parliament, with power to act during recess, and to confer and sit as a joint committee with a similar committee of the House of Representatives.

The committee may consider any matter relating to the provision of library services to senators.

The President shall be the chair of the committee.

##### ***House***

A House Committee, consisting of the President, the Deputy President and 5 senators, shall be appointed at the commencement of each Parliament, with power to act during recess, and to confer and sit as a joint committee with a similar committee of the House of Representatives.

The committee may consider any matter relating to the provision of facilities in Parliament House referred to it by the Senate or by the President.

The President shall be the chair of the committee.

A full list of current Parliamentary inquiries can be found at:

[http://www.aph.gov.au/committee/inquiries\\_comm.htm](http://www.aph.gov.au/committee/inquiries_comm.htm)

### **ASSESSMENT OF THE WORK OF A MEMBER OF PARLIAMENT**

Following the passage of the *Remuneration and Other Legislation Amendment Act 2011*, the Remuneration Tribunal now has the responsibility of determining the base salary of Parliamentarians.

Prior to issuing its first determination on Parliamentary base salary, the Tribunal has decided to examine the workload and accountabilities of Members of both Houses. The study is intended to answer the question "What does a Parliamentarian do?", providing information that is vital for answering the Tribunal's principal question - "What should a Parliamentarian be paid?"

The Tribunal is seeking input from all Members of the Parliament in this process.

It is hoped that this questionnaire will be completed by close of business on 30 September. The questionnaire is being administered by Australian Survey Research Group Pty Ltd (**ASR**). All materials supplied will be kept confidential and no individual member or their response to the questionnaire will be identified.

The Tribunal, along with our consultant Mr John Egan, will also look to interview personally some 25 members selected so as to take into account factors such as gender, length of service, geographical distribution, type of electorate (e.g. inner city, suburban, semi-rural, rural), safe or marginal seat; party affiliations or otherwise; and the balance between members of the House of Representatives and Senators.

## QUESTIONNAIRE FOR COMPLETION BY MEMBERS OF PARLIAMENT

### Introduction and Explanation on How to Complete the Questionnaire

#### Parliamentary Background

1. If a member of the House of Representatives, what type of electorate do you represent?

<input type="checkbox"/> Rural	<input type="checkbox"/> Regional
<input type="checkbox"/> Urban	<input type="checkbox"/> Metropolitan

2. What is your highest level of education?

<input type="checkbox"/> Secondary School	<input type="checkbox"/> Graduate Certificate
<input type="checkbox"/> Technical or Trades Qualification	<input type="checkbox"/> Graduate Diploma
<input type="checkbox"/> Bachelor or Honours Degree	<input type="checkbox"/> Masters Degree
	<input type="checkbox"/> PhD

3. How many times have you stood for and been elected to Parliament?

	Once	Twice	Three times	Four times or more
Stood for Parliament				
Been elected to Parliament				

4. What type of employer were you engaged with prior to entering Parliament?

<input type="checkbox"/> Government	<input type="checkbox"/> Self Employed
<input type="checkbox"/> Public Company	<input type="checkbox"/> Trade Union
<input type="checkbox"/> Private Company	<input type="checkbox"/> Other
<input type="checkbox"/> Not-For-Profit	

5. What was your occupation prior to entering Parliament? (You may have more than one entry.)

<input type="checkbox"/> Clerical/Administration	<input type="checkbox"/> Sciences/Research
<input type="checkbox"/> Home-maker	<input type="checkbox"/> Teacher/Academic
<input type="checkbox"/> Management	<input type="checkbox"/> Technical or Trades Work
<input type="checkbox"/> Member of a Profession, eg Law, Medicine, Architecture, Engineering	<input type="checkbox"/> Other

6. Please indicate if your current Parliamentary standing includes any of the following:

<input type="checkbox"/> Chairman of a Parliamentary Committee	<input type="checkbox"/> Shadow Minister of the Parliament
<input type="checkbox"/> Government Minister	<input type="checkbox"/> Party Leader in the Senate
<input type="checkbox"/> Party Leader in the House of Representatives	<input type="checkbox"/> Officeholder of the Parliament

7. In addition to being a Member of the House of Representatives or the Senate, do you earn income from other activities (exclusive of investment returns) which might include paid work as an employee, payment as a member of a Board of Trustees, a director of a private company or for professional, technical or trades work?

<input type="checkbox"/> Yes	<input type="checkbox"/> No
------------------------------	-----------------------------

If yes, what is your estimate of this income in the last financial year?

<input type="checkbox"/> Less than \$10,000	<input type="checkbox"/> \$10,000 to \$20,000
<input type="checkbox"/> \$20,000 to \$30,000	<input type="checkbox"/> \$30,000 to \$50,000
<input type="checkbox"/> \$50,000 to \$70,000	<input type="checkbox"/> \$70,000 to \$100,000
<input type="checkbox"/> Above \$100,000	

## Key Responsibilities of a Member of Parliament

Below are a number of activities that Members of Parliament may perform in their daily or weekly activities. Please indicate how much you agree or disagree that these activities are needed to perform your role effectively as a Member of the House of Representatives or as a Member of the Senate.

*If you have not yet experienced an activity, or you don't have a view, please choose the latter answer option rather than leave the question blank.*

### 8. Specific Accountabilities in Parliament

- (i) Contribute to the formulation of legislation and the development of public policy.

Strongly Agree	Agree	Part Agree and Part Disagree	Disagree	Strongly Disagree	Don't have a View
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

- (ii) Participate in Parliamentary enquiries as a member of a Parliamentary committee.

- (iii) Conduct research into matters before the Parliament of special/constituent interest.

- (iv) Participate in party room discussion on political, policy and/or legislative initiatives.
- (v) Prepare questions to be addressed by Ministers or their representatives in the Senate or House of Representatives.
- (vi) Prepare speeches.
- (vii) Manage the balance of national and local electorate needs in representation.
- (viii) Other – please specify

## 9. Specific Accountabilities in an Electorate/Electoral Division

- (i) Represent the interests of constituents in a wide range of matters affecting their wellbeing.
- (ii) Manage the contribution of the electoral office in addressing constituents' needs.
- (iii) Attend community functions.
- (iv) Communicate with the electorate.
- (v) Act as Patron to organisations in the electorate/electoral division.
- (vi) Represent Ministers, Shadow Ministers, the Prime Minister or Leader of the Opposition, as appropriate.
- (vii) Act as a clearing house for Government decisions through the electorate or electoral division office.
- (viii) Respond to correspondence either in person, by phone or by letter.
- (ix) Manage or influence contributions from community groups.
- (x) Other – please specify

Strongly Agree	Agree	Part Agree and Part Disagree	Disagree	Strongly Disagree	Don't have a View

## 10. Principal Accountabilities in Administration

- (i) Inform support staff in all facets of Government policy and legislative initiatives.

Strongly Agree	Agree	Part Agree and Part Disagree	Disagree	Strongly Disagree	Don't have a View
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

- (ii) Encourage support staff to participate in relevant training programs.
- (iii) Direct support staff in their management of constituent communications.
- (iv) Ensure that support staff maintain office accounts to a standard capable of independent audit.
- (v) Ensure that support staff comply with established administrative requirements of the Department of Finance and Deregulation.
- (vi) Other – please specify

## 11. Principal Accountabilities within the Party

- (i) Participate in and contribute to fundraising activities.

Strongly Agree	Agree	Part Agree and Part Disagree	Disagree	Strongly Disagree	Don't have a View
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

- (ii) Publicise issues and reflect the values of the party or constituency represented.
- (iii) Serve the party or constituency in a variety of electorate-based roles.
- (iv) Attend branch meetings, electorate committees, area/regional conferences, and other committees of the party.
- (v) Other – please specify
- (vi) If an Independent Member of the House of Representatives or Senate, please identify activities not relevant above which you believe to be highly important.

– please specify



12. Which of the following Parliamentary committees do you serve on? [On receiving your initial response more detailed questioning will appear.]

(i) **House Standing Committee**

☐ Yes ☐ No

[For drop-down box:]

1. Aboriginal and Torres Strait Islander Affairs

**What is your present role?**

☐ Chair ☐ Member

**How complex is the work of the committee?**

**'Highly Complex'** means that committee members have to juggle multiple priorities, balancing international and national issues with constituent needs. Highly complex work would also involve matters representing significant areas of Government expenditure, with several issues before the committee involving either State and Federal Government programs or the Australian Government with international alliances critical to the nation's reputation. **'Complex'** may involve balancing national security compared to the rights of individuals to their privacy in a well defined area involving a single piece of legislation where there is a reasonable degree of sensitivity in relation to party ideologies or varying views between State Legislatures. Committees which are **'Not Complex'** might focus on a single issue under the control of the Federal Parliament involving a limited number of constituents and limited expenditure.

Highly Complex  
Very Complex  
Complex  
Moderately Complex  
Not Complex

**Your time commitment**

Having regard to the last twenty-four months and the committee's activities and taking a view as to your **annual level of commitment**, would you describe your time commitment in preparation, attendance and travel associated with your membership of the committee as requiring:

More than 6 weeks  
4 to 6 weeks  
2 to 4 weeks  
1 to 2 weeks  
Less than 1 week

2. Agriculture, Resources, Fisheries and Forestry
3. Appropriations and Administration
4. Climate Change, Environment and the Arts
5. Economics
6. Education and Employment
7. Health and Ageing
8. Infrastructure and Communications
9. Petitions
10. Privileges and Members' Interests
11. Procedure
12. Publications
13. Regional Australia

14. Selection

15. Social Policy and Legal Affairs

**(ii) Joint Committee administered by the House**

☐ Yes ☐ No

[For drop-down box:]

1. Broadcasting of Parliamentary Proceedings

**What is your present role?**

☐ Chair ☐ Member

**How complex is the work of the committee?**

**'Highly Complex'** means that committee members have to juggle multiple priorities, balancing international and national issues with constituent needs. Highly complex work would also involve matters representing significant areas of Government expenditure, with several issues before the committee involving either State and Federal Government programs or the Australian Government with international alliances critical to the nation's reputation. **'Complex'** may involve balancing national security compared to the rights of individuals to their privacy in a well defined area involving a single piece of legislation where there is a reasonable degree of sensitivity in relation to party ideologies or varying views between State Legislatures. Committees which are **'Not Complex'** might focus on a single issue under the control of the Federal Parliament involving a limited number of constituents and limited expenditure.

Highly Complex  
Very Complex  
Complex  
Moderately Complex  
Not Complex

**Your time commitment**

Having regard to the last twenty-four months and the committee's activities and taking a view as to your **annual level of commitment**, would you describe your time commitment in preparation, attendance and travel associated with your membership of the committee as requiring:

More than 6 weeks  
4 to 6 weeks  
2 to 4 weeks  
1 to 2 weeks  
Less than 1 week

2. Cyber-Safety (Select)

3. Electoral Matters

4. Foreign Affairs, Defence and Trade

5. Intelligence and Security

6. Migration

7. National Broadband Network

8. National Capital and External Territories

9. Public Accounts and Audit

10. Public Works

11. Publications

12. Treaties

(iii) Joint Committee administered by the Senate

☐ Yes ☐ No

[For drop-down box:]

1. Australian Commission for Law Enforcement Integrity

What is your present role?

☐ Chair ☐ Member

How complex is the work of the committee?

**'Highly Complex'** means that committee members have to juggle multiple priorities, balancing international and national issues with constituent needs. Highly complex work would also involve matters representing significant areas of Government expenditure, with several issues before the committee involving either State and Federal Government programs or the Australian Government with international alliances critical to the nation's reputation. **'Complex'** may involve balancing national security compared to the rights of individuals to their privacy in a well defined area involving a single piece of legislation where there is a reasonable degree of sensitivity in relation to party ideologies or varying views between State Legislatures. Committees which are **'Not Complex'** might focus on a single issue under the control of the Federal Parliament involving a limited number of constituents and limited expenditure.

Highly Complex  
Very Complex  
Complex  
Moderately Complex  
Not Complex

Your time commitment

Having regard to the last twenty-four months and the committee's activities and taking a view as to your **annual level of commitment**, would you describe your time commitment in preparation, attendance and travel associated with your membership of the committee as requiring:

More than 6 weeks  
4 to 6 weeks  
2 to 4 weeks  
1 to 2 weeks  
Less than 1 week

2. Law Enforcement
3. Corporations and Financial Services

(iv) Joint Select Committee administered by the Senate

☐ Yes ☐ No

[For drop-down box:]

1. Australia's Immigration Detention Network

What is your present role?

☐ Chair ☐ Member

How complex is the work of the committee?

**'Highly Complex'** means that committee members have to juggle multiple priorities, balancing international and national issues with constituent needs. Highly complex work would also involve matters representing significant areas of Government expenditure, with several issues before the committee involving either State and Federal Government programs or the Australian Government with international alliances critical to the nation's reputation. **'Complex'** may involve balancing national security compared to the rights of individuals to their privacy in a well defined area involving a single piece of legislation where there is a reasonable degree of sensitivity in relation

Highly Complex  
Very Complex  
Complex  
Moderately Complex  
Not Complex

to party ideologies or varying views between State Legislatures. Committees which are **'Not Complex'** might focus on a single issue under the control of the Federal Parliament involving a limited number of constituents and limited expenditure.

#### Your time commitment

Having regard to the last twenty-four months and the committee's activities and taking a view as to your **annual level of commitment**, would you describe your time commitment in preparation, attendance and travel associated with your membership of the committee as requiring:

More than 6 weeks  
4 to 6 weeks  
2 to 4 weeks  
1 to 2 weeks  
Less than 1 week

## 2. Gambling Reform

### (v) Senate Committee

[For drop-down box:]

☐ Yes ☐ No

## 1. Appropriations and Staffing

What is your present role?

☐ Chair ☐ Member

#### How complex is the work of the committee?

**'Highly Complex'** means that committee members have to juggle multiple priorities, balancing international and national issues with constituent needs. Highly complex work would also involve matters representing significant areas of Government expenditure, with several issues before the committee involving either State and Federal Government programs or the Australian Government with international alliances critical to the nation's reputation. **'Complex'** may involve balancing national security compared to the rights of individuals to their privacy in a well defined area involving a single piece of legislation where there is a reasonable degree of sensitivity in relation to party ideologies or varying views between State Legislatures. Committees which are **'Not Complex'** might focus on a single issue under the control of the Federal Parliament involving a limited number of constituents and limited expenditure.

Highly Complex  
Very Complex  
Complex  
Moderately Complex  
Not Complex

#### Your time commitment

Having regard to the last twenty-four months and the committee's activities and taking a view as to your **annual level of commitment**, would you describe your time commitment in preparation, attendance and travel associated with your membership of the committee as requiring:

More than 6 weeks  
4 to 6 weeks  
2 to 4 weeks  
1 to 2 weeks  
Less than 1 week

## 2. Community Affairs

## 3. Economics

## 4. Education, Employment and Workplace Relations

## 5. Environment and Communications

6. Finance and Public Administration
7. Foreign Affairs, Defence and Trade
8. Legal and Constitutional Affairs
9. Privileges
10. Procedure
11. Publications
12. Regulations and Ordinances
13. Rural Affairs and Transport
14. Scrutiny of Bills
15. Selection of Bills
16. Senators' Interests

(vi) **Select Committee of the Senate**

☐ Yes ☐ No

[For drop-down box:]

1. Australia's Food Processing Sector

**What is your present role?**

☐ Chair ☐ Member

**How complex is the work of the committee?**

**'Highly Complex'** means that committee members have to juggle multiple priorities, balancing international and national issues with constituent needs. Highly complex work would also involve matters representing significant areas of Government expenditure, with several issues before the committee involving either State and Federal Government programs or the Australian Government with international alliances critical to the nation's reputation. **'Complex'** may involve balancing national security compared to the rights of individuals to their privacy in a well defined area involving a single piece of legislation where there is a reasonable degree of sensitivity in relation to party ideologies or varying views between State Legislatures. Committees which are **'Not Complex'** might focus on a single issue under the control of the Federal Parliament involving a limited number of constituents and limited expenditure.

Highly Complex  
Very Complex  
Complex  
Moderately Complex  
Not Complex

**Your time commitment**

Having regard to the last twenty-four months and the committee's activities and taking a view as to your **annual level of commitment**, would you describe your time commitment in preparation, attendance and travel associated with your membership of the committee as requiring:

More than 6 weeks  
4 to 6 weeks  
2 to 4 weeks  
1 to 2 weeks  
Less than 1 week

2. Scrutiny of New Taxes

13. During weeks when the Parliament meets, what percentage of your time is allocated to the following activities:

- (i) Participation in the Legislature
- (ii) Participation in Parliamentary committee work
- (iii) Participation in party matters
- (iv) Engagement with the community/constituency
- (v) Travel
- (vi) Other (please specify)

TOTAL


14. In weeks during which Parliament is not sitting, what proportion of time do you allocate to:

- (i) Participation in Parliamentary committee work
- (ii) Participation in party matters
- (iii) Engagement with the community/constituency
- (iv) Travel
- (v) Other (please specify)

TOTAL


15. During weeks when the Parliament meets, how many hours do you commit to your role as described above? (Participation in the Legislature, in Parliamentary committee work, in party matters, engagement with the community/constituency, travel.)

No. of Hours

16. In weeks during which Parliament is not sitting, how many hours do you commit to your role as described above? (Participation in Parliamentary committee work, in party matters, engagement in the community/constituency, travel.)

No. of Hours

17. During weeks when the Parliament meets:

If a Member of the Senate. In your judgement, is your time commitment similar to a Member of the House of Representatives?

Very Similar							Very Different
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18. During weeks when the Parliament meets:

If a Member of the House of Representatives. In your judgement, is your time commitment similar to a Member of the Senate?

Very Similar Very Different

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19. During weeks when the Parliament is not sitting:

If a Member of the Senate. In your judgement, is your time commitment similar to a Member of the House of Representatives?

Very Similar Very Different

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20. During weeks when the Parliament is not sitting:

If a Member of the House of Representatives. In your judgement, is your time commitment similar to a Member of the Senate?

Very Similar Very Different

--	--	--	--

21. What is the most significant factor influencing the amount of time you spend travelling?

- (i) Proximity of your electorate/electoral division to Canberra
- (ii) Size of your electorate
- (iii) Number of committees in which you participate
- (iv) Other


22. Considering your role as a Member of Parliament, how would you evaluate your allocation of time?

Legislative debate, including Question Time

Too Much    About Right    Too Little

--	--	--	--

Work in committees

Too Much    About Right    Too Little

--	--	--	--

Research and briefings

Too Much    About Right    Too Little

--	--	--	--

Receiving constituents

Too Much    About Right    Too Little

--	--	--	--

Making representations on behalf of constituents

Too Much    About Right    Too Little

--	--	--	--

Attending Party meetings

Too Much    About Right    Too Little

--	--	--	--

Informal engagement with colleagues

Too Much    About Right    Too Little

--	--	--	--

Dealing with media enquiries

Too Much    About Right    Too Little

--	--	--	--

Personal time

Too Much    About Right    Too Little

--	--	--	--

Travel

Too Much    About Right    Too Little  
☐    ☐    ☐

23. How many hours per week on average would you have worked in your previous employment or would be reflective of those engaged in a similar occupation to that in which you were engaged prior to entering Parliament?

<input type="checkbox"/> Less than 40	<input type="checkbox"/> 41 to 45
<input type="checkbox"/> 46 to 50	<input type="checkbox"/> 41 to 55
<input type="checkbox"/> 56 to 60	<input type="checkbox"/> 61 to 70
<input type="checkbox"/> 71 to 80	<input type="checkbox"/> More than 80

24. Which policy areas reviewed by the Parliament do you take the most interest in? [Nominate up to three.]

The Arts	<input type="checkbox"/>
Education	<input type="checkbox"/>
Employment/Industrial Relations	<input type="checkbox"/>
Agriculture	<input type="checkbox"/>
Sport	<input type="checkbox"/>
Justice/Police	<input type="checkbox"/>
Health	<input type="checkbox"/>
Trade/International Representation	<input type="checkbox"/>
Welfare	<input type="checkbox"/>
Defence	<input type="checkbox"/>
Economics/Finance/Taxation	<input type="checkbox"/>
Immigration	<input type="checkbox"/>
Other – please specify	<input type="checkbox"/>



25. Members of Parliament have indicated the following activities are important. Please indicate the degree to which you agree or disagree with that proposal.

Legislative debate, including Question Time

Strongly Agree	Agree	Part Agree and Part Disagree	Disagree	Strongly Disagree	Don't have a View
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Work in committees

Strongly Agree	Agree	Part Agree and Part Disagree	Disagree	Strongly Disagree	Don't have a View
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Research and briefings

Strongly Agree	Agree	Part Agree and Part Disagree	Disagree	Strongly Disagree	Don't have a View
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Receiving constituents

Strongly Agree	Agree	Part Agree and Part Disagree	Disagree	Strongly Disagree	Don't have a View
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Making representations on behalf of constituents

Strongly Agree	Agree	Part Agree and Part Disagree	Disagree	Strongly Disagree	Don't have a View
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Attending Party meetings

Strongly Agree	Agree	Part Agree and Part Disagree	Disagree	Strongly Disagree	Don't have a View
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Informal engagement with colleagues

Strongly Agree	Agree	Part Agree and Part Disagree	Disagree	Strongly Disagree	Don't have a View
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Dealing with media enquiries

Strongly Agree	Agree	Part Agree and Part Disagree	Disagree	Strongly Disagree	Don't have a View
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

26. Below are listed a number of qualities or attributes which may be required to be possessed by a Member of Parliament. Could you identify up to ten which you consider to be the most important.

Administrative skills	<input type="checkbox"/>
Being approachable	<input type="checkbox"/>
Caring and empathic nature	<input type="checkbox"/>
Communication skills	<input type="checkbox"/>
Community representation skills	<input type="checkbox"/>
Computer literacy	<input type="checkbox"/>
Confidence	<input type="checkbox"/>
Courage	<input type="checkbox"/>
Diplomatic skills	<input type="checkbox"/>
Forming informal coalitions of support quickly	<input type="checkbox"/>
Good health	<input type="checkbox"/>
Good memory	<input type="checkbox"/>
Honesty and integrity	<input type="checkbox"/>
Intelligence	<input type="checkbox"/>
Intuitive political instinct	<input type="checkbox"/>
Leadership skills	<input type="checkbox"/>
Maintain confidences/confidentiality of material when important	<input type="checkbox"/>
Negotiation skills	<input type="checkbox"/>
Research and analytical skills	<input type="checkbox"/>
Stamina	<input type="checkbox"/>
Worldly in outlook	<input type="checkbox"/>
Other	<input type="checkbox"/>

## Attachment 3 – Work and Workload of a Member of Parliament

### Survey Results

#### “Work Value of the Role of a Member of Parliament”

#### Overall Participation

The overall participation rate in the survey by the members of the House of Representatives and Senate was 60.0 per cent.

The participation in the survey by political party, gender, age and House is broadly reflective of the current members of Parliament.

The percentages disclosed in the tables below are calculated in proportion to each political party's representation, gender, age and House.

#### Demographics of Parliamentarians

Political Party	Distribution of survey participants	Distribution in Parliament	Participation rate % of Party
Australian Greens	5.2%	4.4%	70.0%
Australian Labor Party	42.2%	46.2%	54.8%
Country Liberal Party	0.7%	0.4%	100.0%
Democratic Labor Party	0.0%	0.4%	0.0%
Independent	0.7%	2.2%	20.0%
Liberal Party of Australia	42.2%	38.7%	65.5%
The Nationals	8.9%	7.1%	75.0%
The Nationals WA	0.0%	0.4%	0.0%
Total	100.0%	100.0%	

Gender	Distribution of survey participants	Distribution in Parliament	Participation rate % of gender
Female	31.9%	29.3%	65%
Male	68.1%	70.7%	58%
Total	100.0%	100.0%	

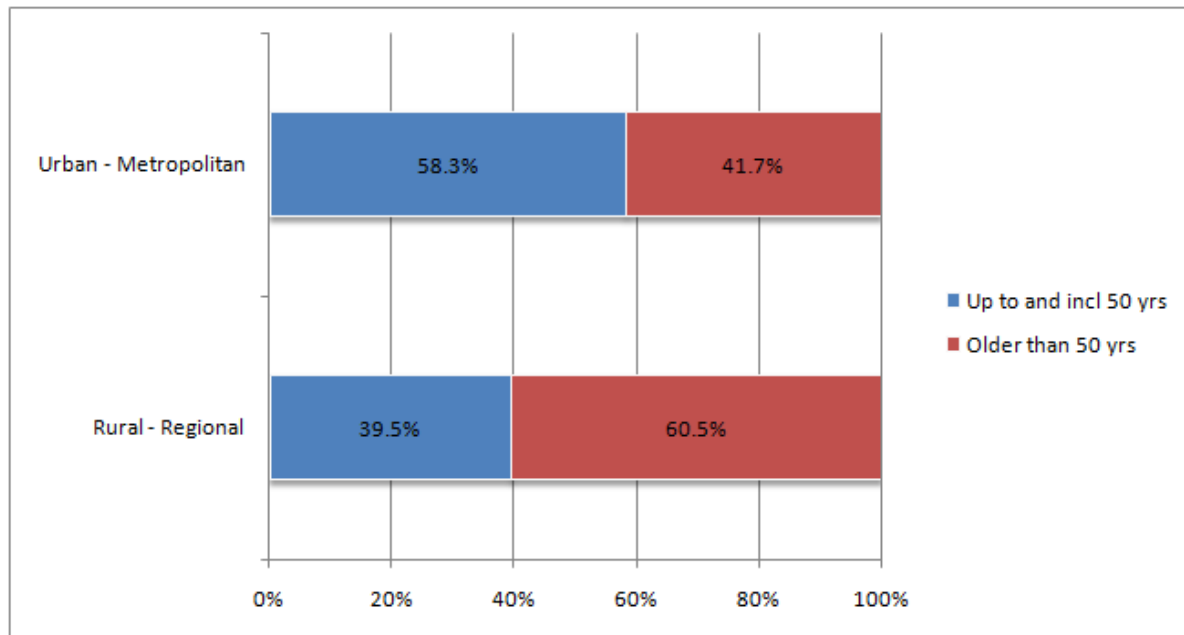
Age	Distribution of survey participants	Distribution in Parliament
Up to and including 50 years	44.4%	44.0%
Older than 50 years	55.6%	56.0%
Total	100.0%	100.0%

Chamber	Distribution of survey participants	Distribution in Parliament
House of Representatives	65.2%	66.7%
Senate	34.8%	33.3%

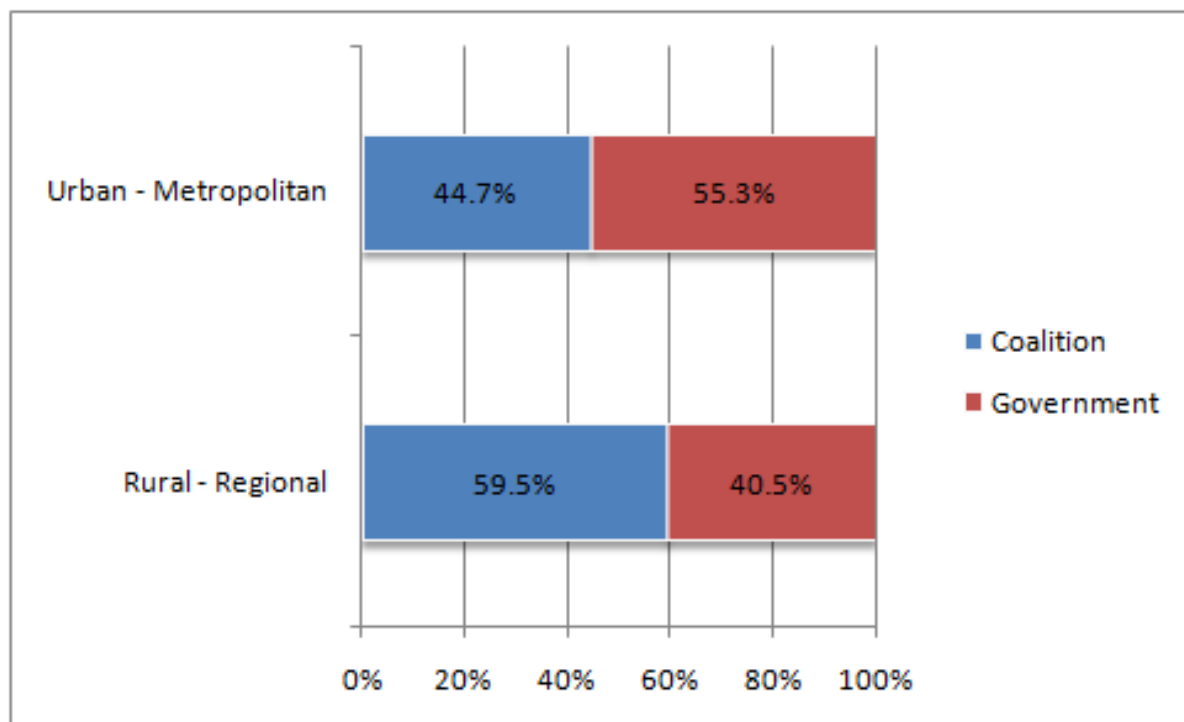
## House of Representatives – Members' representation by electorate type

Electorate	% of respondents
Rural	15.1%
Regional	29.1%
Urban	16.3%
Metropolitan	39.5%
Total	100.0%

### Age distribution by electorate type



### Party distribution by electorate type



## Member of Parliament's election history

### ***Stood for Parliament but not been elected***

More than 70 per cent of respondents revealed they had failed to be elected on at least one occasion. Approximately thirty percent of respondents indicated that they had been elected each time they stood.

	% of respondents
Once	37.5%
Twice	16.7%
Three times	5.6%
Four times or more	9.7%

### ***Been elected to Parliament***

One third of respondents had been elected on four or more occasions.

	% of respondents
Once	25.8%
Twice	28.1%
Three times	13.3%
Four times or more	32.8%

### ***Distribution by House***

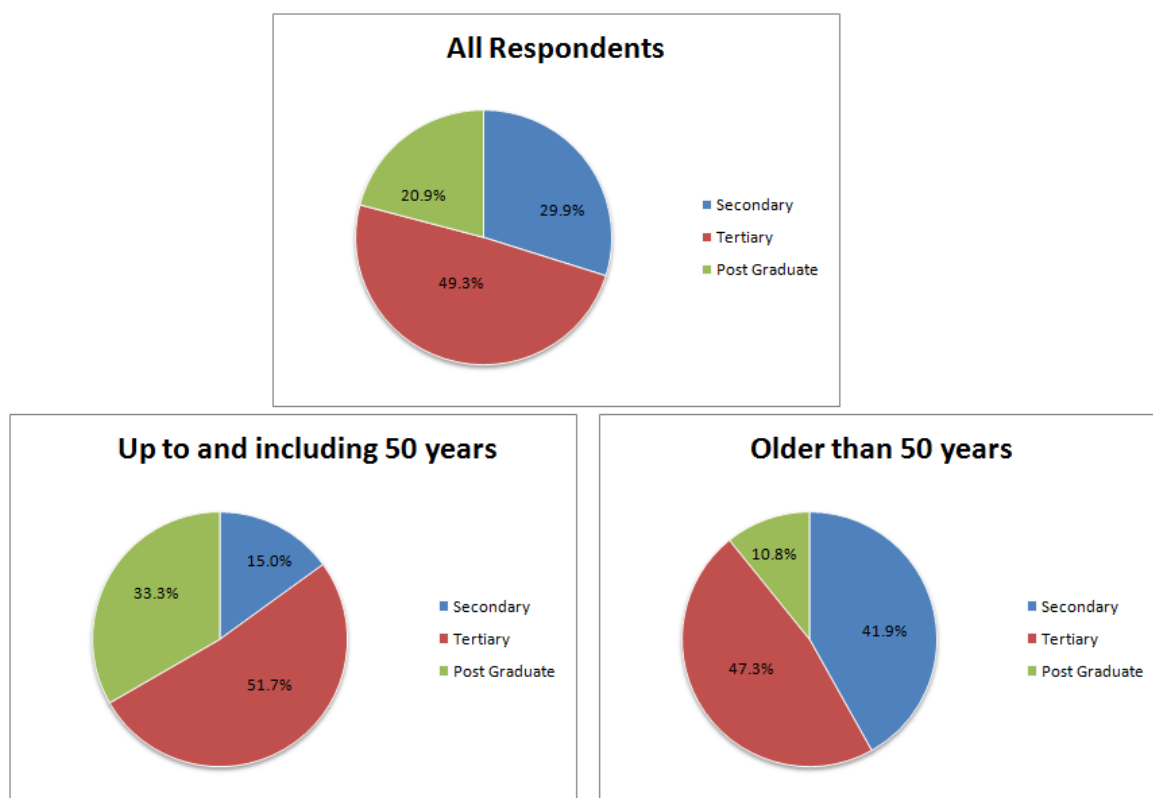
	House of Representatives	Senate
Once	20.7%	34.8%
Twice	25.6%	32.6%
Three times	12.2%	15.2%
Four times or more	41.5%	17.4%

## Parliamentary Members' education and employment background

### **Respondent's highest level of education**

	% of respondents
Secondary school	18.7%
Technical or trades qualification	11.2%
Bachelor or Honours Degree	33.6%
Graduate Certificate	6.0%
Graduate Diploma	9.7%
Masters Degree	16.4%
PhD	4.5%

## Respondent's highest level of education and age distribution



## Previous employer prior to entering Parliament

	% of respondents
Government	25.4%
Self-employed	29.9%
Public company	3.7%
Trade union	15.7%
Private company	14.2%
Not-for-profit	7.5%
Other	3.7%

Limited differences were observed by House.

## Previous employer by age distribution

	Up to and including 50 years	Older than 50 years
Government	23.3%	27.0%
Self-employed	16.7%	40.5%
Public company	6.7%	1.4%
Trade union	13.3%	17.6%
Private company	26.7%	4.1%
Not-for-profit	11.7%	4.1%
Other	1.7%	5.4%

## Previous occupation prior to entering Parliament

	% of respondents
Clerical / administration	5.9%
Home-maker	1.5%
Management	37.0%
Member of a profession, such as Law, Medicine, Architecture, Engineering	30.4%
Sciences / research	1.5%
Teacher / academic	9.6%
Technical / trade work	5.9%
Other	25.2%

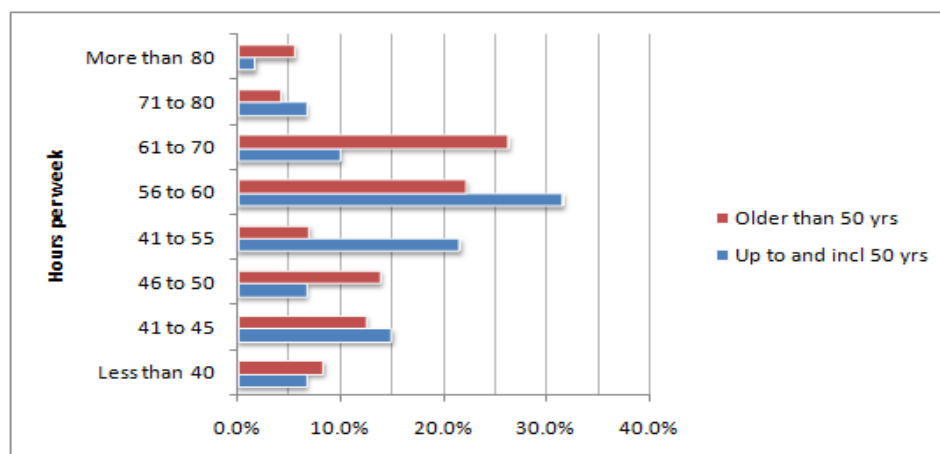
Other: responses included Farmer, Police Officer, Political or Policy Advisor and Trade Union Official.

## Length of working week prior to entering Parliament

Hours per week	% of respondents
Less than 40	7.6%
41 to 45	13.6%
46 to 50	10.6%
41 to 55	13.6%
56 to 60	26.5%
61 to 70	18.9%
71 to 80	5.3%
More than 80	3.8%

## Previous hours worked by age distribution

Hours per week	Up to and including 50 years	Older than 50 years
Less than 40	6.7%	8.3%
41 to 45	15.0%	12.5%
46 to 50	6.7%	13.9%
41 to 55	21.7%	6.9%
56 to 60	31.7%	22.2%
61 to 70	10.0%	26.4%
71 to 80	6.7%	4.2%
More than 80	1.7%	5.6%



## Members' external earnings

Ninety-three per cent of respondents indicated that their Parliamentary remuneration was their only source of employment income.

Less than 7 per cent of respondents indicated that they had a source of external income from employment or professional activities and more than 80 per cent of those respondents indicated that this income was less than \$10,000 per annum.

## Role in the Parliament

### Current Parliamentary standing

	Frequency
Chairman of a Parliamentary Committee	43
Government Minister	8
Officeholder of the Parliament	21
Shadow Minister of the Parliament	28
Party Leader in the Senate	2
None of the above	45

### Accountabilities in Parliament

Members in responding to the importance of key aspects of their role either strongly agree or agree with the following accountabilities as a Member of Parliament.

Accountabilities in Parliament	% of respondents
Manage the balance of national and local electorate needs in representation.	98.5%
Contribute to the formulation of legislation and the development of public policy.	98.5%
Conduct research into matters before the Parliament of special/constituent interest.	97.7%
Participate in Parliamentary enquiries as a member of a Parliamentary Committee.	97.0%
Prepare speeches.	97.0%
Participate in party room discussion on political, policy and/or legislative initiatives.	96.2%
Prepare questions to be addressed by Ministers or their representatives in the Senate or House of Representatives.	78.2%

The accountability to 'Prepare questions' was significantly lower ranked than the others, with this being the accountability which 7.5 per cent of respondents expressed that they disagreed and 2.3 per cent strongly disagreed.

The view by political party (excluding the Australian Greens and Independents from Government) significantly differed on this accountability.

	Strongly Agree	Agree	Part agree and part disagree	Disagree	Strongly disagree	Don't have a view
Government	16.1%	33.9%	25.0%	16.1%	5.4%	3.6%
Coalition	59.4%	39.1%	0.0%	1.4%	0.0%	0.0%

The accountability to "Prepare Speeches" was ranked the highest by respondents under "Strongly Agree" to perform the role effectively and "Prepare Questions" was ranked the highest under "Agree".



The accountability to “Contribute to the formulation of legislation and the development of public policy” differed significantly by political party and House.

	Strongly Agree		Strongly Agree	Agree
Government	58.9%	House of Representatives	68.6%	29.1%
Coalition	82.6%	Senate	83.0%	17.0%

The rating on the accountability “Manage the balance of national and local electorate needs in representation” also differed by House.

	Strongly Agree	Agree
House of Representatives	87.2%	11.6%
Senate	66.0%	31.9%

Approximately one third of respondents highlighted activities not specified in relation to their time commitment in sitting weeks. Three broad categories emerged from this response being:

- Work in the electorate
- Media and advocacy
- Committee engagement

### Accountabilities in an Electorate / Electoral Division

Members in responding to the importance of key aspects of their role either strongly agree or agree with the following accountabilities as a Member of Parliament.

Accountabilities in an Electorate/Electoral Division	% of respondents
Attend community functions.	100.0%
Communicate with the electorate.	99.2%
Represent the interests of constituents in a wide range of matters affecting their wellbeing.	98.5%
Manage the contribution of the electoral office in addressing constituents' needs.	98.5%
Respond to correspondence either in person, by phone or by letter.	98.5%
Manage or influence contributions from community groups.	87.2%
Represent Ministers, Shadow Ministers, the Prime Minister or Leader of the Opposition, as appropriate.	87.1%
Act as Patron to organisations in the electorate/electoral division.	86.5%
Act as a clearing house for Government decisions through the electorate or electoral division office.	67.9%

The lowest ranked accountability was “Act as a clearing house for Government decisions through the electorate or electoral division office”.

Strongly agree	Agree	Part agree and part disagree	Disagree	Strongly disagree	Don't have a view
38.1%	29.9%	26.1%	3.0%	0.7%	2.2%

This accountability differed by political party.

	<b>Strongly Agree</b>	<b>Agree</b>	<b>Part agree and part disagree</b>	<b>Disagree</b>	<b>Strongly disagree</b>	<b>Don't have a view</b>
Government	50.9%	28.1%	17.5%	3.5%	0.0%	0.0%
Coalition	30.4%	34.8%	31.9%	1.4%	0.0%	1.4%

Approximately one fifth of respondents highlighted activities not specified in relation to their time commitment in the electorate. Two broad categories emerged from this response being:

- Representation of local electorate needs
- Media

### **Accountabilities in Administration**

Members in responding to the importance of key aspects of their role either strongly agree or agree with the following accountabilities as a Member of Parliament.

<b>Accountabilities in Administration</b>	<b>% of respondents</b>
Ensure that support staff comply with established administrative requirements of the Department of Finance and Deregulation.	97.7%
Direct support staff in their management of constituent communications.	96.3%
Encourage support staff to participate in relevant training programs.	93.3%
Ensure that support staff maintain office accounts to a standard capable of independent audit.	93.2%
Inform support staff in all facets of Government policy and legislative initiatives.	85.1%

A small minority of respondents highlighted activities not specified in relation to their accountabilities in administration being recruitment, mentoring, training and development of support staff as being an important aspect of the role.

### **Accountabilities within the Party**

Members in responding to the importance of key aspects of their role either strongly agree or agree with the following accountabilities as a Member of Parliament.

<b>Accountabilities within the Party</b>	<b>% of respondents</b>
Attend branch meetings, electorate Committees, area/regional conferences, and other Committees of the party.	97.0%
Publicise issues and reflect the values of the party or constituency represented.	91.8%
Participate in and contribute to fundraising activities.	88.1%
Serve the party or constituency in a variety of electorate-based roles.	88.1%

A small minority of respondents highlighted activities not specified in relation to their accountabilities within the Party, being the mentoring of young members and party policy and campaign as being of important aspect of the role.

## Parliamentary Committees

### Participation in Parliamentary Committees

	% of respondents
Yes	86.7%
No	13.3%

	House of Representatives	Senate
Yes	80.7%	97.9%
No	19.3%	2.1%

### Parliamentarian Committee participation by type

Type of Committee	% of respondents
House Standing Committee	48.7%
Joint Committee administered by the House	65.8%
Joint Committee administered by the Senate	19.7%
Joint Select Committee administered by the Senate	20.5%
Senate Committee	37.6%
Select Committee of the Senate	15.4%

Responses indicated that there were respondents in the membership of every Committee of the Parliament.

The following table reveals the proportion which respondents represent of all Committee memberships by Committee type.

Type	Average
House Standing Committee	75.7%
Joint Committees administered by the House	59.8%
Joint Committees administered by the Senate	56.7%
Joint Select Committees administered by the Senate	47.3%
Senate Committee	100%*
Select Committee	81.7%

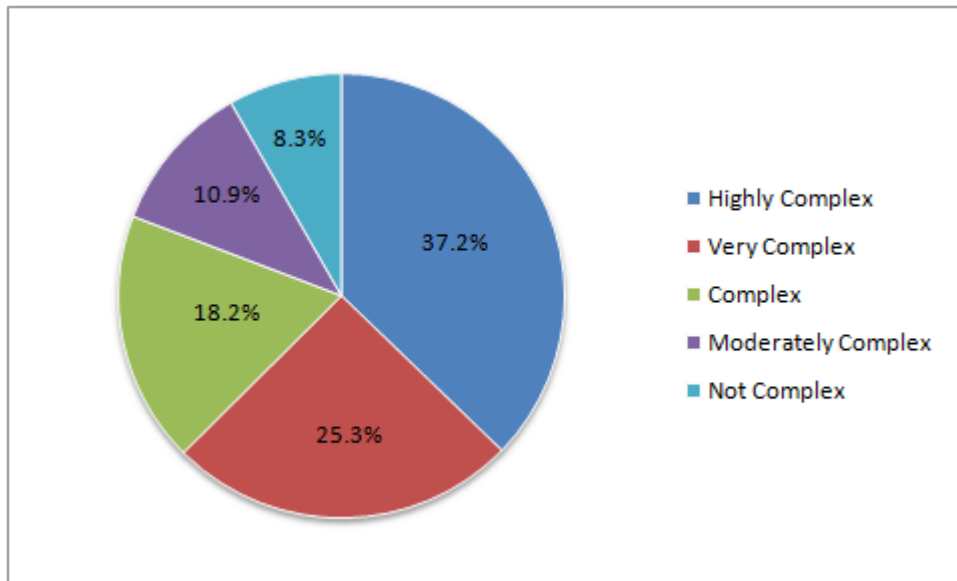
\*estimate due to participatory members indicating membership

In addition to formal Committee membership reported above, a number of Senate respondents noted their participation in Committees where they were not formal members approved by the Parliament.

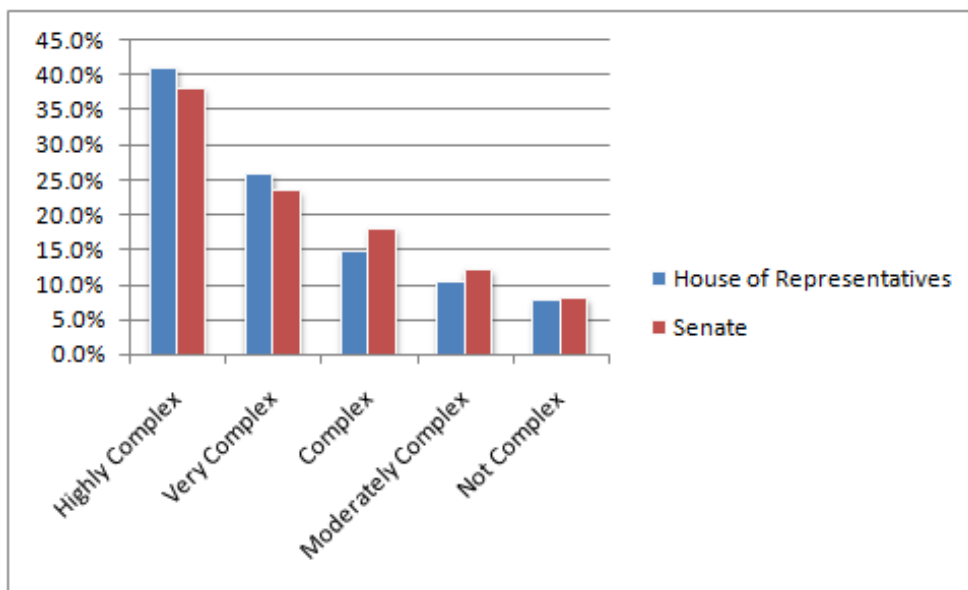
Questionnaire respondents indicated that they held the position of "Chair" in 72.0 per cent of all Parliamentary Committees.

Respondents including "Chairs" of Committees, indicated that twenty percent of Parliamentary Committees required greater than a six week time commitment.

### ***Respondent's assessment of complexity of Committee work***



### ***Distribution of complexity by House***



## Member of Parliament's workload

The data below highlights Parliamentarians allocated time commitment to the primary activities involved in their role in both sitting and non-sitting weeks.

### All respondents

Activity	Parliamentary sitting week		Non-sitting week	
	Median	Average	Median	Average
Participation in the Legislature	30.0%	30.5%	N/A	N/A
Participation in Parliamentary Committee work	15.0%	17.4%	10.0%	15.3%
Participation in party matters	10.0%	12.6%	10.0%	9.8%
Engagement with the community/constituency	20.0%	19.9%	55.0%	52.6%
Travel	10.0%	9.1%	10.0%	12.5%
Other Parliamentary activities	30.0%	14.1%	10.0%	12.9%

### Respondents by House

Activity	Parliamentary sitting week		Non-sitting week	
	House of Representatives	Senate	House of Representatives	Senate
Participation in the Legislature	30.7%	30.1%	N/A	N/A
Participation in Parliamentary Committee work	14.5%	22.7%	7.6%	27.6%
Participation in party matters	12.6%	12.4%	8.3%	11.7%
Engagement with the community/constituency	22.4%	15.2%	61.4%	36.1%
Travel	8.9%	9.3%	11.9%	13.8%
Other Parliamentary activities	15.1%	12.4%	13.9%	13.4%

There were notable variations in total percentage of time allocation in two activities by House.

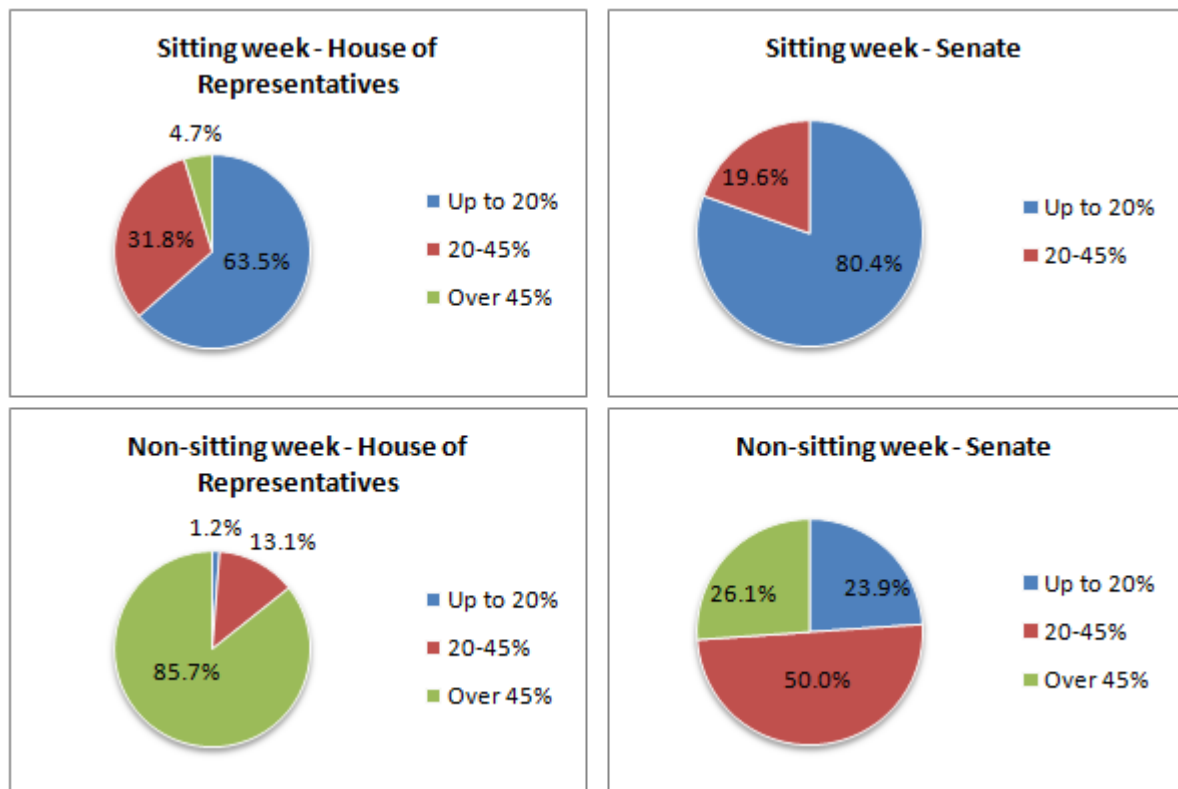
### Participation in Parliamentary Committee work

% of total time allocation	Parliamentary sitting week		Non-sitting week	
	House of Representatives	Senate	House of Representatives	Senate
Up to 20	81.4%	58.7%	98.4%	34.1%
20-25	5.7%	4.3%	1.6%	15.9%
26-30	7.1%	15.2%	0.0%	20.5%
31-45	4.3%	15.2%	0.0%	13.6%
Over 45	1.4%	6.5%	0.0%	15.9%

### Engagement in the constituency

% of total time allocation	Parliamentary sitting week		Non-sitting week	
	House of Representatives	Senate	House of Representatives	Senate
Up to 20	63.5%	80.4%	1.2%	23.9%
20-25	3.5%	6.5%	0.0%	8.7%
26-30	11.8%	10.9%	7.1%	19.6%
31-45	16.5%	2.2%	6.0%	21.7%
Over 45	4.7%	0.0%	85.7%	26.1%

**Percentage of total time allocation “Engagement in the constituency” by House**

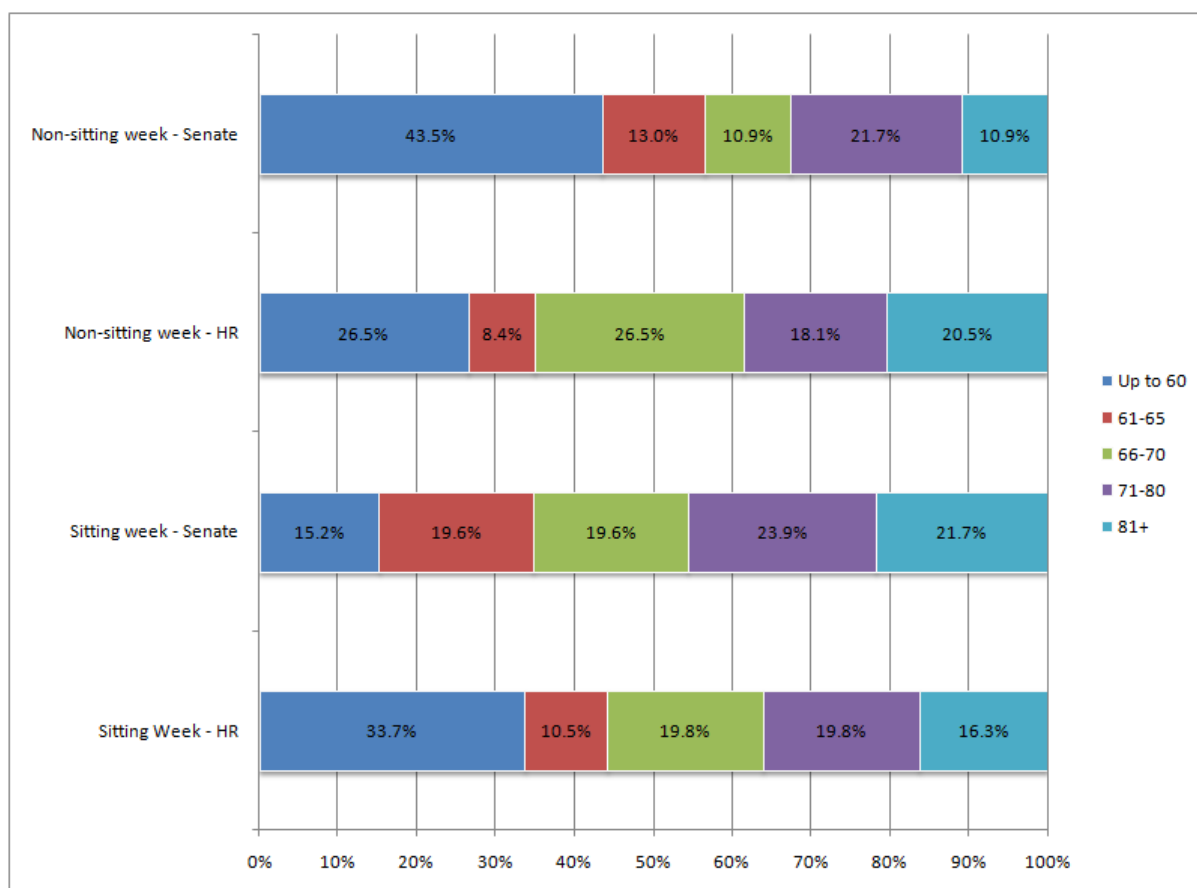


**Time Commitment**

Hours	Parliamentary sitting week	Non-sitting week
Median	70.0	70.0
Average	69.7	70.9

**Time commitment by House**

Hours	Parliamentary sitting week		Non-sitting week	
	House of Representatives	Senate	House of Representatives	Senate
Up to 60	33.7%	15.2%	26.5%	43.5%
61-65	10.5%	19.6%	8.4%	13.0%
66-70	19.8%	19.6%	26.5%	10.9%
71-80	19.8%	23.9%	18.1%	21.7%
81+	16.3%	21.7%	20.5%	10.9%



The table below illustrates the hours each week which a Member typically devotes to their principal activities.

### ***Members' allocation of time to a specific activity***

<b>HOURS</b>	<b>Parliamentary sitting week</b>		<b>Non-sitting week</b>	
	<b>Median</b>	<b>Average</b>	<b>Median</b>	<b>Average</b>
Participation in the Legislature	18.3	20.6	N/A	N/A
Participation in Parliamentary Committee work	9.1	11.8	7.4	10.4
Participation in party matters	6.1	8.5	7.4	6.7
Engagement with the community/constituency	12.2	13.4	40.5	35.7
Travel	6.1	6.1	7.4	8.5
Other Parliamentary activities	18.3	9.6	7.4	8.8

### Members' allocation of time to a specific activity by House

Activity	Parliamentary sitting week		Non-sitting week	
	House of Representatives	Senate	House of Representatives	Senate
Participation in the Legislature	20.6	20.6	N/A	N/A
Participation in Parliamentary Committee work	9.7	15.5	5.1	18.8
Participation in party matters	8.5	8.5	5.7	8.0
Engagement with the community/constituency	15.0	10.4	41.7	24.6
Travel	6.0	6.4	8.1	9.4
Other Parliamentary activities	10.1	8.5	9.4	9.1

### Members' views on similarity of their workload to that of a Member of the alternate House

Rating scale	Parliamentary sitting week		Non-sitting week	
	House of Representatives	Senate	House of Representatives	Senate
Very similar	20.0%	26.7%	4.7%	26.1%
Somewhat similar	29.4%	20.0%	12.8%	13.0%
Both similar and different	25.9%	35.6%	19.8%	37.0%
Somewhat different	15.3%	13.3%	26.7%	15.2%
Very different	9.4%	4.4%	36.0%	8.7%

## Time

### Factors influencing Members' travel time

	% of respondents
Proximity of your electorate/electoral division to Canberra	39.4%
Size of your electorate	28.8%
Number of Committees in which you participate	17.4%
Other	14.4%

The majority of respondents to "Other" indicated that Ministerial or Shadow Ministerial responsibilities were the most significant factor influencing the amount of time spent travelling.

Respondents that were members of the Senate indicated "Proximity" and "Number of Committees" as the most significant factor influencing the amount of time spent travelling.

	House of Representatives	Senate
Proximity of your electorate/electoral division to Canberra	43.0%	32.6%
Size of your electorate	33.7%	19.6%
Number of Committees in which you participate	8.1%	34.8%
Other	15.1%	13.0%



## Members' assessment of their time allocation to nominated activities

### ***"About right"***

<b>Activity</b>	<b>% of respondents</b>
Attending Party meetings	73.5%
Legislative debate, including Question Time	72.0%
Dealing with media enquiries	66.7%
Making representations on behalf of constituents	65.2%
Receiving constituents	58.8%
Work in Committees	58.1%
Research and briefings	51.5%
Informal engagement with colleagues	48.5%
Travel	37.7%
Personal time	9.8%

### ***"Too little"***

<b>Activity</b>	<b>% of respondents</b>
Personal time	90.2%
Informal engagement with colleagues	47.0%
Research and briefings	31.8%

### ***"Too much"***

<b>Activity</b>	<b>% of respondents</b>
Travel	59.2%
Work in Committees	30.2%

The only notable difference by House was the view on time allocation for "work in Committees". The table below shows the percentage of respondents by House that indicated their time allocation was "too much" or "slightly too much".

	<b>House of Representatives</b>	<b>Senate</b>
Work in Committees	19.3%	50.0%

## Interests and Attributes

Members in responding to the importance of key aspects of their role either strongly agree or agree that the following activities are required to perform their role effectively as a Member of Parliament.

Activity	% of respondents
Receiving constituents	96.9%
Making representations on behalf of constituents	96.9%
Research and briefings	94.6%
Work in Committees	89.3%
Legislative debate, including Question Time	89.3%
Dealing with media enquiries	83.2%
Informal engagement with colleagues	81.7%
Attending Party meetings	81.5%

### Relative rank order of activity

Activity	Rank Order
Receiving constituents	1
Making representations on behalf of constituents	1
Research and briefings	3
Work in Committees	4
Legislative debate, including Question Time	4
Dealing with media enquiries	6
Informal engagement with colleagues	7
Attending Party meetings	8

The activity “Research and briefings”, which ninety-four percent of respondents indicated that they strongly agree or agree is important in term of performing their role effectively, had approximately thirty-two percent of respondents indicate that their time allocation was “too little” or “slightly too little”. Research and analytical skill as an important attribute for a Member of Parliament did not rank in the top ten attributes nominated by respondents.

## Relative importance of attributes for a Member of Parliament

### Rank order by attribute

Attribute	Overall	House of Representatives	Senate
Communication skills	1	1	1
Honesty and integrity	2	2	2
Community representation skills	3	3	13
Intelligence	4	4	3
Being approachable	5	6	6
Leadership skills	6	5	7
Negotiation skills	7	7	9
Confidence	8	15	4
Intuitive political instinct	9	16	5
Stamina	10	9	14

## Relative interest in Policy work of the Parliament

### *Rank order by policy area*

Policy area	Rank order
Economics/Finance/Taxation	1
Health	2
Education	3
Employment/Industrial Relations	4
Other	5
Trade/International Representation	6
Agriculture	7
Immigration	8
Defence	9
Welfare	10

Other listed included Regional Australia, Environment, Communications and IT.

## Attachment 4 – Interview Guideline used by Members of the Tribunal and John Egan during Interviews with Backbench Members of Parliament

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### Guideline Questionnaire for discussion with Members of Parliament

The following has been developed as a frame of reference to assist members of the Tribunal Interview Panel in their discussion with Members of Parliament, including Members of the House of Representatives or Members of the Senate.

The attached prompts cover the key areas of enquiry and substantially parallel the questionnaire which has been sent to Members of Parliament.

### Introductory Remarks

Dear Member or Senator

We very much appreciate your willingness to contribute to the research of the Tribunal. We are being assisted in our investigation by John Egan.

### Question

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#### Being elected to Parliament

1. By way of an introductory observation, could you assist in setting the scene by providing some background as to the process which led to your nomination to represent your constituents and/or party, together with your initial decision to seek election and subsequently serve in the Federal Parliament.
2. In what activities are you involved, both with the party and in the electorate, during each election cycle? Do these activities call on different or similar personal attributes to those required to be an effective Member of Parliament?
3. How time consuming is the election process? If a Member of the Senate, do you support House of Representative campaigns?

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#### Your role in the Parliament

4. Can you describe the key responsibilities as you see them as a Member of the House of Representatives or the Senate.
5. What is the nature of your role in the Parliament, in serving on committees of the Parliament, in the party room and in the electorate?
6. Are there onerous administrative accountabilities which are borne by members of the Parliament?
7. Is your workload more onerous and demanding during weeks in which the Parliament sits or in periods when the Parliament is not sitting?
8. Do you have time during the weeks when Parliament sits to engage with the community and the constituency?

9. Is travel an onerous demand on you in meeting your obligations in attending Parliamentary sittings, participating in committees of the Parliament, engaging in the community and the constituency?
10. How many hours a week would you normally spend in fulfilling your obligations as a Member of the Parliament? Does this differ between sitting and non-sitting weeks?
11. (a) If a Member of the Senate: In your assessment do Members of the House of Representatives have greater time commitments than yourself during weeks when the Parliament is sitting or in weeks when the Parliament is not sitting?  
  
(b) If a Member of the House of Representatives: In your assessment do Members of the Senate have greater time commitments than yourself during weeks when the Parliament is sitting or in weeks when the Parliament is not sitting?
12. Is this influenced by party matters, engagement in the constituency or engagement in Parliamentary committees?
13. Having regard to your time commitment, which activities demand most of your time and do you regard as important?  
  
debate in the Legislature,  
work in committees,  
undertaking research and receiving briefings,  
receiving and meeting with constituents,  
making representations on behalf of constituents,  
attending party meetings,  
informal engagement with colleagues,  
dealing with media enquiries or representing the party in media events,  
travel.
14. Have you one or two specific areas of particular interest in which you devote more time in relation to debate in the Legislature or involvement in the work of committees, or engagement with the party or in the community?
15. Are there any other issues which you believe are relevant to the Tribunal's enquiry in understanding the workload and accountabilities of a Member of Parliament which we have not addressed?

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#### **Your working life prior to entering Parliament**

16. What career were you pursuing prior to entering Parliament?
17. Do you have a continuing involvement in the career in which you were engaged prior to entering Parliament?
18. Were the hours that you were required to work prior to entering Parliament comparable to those which you presently work in fulfilling your obligations as a Member of Parliament?

## Attachment 5 – List of Members Interviewed

### House of Representatives

Name	Party/State/Seat	Electorate sq km	First Elected	2PP % vote 2010
Dick Adams	ALP/TAS/Lyons	32,910	1993	62.29
Adam Bandt	Green/VIC/Melbourne	53	2010	*36.17
Russell Broadbent	Lib/VIC/McMillan	8,328	1990 (Def & Ret twice)	54.41
Darren Cheeseman	ASP/VIC/Corangamite	7,724	2007	50.41
Barry Haase	Lib/WA/Durack	1,587,758	1998	63.67
Luke Hartsuyker	Nat/NSW/Cowper	7,861	2001	59.27
Bob Katter	Ind/QLD/Kennedy	568,993	1993	*46.71
Dr Andrew Leigh	ALP/ACT/Fraser	513	2010	64.20
Paul Neville	Nat/QLD/Hinkler	3,504	1993	60.39
Rob Oakeshott	Ind/NSW/Lyne	11,991	2008 (by election)	*47.15
Julie Owens	ALP/NSW/Parramatta	56	2004	54.37
Melissa Parke	ALP/WA/Fremantle	201	2007	55.70
Rowan Ramsey	Lib/SA/Grey	904,881 <sup>7</sup>	2007	61.16
Bernie Ripoll	ALP/QLD/Oxley	155	1998	55.57
Philip Ruddock	Lib/NSW/Berowra	782	1973	66.20
Andrew Wilkie	Ind/TAS/Denison	288	2010	*21.26
Tony Windsor	Ind/NSW/New England	59,344	2001	*61.88

### Senate

Name	Party/State	Base	First Sat in Senate
Cory Bernardi	Lib/SA	Adelaide	2006
Carol Brown	ALP/TAS	Hobart	2005
Michaelia Cash	Lib/WA	Perth	2008
Ian Macdonald	Lib/QLD	Townsville	1990
Gavin Marshall	ALP/VIC	Melbourne	2002
Christine Milne	Green/TAS		
Fiona Nash	Nat/NSW	Young	2005
Stephen Parry	Lib/		
Glenn Sterle	ALP/WA	Perth	2005
Nick Xenophon	Ind/SA	Adelaide	2008

<sup>7</sup> Electorate current under redistribution.

\* 2PP has no meaning in relation to these Members. Percentage represents their primary vote at 2010 election

## Attachment 6 – Staff and Party Officials Interviewed

### Staff

Name	Affiliation
Anna George	Government Whip, House of Representatives
Leanne Holland	Deputy President of the Senate (Tasmania – Liberal Party)
Mark Madden	Government Minister and Member for Hotham (Victoria)
Justin States	Member for Berowra (Liberal Party – New South Wales)
Nathan Winn	Opposition Whip, House of Representatives

### Party Officials

Name	Affiliation
Brad Henderson	Federal Director (National Party)
Nathan Lambert	Deputy Secretary (Labor Party)
Brian Loughnane	Federal Director (Liberal Party)
George Wright	National Secretary (Labor Party)

## Attachment 7 – Observations from Key Support Staff to Members of Parliament

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As part of my research I met with a number of Chiefs of Staff/Principal Advisers to ascertain their views on the role of a backbencher. Comments have been categorised in line with my examination of the role of a Backbencher, though views did not vary significantly between the major Parties.

### ***Background and Desirable Attributes***

To be an effective Member of Parliament a Member must be intelligent, have political savvy, considerable talent, capability, energy and capacity.

A Member of Parliament must be able to think on their feet and contribute effectively in Parliament, in committees and in Caucus.

A Member needs to have high energy, be highly committed, highly motivated and have unimpeachable integrity.

A Member is accountable to their Parliamentary peers, as well as to the constituents they represent.

A majority of Backbench Members of Parliament bring to the Parliament particular expertise or experience which is relevant to matters before the Parliament, including committee work, where they would be called upon by their Party to play an active role in both informing other Members with less relevant experience or knowledge or leading the Party's engagement in debate on legislation, Question Time or the deliberations of a Parliamentary committee.

You could look upon a Backbench Member of Parliament in one sense as the Chief Executive of a small business. The Member needs to manage their own priorities and the priorities of their electorate or their electoral division, manage staff, deal with issues as they arise and ensure they have allocated an appropriate amount of time to focus on political matters, as well as a broad array of constituent issues.

To be effective a Backbench Member needs to understand how to get decisions made in a timely manner, they need to have media know-how and be effective communicators in both written and face to face communication, they need to understand how the Government functions, they need to understand the role of law and how the Constitution works, have a good understanding of economics and a comprehensive appreciation of all the relevant levers over which they can have an influence or be required to exert influence across their electorate.

It would be desirable if new Members of Parliament were given more comprehensive induction into their role and the expectations of a Member of Parliament, how Parliament works, what support is available within Parliament and in the electorate office, and how to use the Library.

The view of all Parties was that a Backbench Member needs skills to effectively manage their office and the business of their office.

### ***Role in the Electorate***

Members of the House of Representatives in marginal seats need to work very hard in their electorate – “there are no votes in Canberra”.



A Member must be active and involved in a wide diversity of community organisations and comfortable and active in social media.

Senators, not having a direct electorate accountability, need to have a capacity to engage with community and industry organisations and business groups, both in listening and in communicating Party or Government policy.

In rural electorates the Member will also often have a column in a local newspaper and be called upon by a number of regional newspapers for comment on matters relevant to the region covered.

Meeting with constituents can involve addressing matters which are relatively straightforward to those which are highly complex.

Members attend numerous functions in their electorate across a variety of organisations, be they cultural, commercial, religious or bodies such as Rotary, the RSL, Lions, Apex, as well as school speech nights or ethnic community organisations.

Members have a pastoral care role within their electorate. Long serving Backbench Members of the Parliament also have a pastoral care role in relation to Members of their own Party and other colleagues in the Parliament, many of whom will experience personal challenges during their representative life which might include personal illness, illness or death of a parent, illness of a child or spouse, or other broader family challenges.

No Member of Parliament, and particularly those in the House of Representatives, can ignore their electorate in the five months of the year when Parliament sits. They need to parallel process matters required to be addressed when in Canberra, while also supporting enquiries or demands from their electorate.

### ***Role in the Party***

A key task of a Member of Parliament is to ensure that their seat moves from a marginal position to a safe position or is retained in a safe position.

Many Members of the Senate have electorate obligations where their Party is not represented in the State, and in that context partially fulfil the role of a local Member in engaging with constituents and community organisations, providing the alternate perspective from the Party of the elected Member. In this context both Senators and Members need to be good communicators, good listeners and effective mediators, capable of dealing with the media, capable researchers and effective public speakers.

Members would attend events seven days a week and many Members would be required to represent a Minister in their electorate or occasionally adjacent electorates where they are not the Member but the alternate Party is represented.

Members of the House would be active in attending Branch Meetings in their electorate and a number, particularly in regional and rural electorates, would participate in early morning radio sessions, and occasionally at night, depending on what took place in the Parliament when Parliament is sitting. The media expects attention or a response 24 hours a day.

### ***Role in Parliament***

Members need to be active when Parliament sits during Question Time and in periods when legislation is being debated, or in presenting matters of public interest or presenting petitions or in supporting the Leader of their Party.

When both Parliament meets and in non-sitting weeks Members of both Houses would attend numerous lunches and dinners with groups seeking endorsement, support or engagement from the Government or the Opposition.

Many Members participate in delegations where they are invited by cultural, corporate or international organisations and Government representatives to participate in discussions or debate which fulfils both their role of representing the Party's interests, the Government's interests, learning how other Governments deal with common problems in their electorate, or engage internationally with other countries and parliaments.

Members would also attend workshops, think-tanks and various groups and communicate on a regular basis with Party Branch Presidents.

Members during periods when Parliament meets operate in a highly disciplined environment and must be in the Chamber, unless otherwise approved by their Party Whip.

### ***Role in Committees***

Members who are active on committees also devote a considerable period of time to that work which often involves national travel and stewarding public hearings.

Senators have a more inquisitorial role in committee work and their committees will often have greater power and influence.

### ***Staff and Support***

Members of Parliament must be effective in managing their staff and getting the best out of the resources available to them within the financial constraints allocated.

Members of Parliament, whether Members of the Senate or the House of Representatives, have a significant task, in collaboration with their staff, in time management and ensuring that the necessary staff work is completed in support of their engagement in the House, on committees of the Parliament, in the electorate and in the Party.

## Attachment 8 – Summary of Backbenchers’ Comments in relation to their Role, including Comments on Remuneration

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### Summary of Responses to Member Interviews

#### House of Representatives

##### ***Role in Parliament***

The role of a Member in Parliament includes a number of key aspects:

- background reading and preparation for committee and policy development work
- reviewing all Party policy documents and draft legislation in preparation for Parliamentary debate
- giving speeches
- engaging in problem solving
- dealing with the media

Members suggested that:

- time management was critical to the role
- the expectations on an MP are extraordinary
- they are “on duty” when Parliament is sitting

The way a Member approached their responsibilities varies enormously but the demands are constant in all cases.

##### ***Role in Committees***

Members each indicated that they were involved in Committee work, with all Members sitting on a number of Committees. Members indicated:

- that chairing a Committee is an onerous role influenced by the number of hearings and reports and the consequences of any decisions made
- that sitting on a Committee required travel, deep thought and consideration of complex policy issues of National importance
- that in Committee work the diversity of perspectives brought by Members added to the value of the Committee system
- that Committee work helped to develop better Members and

that Committee work consumed much of the time of a Member.

##### ***Role in the Electorate***

- Members indicated that their work in the electorate is diverse and clearly influenced by the nature and diversity of their electorate. The breadth of issues covered in their

electorate work was directly related to the size, location and constituency make up of their electorate.

- Electorate work is very time consuming, with Members indicating they work seven days a week when in the electorate, from early morning to mid to late evening. A typical day starts with emails in the morning, meetings with constituents and the media throughout the day, functions such as community and school events in the day and evening and working on behalf of constituents in between.
- The role of the Member in the electorate includes resolving constituent issues which range from broad policy matters to individual family or personal issues.
- Modern day communication appears to have increased the role of a Member in the electorate rather than reducing it. Many constituents use email communication and expect a timely response from their Member. Many members talked of receiving thousands of emails per week which they and staff are required to respond to.
- The 24/7 media cycle has also increased the work load of a Member, where they are often called upon to provide media comment on a range of issues.
- Some Members use the media, electronic and internet communication to communicate with constituents. Some have regular radio slots, write blogs, contribute to newspaper columns, appear on television, issue newsletters and provide regular comment to local media on policy issues.
- The role of a Member in the electorate extends to promoting policy decisions made on behalf of their party. They are also expected to fund raise for their party and to promote their party at local events whilst in the electorate.

### ***Role in the Party***

The party role of a Member includes contributing to policy development, raising funds, representing the party and ensuring political balance in Committees by sitting on appropriate Committees.

### ***Time Commitment***

Time is a major issue for Members. Members indicated that they work seven days a week, typically starting before 7am and finishing late into the night when Parliament is sitting. In the electorate, similar hours are worked to complete the range of activities expected of a Member by their constituents. Evening and weekend attendance at community events was expected by the electorate.

The time issue is exacerbated for Members who live in large electorates and in electorates which are distant from Canberra. Many Members talked about long travel times to and from Canberra but also within their electorate. A number of Members have more than one electorate office because of the size of their electorate and are required to travel between offices to attend to electorate matters.

Committees often travel to undertake hearings and this adds to the time commitment of Members.

### ***Comments on Role***

Members described their roles as:

- identifying what is in the constituents' interest and bringing these values to the party

- split between Parliamentary work, committee work and electorate work, dealing with the media, the party and with constituents
- having to grasp issues quickly and comprehensively, similar to a lawyer receiving a brief
- not that different to a religious minister, helping constituents with a variety of personal issues
- was similar to that of a Council CEO.

In discussing the role, a number of Members indicated that the role and the time commitment required to fill the role had changed considerably with the advance in electronic communication and the 24/7 media cycle. A number of Members indicated that the workload of a Member imposed on them considerable personal sacrifice and placed significant pressures on family life.

The size and nature of the electorate or State also impacted on the perception of the role of a Member. There was some discussion about Members of the House of Representatives needing to spend more time on electorate issues, while Senators also talked about having to cover the issues across the whole State. A number of Members raised the issue that constituents do not necessarily see the difference between levels of Government or between a local Member and a Senator and if they have an issue to raise, they will do so with all or any representative in an effort to ensure it is dealt with. This again has placed additional time pressures on Members.

### ***Comments on Remuneration***

A number of comments were made about remuneration. Most comments related to allowances and travel arrangements which are not within the scope of this review. Given that they were discussed by the majority of Members there is a question about the definition of remuneration for a Member.

In terms of remuneration, a number of Members made reference to other roles which they thought comparable to that of a Member including:

- Local Council CEO
- Chief of Staff roles in the Parliament
- Senior Executive Service roles at Levels 1 or 2
- 'Half that of a High Court Judge'
- Commissioner of the Industrial Relations Commission or a Member of Fair Work Australia.

Views on the level of remuneration ranged from it being a well paid job to one that is underpaid when considering comparable roles and other roles in the economy.

Several members raised the issue of travel and dislocation as part of the remuneration issue. There was a tendency to equate travel costs with remuneration. Most concerns were not with the level of remuneration but with the additional costs incurred due to the nature of the job and the electorate (i.e. its size and distance from Canberra).

The issue of superannuation was raised by a number of Members, with a distinct view that Members of earlier Parliaments are advantaged by the "old superannuation scheme" relative

to those more recently joined Parliament. The value placed by Members on the remuneration package appears to be directly impacted by which superannuation scheme they participate in.

The issue of lack of job security and of severance was also raised, a view being expressed that consideration should be given to the fact that most Members will have a relatively short term in Parliament and that finding another job would typically take time.

One view which could be taken as a summary of the many views expressed was that for Parliament to attract the best and brightest minds it should have a sensible rate of pay, taking into account the hours and disturbance and the impact of that commitment on family life.

## Senate

### ***Role in Parliament***

Senators described their role as including:

- representing Ministers in their state to ensure ministerial statements are distributed in the community
- securing legislation through the Senate
- committee work
- dealing with lobbyists
- acting like a local member in smaller states
- managing the demands of the constituency.

### ***Role in Committees***

Senators indicated that a significant proportion of their work was in Committees.

A large amount of time was devoted to reading and preparing for Committee work and hearings.

Senators noted that Chairs of Committees must be present at all times, whereas Members can leave when they need to, the conclusion being expressed that the role of Chair is more onerous and significant.

### ***Role in the Electorate***

Senators indicated that they are paired to electorates and spend from one day a month up to two days a week in non-sitting weeks in individual electorates.

The role in the State Electoral Division includes communicating with constituents, attending conferences on policy issues, attending to Committee work within electorates and within their State. Also involved in party work within their State, i.e. disseminating party information and policy in their state.

### ***Time Commitment***

Senators indicated that they work seven days a week and work long days often from early morning to late in the evening in Parliamentary sitting weeks. The distance from Canberra to their home base impacts a Senator's time commitment and it was mentioned that travel time is a key issue for them.

### ***Comments on Role***

Indicative of other responses, one Senator suggested the role of a Senator is different from that of a Member of the House of Representatives in that Senators attend a number of corporate engagements and meet with lobbyists as their constituency is national or State-wide in breadth. Senators attend and join party meetings for the party. Senators attend Parliamentary Committee meetings and would be required to undertake research and do background research for issues before the Senate or for the Committees on which they serve. Many Senators attend a significant number of functions and are actively engaged in networking.

It was suggested that a Senator's role was more issues based, more diffuse and geographically spread, than that of a Member of the House, given that they are State or Territory based.

The 24/7 media cycle and the constant demand of emails were also raised as a key feature in the role of a Senator. Senators spend considerable time in their role dealing with these two factors.

### ***Comments on Remuneration***

There was significant variance in opinion about the level of remuneration of a Member. Comments ranged from:

- believes that the Parliament is struggling to attract top quality people to the Parliament
- the remuneration of Senior Ministerial Advisors is base remuneration of \$220,000 to \$230,000 and believes that would represent a minimum against which Parliamentarians should be paid
- does not believe that the dollars received by a Member of Parliament are proportional to the required standing of a Senator in the community. Does not believe that the payment of the Prime Minister appropriately reflects the positions standing in the community.
- one Member indicated that pay was ok compared to that of a tradesman or factory worker
- Members of the House and Senators also raised the issue of the differential benefit arising from participation in the pre 2004 and post 2004 superannuation scheme.

The issue of allowances was also raised but by fewer Senators than Members of the House of Representatives. The point was made that many Senators believe it was important to quarantine long serving Members at a reference salary and elevate the new base substantially.

It was suggested that a Member of Parliament is not dissimilar from that of a middle manager in the private sector or in Government, or as a partner in a suburban law firm or an accountant or an engineer.



## Attachment 9 – Observations from Party Officials

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As part of the research undertaken, I met with a number of Parliamentary Party officials to understand the candidate assessment process and challenge. The following is a summary of the views expressed by those interviewed.

### ***Selection of Candidates***

Both major Parties indicated that one of their key tasks was ensuring that they had high quality candidates, including current Members, standing in marginal seats. It was also their task to ensure that high quality candidates with capacity for leadership in Government stood for winnable seats at each election.

### ***Desirable Qualities of Candidates***

All Parties indicated that candidates needed to:

- have a high level of energy and a significant capacity for hard work,
- have an enthusiasm for dealing with people in the community and a passion for policy and the capacity to contribute to it,
- be numerate and well read,
- be effective on their feet and in the new electronic and social media environment,
- have a capacity to condense a significant amount of information, synthesise it and respond in all manner of settings,
- be able to articulate how their Party was addressing issues of the day, particularly those affecting their electorate.

All Party organisations indicated a significant desire to attract younger, well educated Members in their 30s and early 40s, though revealed that absence from home and significant demands on the role of a Member of Parliament and costs associated with nurturing and educating a young family were often a significant disincentive.

All Party organisations indicated that the task of a Backbencher was arduous and that employment had high risk attached to it. In that context, comment was made as to the appropriateness of considering enhanced separation payments for Members who lost office without adequate retirement provisions and indeed even offering a retention payment for Members of Parliament willing to serve more than three terms, while potentially impacting negatively on their post Parliamentary employment opportunities.

### ***Factors Identified as Impacting the Attractiveness of the Role to Potential Candidates***

- All Parties indicated that the adequacy of Backbench pay in the mind of candidates and Members was also influenced by their perception of the duration of their commitment to a career as a Parliamentarian and their age at the time of entering Parliament.
- The time commitment required, the level remuneration and superannuation, and tenure were all raised as issues which reduced the attractiveness of the role to prospective candidates.



- In terms of time commitment, it was recognised that not only were the extended hours of work a factor, but long periods of time where Members are serving in Canberra and away from their family also represent an issue of concern for prospective candidates.
- The significant scrutiny that candidates and their family would be exposed to in such a role was also an area of concern.
- Another key challenge in attracting candidates was the question of tenuous tenure, and inadequate financial support in the event of loss of office.
- All Parties revealed the challenge of attracting to the Parliament senior officers supporting Members, Ministers and Party Leaders whose annual earnings under current award provisions were substantially above those of a Backbench Member of Parliament.
- Both major Parties indicated that pay continues to be a barrier to attracting candidates from some occupational sectors and major cities, particularly where they are seeking candidates who have secure positions in a profession, in Government or in private enterprise, and substantial mortgages. All Parties revealed the challenge of attracting to the Parliament Chiefs of Staff or other senior officers supporting Ministers or leaders in the Party where their annual earnings in their existing roles would be well above \$200,000.
- Retirement income and superannuation were also highlighted as factors which Parties had to address in attracting prospective candidates.
- All Party organisations commented unfavourably on the change to the retirement scheme which was available to Members of Parliament over an extended period of time. They also indicated that it had led to an unfavourable climate in the Parliament where there were two classes of Parliamentarian, those who had served prior to the 2004 elections and those who had been elected to Parliament at or following the 2004 changes to superannuation.

### ***Issues of Career Aspirations and the Trade-off of becoming a Candidate and Potential Member of Parliament***

There were varying views about the opportunities of Backbench Members of Parliament who lose their seat or retire in relation to their post Parliamentary career employment opportunity. There was a general view that Members of Parliament who had achieved Ministerial status and been regarded as effective are likely to have more significant employment opportunities after a Parliamentary career. There were, however, comments made of examples where that was not the case at both State and Federal level.

Both major Parties also indicated the challenge in attracting quality Members of Parliament and managing their career and income aspirations where their probable engagement in the Parliament will remain that of a Backbencher, a representative of a local constituency and over time a Chairman of one or more committees in the Parliament.

## Attachment 10 – International Research on Attributes of Parliamentarians

Relatively little rigorous research exists about which attributes of politicians are most useful in predicting effectiveness. In the UK, Professor Jo Silvester has been studying the selection process for MPs over the last decade. Following commissions from all three main parties to help identify the qualities politicians need to be effective, Silvester and Dykes, 2007 published research based on the 2005 UK general election.

The results provide illumination on which competencies correlate highest with electoral success. Both the Conservatives and the Liberal Democrats found that Intellectual skills (Critical thinking) and to a lesser extent communication skills were both positively correlated with percentage swing.

Silvester also identified a competencies framework, reproduced below. While there are a lot of overlaps between the parties, there are subtle differences in what the competencies mean for each party and how they are manifested. For example, intellectual skills for the Conservatives relates to being able to process quickly and to grasp large amounts of information. By contrast the Liberal Democrats place emphasis on the strategic relevance of information and on the links between national and local level issues.

<b>Conservatives Competencies and Example Indicators</b>	<b>Liberal Democrat Competencies and Example Indicators</b>
Communication Skills (e.g. Articulate and fluent when addressing an audience, able to think on your feet)	Communication Skills (e.g. Communicates clearly, passionately and with conviction when using different forms of media)
Intellectual Skills (e.g. Quickly processes, understands and learns large amounts of information)	Strategic Thinking and Judgement (e.g. Understands the strategic relevance of information, and makes links between national- and local-level issues)
Relating to People (e.g. Approachable, inspires confidence and trust in others)	Representing People (e.g. Demonstrates tolerance in actively representing people of all backgrounds, ages, ethnicity and interests)
Leading and Motivating (e.g. Communicates a clear vision and persuades others to follow them)	Leadership (e.g. Builds trust, confidence and enthusiasm among supporters)
Resilience and Drive (e.g. Demonstrates stamina and persistence in overcoming resistance)	Resilience (e.g. Has the courage to make and defend unpopular decisions)
Conviction (e.g. Seeks opportunities to present views and persuades others to adopt their ideas)	Values in Action (e.g. Promotes beliefs and key messages through their own actions)

Jo Silvester, May 2010, [theppsi.org.uk](http://theppsi.org.uk)

Also of note, communication skills have different meanings – for the Conservatives it is about being agile, articulate and fluent, whereas for the Liberal Democrats, communication is much more about passion and conviction whatever the medium of communication. The former seems restricted to oratory while the latter traverses all the written, spoken, internet based etc media at the disposal of a politician.

The UK research reveals that communication is a vital discriminator in electoral success. It is therefore not surprising that Backbench Members rated it highly – Government 91 per cent, Coalition 96 per cent.

What Silvester has also discovered in a recent study of 200 UK politicians is that Integrity is the single most important factor in political leadership, and it is the second highest rated attribute in this Australian research too.

Some subtle differences exist between the Australian parties too. For example, the Government ranking of Intelligence is 70 per cent while the Opposition rate it 54 per cent, and Government rate Research and Analytical skills at 47 per cent while Opposition rate it at 41 per cent. What does this mean? It would be useful to tease out a fuller understanding of what these attributes mean for each Party. On the face of the data it could be argued that the Opposition place lower emphasis on intellect and research in favour of being approachable and representing the community. Perhaps the Government responses reflect a higher priority on developing legislation and governing Australia as a whole with an attendant lower priority on being available to their constituency.

What does seem apparent, and is reinforced in the UK research, is that politicians from all parties would benefit from building a far better understanding in the community of what politicians do, and realistically what they can achieve for both the country and the electorate in practical terms. This would lead to a better understanding of the work value of a Parliamentarian which could be valuable in shaping community perspectives on appropriate salaries.

It would also inform the community of the qualities needed of potential candidates, and provide a robust platform for debate and discussion about their performance and contribution.

How might these findings be of value in the Parliamentary setting in the future? Perhaps further inquiry could be focused on determining exactly which of these attributes, and in what order of priority contribute to the effectiveness of a backbencher. Armed with this information, Party Whips and others would be in a far better position to identify those candidates with the best chances of election and of succeeding in Parliament.

Like the UK, my expectation would be that the characteristics for effectiveness may display a high degree of similarity among all politicians, but that there will be both sufficient and significant difference between the Parties. Accordingly, EA imagine that there would be interest in pursuing the identification and articulation of the competencies for each Party, so that recruitment and development of backbenchers could proceed in a more effective manner.

Issues raised in this international research on attributes of Members of Parliament and some variability between the Houses would represent a subject matter for future research by an Australian Parliamentary Fellow.

## Attachment 11 – Superannuation

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Superannuation contributions in Australia are taxed concessional, up to certain limits or caps.

### ***Concessional Contributions***

Concessional contributions up to the prescribed limit are taxed at 15 per cent making them very tax effective for most taxpayers. The limits or caps are age based. For those under 50 years of age the 2011/2012 limit is \$25,000. For those over 50 years of age the 2011/2012 limit is \$50,000.

### ***Non-concessional Contributions***

Non-concessional contributions are also subject to prescribed limits. Taxpayers can make after tax contributions to their superannuation fund up to these limits and such contributions are then subject to 15 per cent tax, representing a significant tax saving to the top marginal rate of tax of 48.5 per cent.

### ***Sources of Information on Current Loadings***

<http://www.remtribunal.gov.au/determinationsReports/byYear/2011/2011-22%20Determination.pdf>

<http://www.remtribunal.gov.au/determinationsReports/byYear/2011/Report%201%20of%202011.pdf>

### ***Parliamentary Superannuation Arrangements for New Members of Parliament***

The Parliamentary Contributory Superannuation Scheme (PCSS) was closed to new members from the 9 October 2004 general election and new superannuation accumulation arrangements were established for new Senators and Members of the House of Representatives (Members) joining Parliament on or after that general election.

The new arrangements were established under the Parliamentary Superannuation Act 2004 and involve a 9 per cent Government contribution up to 30 September 2006 and 15.4 per cent from 1 October 2006, payable into a superannuation fund chosen by the Member.

The new arrangements apply only to Members joining the Parliament who were not sitting Members when the Parliament was prorogued on 31 August 2004. They also apply to such Members who return to the Parliament after a break.

Existing Members of the PCSS may not transfer to the new arrangements.

New Members are able to choose a complying superannuation fund or Retirement Savings Account to receive their Government contribution. However, the fund must not be a self managed superannuation fund.

A default fund was nominated by the Minister for Finance and Administration to receive the contributions in the event the Member does not make a choice. This fund is the Australian Government Employees Superannuation Trust.

The Government contribution of 15.4 per cent (9 per cent up to 30 September 2006) is calculated on total Parliamentary salaries.

The PCSS is closed to new Members, including former Members who return to the Parliament and former State Members of Parliament. These Members will join the new accumulation arrangements and any pension being paid to a former Member under the PCSS will be suspended. Payment of the suspended pension will recommence once the Member leaves the Parliament again provided the member is not under age 55, in which case the payment will be deferred until the Member reaches that age (or becomes an invalid or dies earlier than that age).

Members covered by the new accumulation arrangements are able to salary sacrifice up to 50 per cent of their total Parliamentary salaries to superannuation. This enables them to supplement the Government contribution. This is provided for in the Remuneration and Allowances Act 1990.

These new accumulation arrangements satisfy the Superannuation Guarantee legislative requirements.

The new arrangements are administered by the Departments of the Senate and the House of Representatives, as appropriate.

**Source**

<http://www.finance.gov.au/superannuation/parliamentary-superannuation/new-parliamentary-superannuation-arrangements.html>

The attached 21 page report is separately indexed.

# **WORK VALUE AND MARKET ASSESSMENT OF THE ROLE OF A BACKBENCHER IN THE FEDERAL PARLIAMENT**

23 NOVEMBER 2011

**Prepared for**

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**EGAN ASSOCIATES**

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# 1 Executive Summary

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## Executive Summary

Mercer has prepared this report at the request of Egan Associates to provide a further touch point in their review of the salary of a Backbench Member of the Federal Parliament.

Our understanding of the role has been informed by the detailed job analysis work undertaken by John Egan of Egan Associates and reported in *The Role of a Backbencher of the Federal Parliament* (November 2011).

Mercer's approach to this project involved:

- Determining the work value of the Backbencher role utilising the Mercer Cullen Egan Dell job evaluation methodology which enables us to assess the relative job size of positions.
- Reviewing a broad range of remuneration market benchmarks at similar work value levels across a broad range of job families and market sectors to provide the Tribunal with contextual market information regarding levels of base salary paid in the community.

We have presented the market remuneration information in tabular format, reporting the inter-quartile range (i.e. the 25<sup>th</sup> percentile, median and 75<sup>th</sup> percentile) and average for each role. These remuneration tables will assist the inquiry to form a view about (1) the overall levels and (2) the spread or distribution of base salary for these roles in the market.

Mercer has drawn upon a range of data sources. Our primary source for private sector remuneration comparisons has been data contained in Mercer's remuneration databases and proprietary surveys. For sake of completeness, we have also provided a summary of Public Sector remuneration levels for roles at similar work value points utilising (1) the Senior Executive Service remuneration survey which we have conducted on behalf of the APS for a number of years and (2) various State Remuneration tribunal determinations.

It must be recognised that benchmarking at base salary level is not the most prevalent approach to remuneration benchmarking undertaken in the Australian market where most private sector organisations now adopt some form of total fixed remuneration concept inclusive of superannuation, motor vehicle and other benefits and the associated FBT cost. Similarly, for most of the private sector comparisons we have made, there would be an element of variable incentive or bonus payment payable on top of the fixed remuneration components and contingent on performance. While these elements are outside the scope of this comparison, they cannot be ignored if an overall assessment of market competitiveness to private sector remuneration practices is contemplated.



# 2 Work Value Assessment

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## Work Value Assessment

Mercer has undertaken a work value assessment of the role of Backbencher using the Mercer Cullen Egan Dell (MCED) job evaluation methodology.

### The MCED Job Evaluation Methodology

The MCED methodology has been widely used in both the public and private sectors in Australia for many years and has broad acceptance as a reliable methodology for determining the relative work value of many different types of jobs ranging from senior executives, management, professionals, administrative and technical and blue-collar occupations.

The MCED job evaluation methodology is a points-factor methodology which analyses the position in terms of three major factors:

- Expertise – the depth and breadth of knowledge and experience required to perform the role and the interpersonal skills required
- Judgement – the complexity of the job environment and the reasoning or thinking challenges facing the position holder
- Accountability – the results for which the position-holder is accountable – these may be measured in terms of the financial accountabilities or the level of advice provided

Further detail about the MCED job evaluation methodology is included at Appendix 1.

## Work Value Assessment Process

Mercer has undertaken its work value assessment of the role of Backbencher informed by the document prepared by Egan Associates entitled *The Role of a Backbencher of the Federal Parliament* (November 2011).

Mercer understands that this document was prepared following an extensive program of interviews with backbench Members of Parliament undertaken by John Egan during August-September 2011. *The Role of a Backbencher of the Federal Parliament* (November 2011) provides a detailed analysis of all aspects of the role and its specific accountabilities.

## Work Value Profile

The following table presents Mercer's evaluation of the role of Backbencher in the Federal Parliament

**Table 1: MCED Job Evaluation Profile**

<b>Position Title</b>	<b>Impact</b>	<b>Expertise</b>	<b>Judgement</b>	<b>Accountability</b>	<b>Work Value Points</b>
Backbench Member of Parliament	Advice	F+4d 309	E-5- 289	F-2+d 356	954

## Commentary on Evaluation

### Position Impact and Accountability

In the Mercer CED job evaluation methodology, a fundamental aspect of the evaluation process is to determine the most appropriate Position Impact for the position being evaluated.

Positions may be evaluated as:

- **Direct** – where the primary focus of the role is executive management of a business or business unit or Department
- **Indirect** – where the primary focus of the role is to influence the allocation of resources through professional advice, guidance, frameworks and governance.
- **Advice** – where the primary focus of the position is to provide professional advice and recommendations that influence the decision-making process of the organisation.

To illustrate the distinction between Direct, Indirect and Advice by way of analogy from the corporate world:

- A Chief Executive would normally be evaluated as having **Direct** accountability for the overall business results
- A Chief Financial Officer would normally be evaluated as having **Indirect** accountability for the business results as this role typically provides the key input into financial decisions and manages the financial policies, frameworks, systems and processes for the organisation
- A Human Resources Director would normally be evaluated as **Advice** as this role provides professional leadership and specialist advice and counsel that influence the human resource policies and frameworks of the organisation

## **Position Impact of the Backbench Member**

Mercer has considered carefully the most appropriate measure of Position Impact for the role of Backbench Member of Parliament. This section of our advice reviews the various alternatives.

### ***Direct***

The Backbench Member has direct accountability for the budget assigned to them for the effective operation of their electoral office, including management of staff and the expenditure of resources. However, this is of a relatively minor scale, and mainly concerned to provide the Backbench Member with access to dedicated resources to enable them to perform their constituency and Parliamentary responsibilities effectively. The Accountability Score using this measure would be E+1d (203 points).

### ***Indirect***

It could be argued that the Backbench member plays an important role in influencing the allocation of Government resources in the interests of their constituents. For example, a Backbench Member will be actively involved in lobbying for Government programs relevant to the interests of their constituents, the prioritisation of infrastructure projects, and the location of Government functions in regional cities within their electorate. Effective performance in attracting Government expenditure programs to their electorate will be a factor that many constituents will consider in forming their view of the relative effectiveness of their local member, and consequently their continued electability. With annual Commonwealth expenditure in the order of \$400BN, the indicative average expenditure addressed per Member of Parliament is in the order of \$1.75BN. The Accountability score using this measure would be D6c (356 points).

### ***Advice***

However, Mercer has taken the view that the primary accountability of the Backbench Member is to represent their constituents in the legislative work of the Parliament. Egan describes the Principal Accountability of the Backbencher as:

- *Represent, defend and promote national interests by contributing to the development of public policy and legislation via the process of community, Party and Parliamentary engagement.*
- *Further the needs and interests of constituents, as far as practicable, having regard to both the national interest and Government policy, as well as the administrative and operational constraints of the bureaucracy.*

Accordingly, we have selected Advice as the appropriate position impact.

The Backbencher provides advice on issues that affect Government policy and programs, and have consequence at national, regional and local levels. (2+). The Backbencher can be regarded as an expert advisor on the political and community implications of policy and legislative proposals. Their advice is one of many sources that shape the direction of specific proposals – other sources of advice include public servants, lobby groups, Ministers and political parties. (F-) The Accountability score using this measure would be F-2+d (356 points)

## **Expertise**

In Mercer's job evaluation methodology the Expertise factor considers the depth and breadth of knowledge and experience and the level of interpersonal skills required to perform the role at a competent and effective level.

The educational and vocational backgrounds of members of Parliament are varied and members may be drawn from all walks of life to represent their electors.

In practice, most Backbenchers have tertiary qualifications and have pursued a career at a professional and/or managerial level for a number of years prior to entering the Parliament. Experience may have been gained in corporate or small business, in professional firms, in trade unions or political organisations. The experience gained through these varied pursuits equips the Backbench member with a broad range of professional skills in identifying, researching and advocating issues, organisational skills, and sufficient understanding of the political process to build and nurture a support base from which to launch their Parliamentary careers.

The majority of the members of the current Parliament have served more than six years or the equivalent of two terms or more of the House of Representatives. However, in the current Parliament, 45 Members are in their first term and marginally more than 50 members are in their second term.

In Mercer's view, the depth of knowledge and experience of the Backbench Member of Parliament can be equated to middle to senior management roles in a diverse range of organisational settings, equivalent to that required to lead a function within an organisation or undertake a general management role of a sizeable unit, or executive management of a small to medium enterprise. (F+)

Backbenchers develop a broad understanding across a diverse range of policy issues. While some backbenchers will tend to specialise in portfolio areas of interest in their Committee engagements, they must be generalists in their community and constituency work able to identify and assess impacts, explain and advocate policy across the broad gamut of political and community issues. (4)

Backbenchers require a high level of interpersonal skill in order to effectively liaise with a broad range of stakeholders, negotiate effectively with others with divergent interests and perspectives, and to collaborate and reach agreement or resolution in a committee setting with colleagues with differing political views and agendas. (d+)

## **Judgement**

The Backbencher operates in a complex environment where the needs of various constituencies – their electorate, their Party, the national interest, their networks of supporters and their personal careers – must be weighed and balanced. There is a requirement to identify and define emerging issues of community concern, to interpret how national or regional issues may impact their constituency, and to effectively represent these concerns in their engagement in the Parliamentary processes. (E-)

Backbenchers are engaged in the detailed analysis and review of policy and legislative materials and must engage effectively in the consideration of options, evaluation of alternatives and formulation of solutions. They operate strategically and tactically, balance competing interests, and weigh pragmatic and idealistic considerations. (5-)

# 3 Remuneration Analysis

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## Remuneration Analysis

Mercer has drawn upon various sources of data to provide remuneration benchmarks for consideration by the Commonwealth Remuneration Tribunal.

Our Remuneration Analysis draws on the following sources:

- Our **General Market Payline**, which provides an indication of the market remuneration levels for positions of *similar work value points scores*. The General Market Payline is derived through statistical analysis of our remuneration databases, which currently include some 60,000 incumbent records across the broad span of industries, organisation sizes and types in Australia
- Positions based information drawn from specific positions in Mercer's **Quarterly Salary Review** publication (June 2011 edition). Mercer identified positions in a range of job families that straddle the middle to senior management levels in mid-sized companies. (Appendix 2. Quarterly Salary Review survey composition)
- The **Australian Public Service Senior Executive Service Survey** that Mercer has conducted on behalf of the Commonwealth since 1997
- For sake of completeness, various **Commonwealth and State Remuneration Tribunal Determinations** that we deemed relevant comparators.

We have provided the remuneration information in the form of tables showing the market distribution for each role.

- The statistics provided are 25<sup>th</sup> percentile, 50<sup>th</sup> percentile (median), 75<sup>th</sup> percentile, which provides a useful indication of the distribution of salaries in the market.
- We have focused on **Base Salary** only. Therefore the data does not include remuneration elements such as motor vehicle benefits, cash allowances or any forms of performance payment or incentive remuneration which are common components of remuneration in the private sector. Similarly, the data provided does not include superannuation contributions.
- Please note that the remuneration information have been rounded to the nearest thousand.

## General Market

The table below summarises the inter-quartile range of the general market for roles of similar work value points.

**Table 2: Work Value Based Market Remuneration Data, General Market (October 2011)**

		<b>General Market - Base Salary (October 2011)<sup>8</sup></b>		
<b>Position Title</b>	<b>Work Value Points</b>	<b>25th Percentile</b>	<b>50th Percentile</b>	<b>75th Percentile</b>
Backbencher	954	\$157,900	\$190,800	\$229,500

## Position-Based Analysis

**Table 3: General Management Job Family, QSR (September 2011)**

			<b>Quarterly Salary Review (QSR) - Base Salary (September 2011)<sup>9</sup></b>			
<b>Position Title</b>	<b>Mercer MUPC</b>	<b>Staff Category</b>	<b>25th Percentile</b>	<b>50th Percentile</b>	<b>75th Percentile</b>	<b>Average</b>
General Manager	100.030.111	Senior Manager	\$170,000	\$207,000	\$283,000	\$228,000
Division Manager (excl Manufacturing)	100.030.123		\$100,000	\$150,000	\$190,000	\$154,000

<sup>8</sup> Source: General Market Payline, October 2011, rounded to the nearest hundred

<sup>9</sup> Source: Mercer Quarterly Salary Review, September 2011

**Table 4: Human Resources Job Family, QSR (September 2011)**

			<b>Quarterly Salary Review (QSR) - Base Salary (September 2011)<sup>10</sup></b>			
<b>Position Title</b>	<b>Mercer MUPC</b>	<b>Staff Category</b>	<b>25th Percentile</b>	<b>50th Percentile</b>	<b>75th Percentile</b>	<b>Average</b>
Top Human Resources Executive	120.030.120	Executive	\$177,000	\$200,000	\$226,000	\$209,000
Industrial Relations Manager	120.248.220	Manager	\$126,000	\$165,000	\$188,000	\$158,000

**Table 5: Finance and Administration Job Family, QSR (September 2011)**

			<b>Quarterly Salary Review (QSR) - Base Salary (September 2011)<sup>11</sup></b>			
<b>Position Title</b>	<b>Mercer MUPC</b>	<b>Staff Category</b>	<b>25th Percentile</b>	<b>50th Percentile</b>	<b>75th Percentile</b>	<b>Average</b>
Top Finance and Accounting Executive	210.030.120	Executive	\$191,000	\$236,000	\$278,000	\$245,000
Head of Audit	210.324.130		\$145,000	\$164,000	\$194,000	\$182,000

**Table 6: Information Technology Job Family, QSR (September 2011)**

			<b>Quarterly Salary Review (QSR) - Base Salary (September 2011)<sup>12</sup></b>			
<b>Position Title</b>	<b>Mercer MUPC</b>	<b>Staff Category</b>	<b>25th Percentile</b>	<b>50th Percentile</b>	<b>75th Percentile</b>	<b>Average</b>
Top Information Technology Executive	310.030.120	Executive	\$195,000	\$246,000	\$286,000	\$236,000

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<sup>10</sup> Source: Mercer Quarterly Salary Review, September 2011

<sup>11</sup> Ibid

<sup>12</sup> Ibid

**Table 7: Sales and Marketing Job Family, QSR (September 2011)**

			<b>Quarterly Salary Review (QSR) - Base Salary (September 2011)<sup>13</sup></b>			
<b>Position Title</b>	<b>Mercer MUPC</b>	<b>Staff Category</b>	<b>25th Percentile</b>	<b>50th Percentile</b>	<b>75th Percentile</b>	<b>Average</b>
Top Sales and Marketing Executive	400.030.120	Executive	\$190,000	\$215,000	\$261,000	\$231,000
Top Marketing Executive	410.030.120		\$188,000	\$238,000	\$260,000	\$230,000
Top Sales Executive	420.030.120		\$200,000	\$230,000	\$273,000	\$239,000

**Table 8: Production and Supply Job Family, QSR (September 2011)**

			<b>Quarterly Salary Review (QSR) - Base Salary (September 2011)<sup>14</sup></b>			
<b>Position Title</b>	<b>Mercer MUPC</b>	<b>Staff Category</b>	<b>25th Percentile</b>	<b>50th Percentile</b>	<b>75th Percentile</b>	<b>Average</b>
Principal Manufacturing Executive	600.100.120	Executive	\$174,000	\$203,000	\$231,000	\$202,000
Head of Logistics Management	610.100.130		\$134,000	\$179,000	\$245,000	\$193,000
Head of Supply Chain Solutions	610.100.131		\$151,000	\$169,000	\$201,000	\$176,000

**Table 9: Legal Job Family, QSR (September 2011)**

			<b>Quarterly Salary Review (QSR) - Base Salary (September 2011)<sup>15</sup></b>			
<b>Position Title</b>	<b>Mercer MUPC</b>	<b>Staff Category</b>	<b>25th Percentile</b>	<b>50th Percentile</b>	<b>75th Percentile</b>	<b>Average</b>
General Counsel/Head of Legal	115.030.120	Executive	\$191,000	\$227,000	\$255,000	\$230,000
Corporate Secretary	110.100.130		\$114,000	\$161,000	\$256,000	\$196,000

<sup>13</sup> Source: Mercer Quarterly Salary Review, September 2011

<sup>14</sup> Ibid

<sup>15</sup> Source: Mercer Quarterly Salary Review, September 2011



## Local Government

We have selected two benchmarks in the local government sector.

1. Mayor – elected, political role responsible for leading the direction of the Council, interface with the community, and chairing the Council meetings and committees. The Mayor would typically work closely with a Chief Executive or General Manager responsible for the operational management of the city organisation and budget.
2. Director roles – these are senior management roles and typically are direct reports to the Chief Executive or General Manager of the Council. They have management accountability for a functional division of Council's activities (eg Community Services, Infrastructure, Finance).

**Table 10: Mayor Role, Local Government Remuneration Tribunal (April 2011)**

	<b>Local Government Remuneration Tribunal under Sections 239 and 241 – Base Salary (28 April 2011)</b> <sup>16</sup>	
<b>Position Title</b>	<b>Minimum</b>	<b>Maximum</b>
Mayor (Principal City)	\$161,500	\$215,900 <sup>17</sup>

**Table 11: Director Roles, Local Government Remuneration Review (October 2011)**

	<b>Local Government Remuneration Review- Base Salary (aged to October 2011)</b> <sup>18</sup>			
<b>Position Title</b>	<b>25th Percentile</b>	<b>50th Percentile</b>	<b>75th Percentile</b>	<b>Average</b>
Director Roles (Blended)	\$159,000	\$174,000	\$186,000	\$175,000

<sup>16</sup> Source: Report and Determination of The Local Government Remuneration Tribunal under Sections 239 and 241 of the Local Government Act 1993, Determination Pursuant to Section 241 of Fees for Councillor and Mayors, 28 April 2011, p 12, [http://www.dpc.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0005/119714/2011\\_Report\\_and\\_determination\\_Copy\\_for\\_Gazette.pdf](http://www.dpc.nsw.gov.au/__data/assets/pdf_file/0005/119714/2011_Report_and_determination_Copy_for_Gazette.pdf)

<sup>17</sup> The Base Salary figures have been calculated by the adding the Minimum Annual fee to the Additional Fee (\$22,680 + \$138,780) and the Maximum Annual Fee to the Additional Fee (\$33,270 + \$182,610), rounded to the nearest hundred

<sup>18</sup> Source: Mercer Local Government Remuneration Review, November 2009 aged to October 2011, rounded to the nearest thousand

## Australian Public Service

We have presented salary information for two Senior Executive Service levels as the cusp of the grades is very close to the evaluation points score in our assessment of the work value of the Backbencher.

**Table 12: SES 1, APS Survey (31 December 2010)**

			<b>Base Salary, 2010 APS SES Remuneration Survey, 31 December 2010<sup>19</sup></b>			
<b>Employment Agreement/ Determination</b>	<b>Sample Size</b>	<b>Reference (APS Survey)</b>	<b>Q1</b>	<b>Median</b>	<b>Q3</b>	<b>Average</b>
Enterprise Agreement	216	Table 4.2	\$153,600	\$153,600	\$155,800	\$156,000
Australian Workplace Agreement	415	Table 4.3	\$152,300	\$158,300	\$164,600	\$162,200
Collection Section 24(1) Determination	51	Table 4.4	-	-	-	\$158,700
Individual Section 24(1) Determination	958	Table 4.5	\$151,000	\$159,100	\$167,400	\$160,100
Total	1940	Table E.1	\$151,900	\$158,300	\$167,600	\$161,000

<sup>19</sup> 2010 APS SES Remuneration Survey, Australian Public Service Commission, 31 December 2010, <http://www.apsc.gov.au/workplacelrelations/2010apssesreport.pdf>, rounded to nearest thousand

**Table 13: SES 2, APS Survey (31 December 2010)**

			<b>Base Salary, 2010 APS SES Remuneration Survey, 31 December 2010<sup>20</sup></b>			
<b>Employment Agreement/ Determination</b>	<b>Sample Size</b>	<b>Reference (APS Survey)</b>	<b>Q1</b>	<b>Median</b>	<b>Q3</b>	<b>Average</b>
Enterprise Agreement	62	Table 4.7	\$188,200	\$188,200	\$188,200	\$190,800
Australian Workplace Agreement	123	Table 4.8	\$188,600	\$198,800	\$215,300	\$207,900
Individual Section 24(1) Determination	252	Table 4.9	\$195,100	\$203,100	\$218,900	\$206,600
Common Law Agreement	91	Table 4.10	\$189,300	\$208,200	\$222,100	\$207,000
Total	547	Table E.2	\$188,600	\$200,700	\$215,900	\$205,300

\* The 685-949 points for SES 1 and 950-1499 points for SES 2 are Mercer estimation of point boundaries for APS SES Levels. The Commonwealth uses a classification descriptor as its primary classification tool.

<sup>20</sup> 2010 APS SES Remuneration Survey, Australian Public Service Commission, 31 December 2010, <http://www.apsc.gov.au/workplacerelements/2010apssesreport.pdf>, rounded to nearest thousand

# State Public Sector

**Table 14: State SES levels**

			<b>Base Salary</b>	
<b>State</b>	<b>Level</b>	<b>MCED points</b>	<b>Minimum</b>	<b>Maximum</b>
New South Wales <sup>21</sup>	SES Level 3	850-989	\$180,100	\$204,600 <sup>22</sup>
	SES Level 4	990-1164	\$204,600	\$223,000 <sup>23</sup>
Victoria <sup>24</sup>	EO-3	701-1124	\$124,600	\$173,100 <sup>25</sup>
Western Australia <sup>26</sup>	Band 6	901-1030	\$165,300	\$223,600 <sup>27</sup>

<sup>21</sup> NSW Remuneration Tribunals, Report and Determination Under Section 24C of the Statutory and Other Offices Remuneration Act, 1975, Chief Executive and Senior Executive Services, 12 October 2011, p11, [http://www.dpc.nsw.gov.au/\\_data/assets/pdf\\_file/0012/132303/2011\\_CES\\_and\\_SES\\_gazette\\_REP\\_v04.pdf](http://www.dpc.nsw.gov.au/_data/assets/pdf_file/0012/132303/2011_CES_and_SES_gazette_REP_v04.pdf)

<sup>22</sup> The Base Salary figures have been calculated by discounting the Total Fixed Remuneration(\$1199,701 and \$226,850) by a superannuation assumption of 10.90%, rounded to the nearest hundred

<sup>23</sup> The Base Salary figures have been calculated by discounting the Total Fixed Remuneration(\$226,851 and \$247,300) by a superannuation assumption of 10.90%, rounded to the nearest hundred

<sup>24</sup> Victorian Public Service, Executive Remuneration Bands, 1 July 2011, Part 3 Public Administration Act 2004, <http://www.ssa.vic.gov.au/executive-remuneration/public-service.html>

<sup>25</sup> The Base Salary figures have been calculated by discounting the Total Fixed Remuneration(\$138,212 and \$191,953) by a superannuation assumption of 10.90%, rounded to the nearest hundred

<sup>26</sup> Western Australia Salaries and Allowances Tribunal, Report Under Section 7A of the Salaries and Allowance Act 1975, Local Government and Chief Executive Officers, June 2011, p 13

<sup>27</sup> The Base Salary figures have been calculated by discounting the Total Fixed Remuneration(\$183,284 and \$247,971) by a superannuation assumption of 10.90%, rounded to the nearest hundred

**Table 14: State SES levels (cont)**

State	Level	MCED points	Base Salary	
			Minimum	Maximum
Queensland <sup>28</sup>	SES 2 (High)	940-1119	\$146,800	\$152,500 <sup>29</sup>
ACT <sup>30</sup>	SES 2	900-1299	\$177,700	\$222,500 <sup>31</sup>
Northern Territory <sup>32</sup>	ECO 2	900-1149	\$175,900	\$188,600 <sup>33</sup>

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<sup>28</sup> Queensland Government Public Service Commission, Senior Executives – Employment Conditions – Directive no. 05/09, July 2011, <http://www.psc.qld.gov.au/library/document/directive/2009/2009-5-senior-executive-employment-conditions.pdf>

<sup>29</sup> The Base Salary figures have been calculated by discounting the Total Fixed Remuneration (\$162,807 and \$169,170) by a superannuation assumption of 10.90%, rounded to the nearest hundred

<sup>30</sup> ACT Remuneration Tribunal, Senior Executive Service Staff, Determination No. 2, July 2011

<sup>31</sup> Sourced the cash component as the equivalent Base Salary figure

<sup>32</sup> Northern Territory Government, Executive Contract Officers, August 2011

<sup>33</sup> The Base Salary figures have been calculated by discounting the Total Fixed Remuneration (\$195,059 and \$209,114) by a superannuation assumption of 10.90%, rounded to the nearest hundred

# APPENDIX A

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## MCED Job Evaluation Methodology

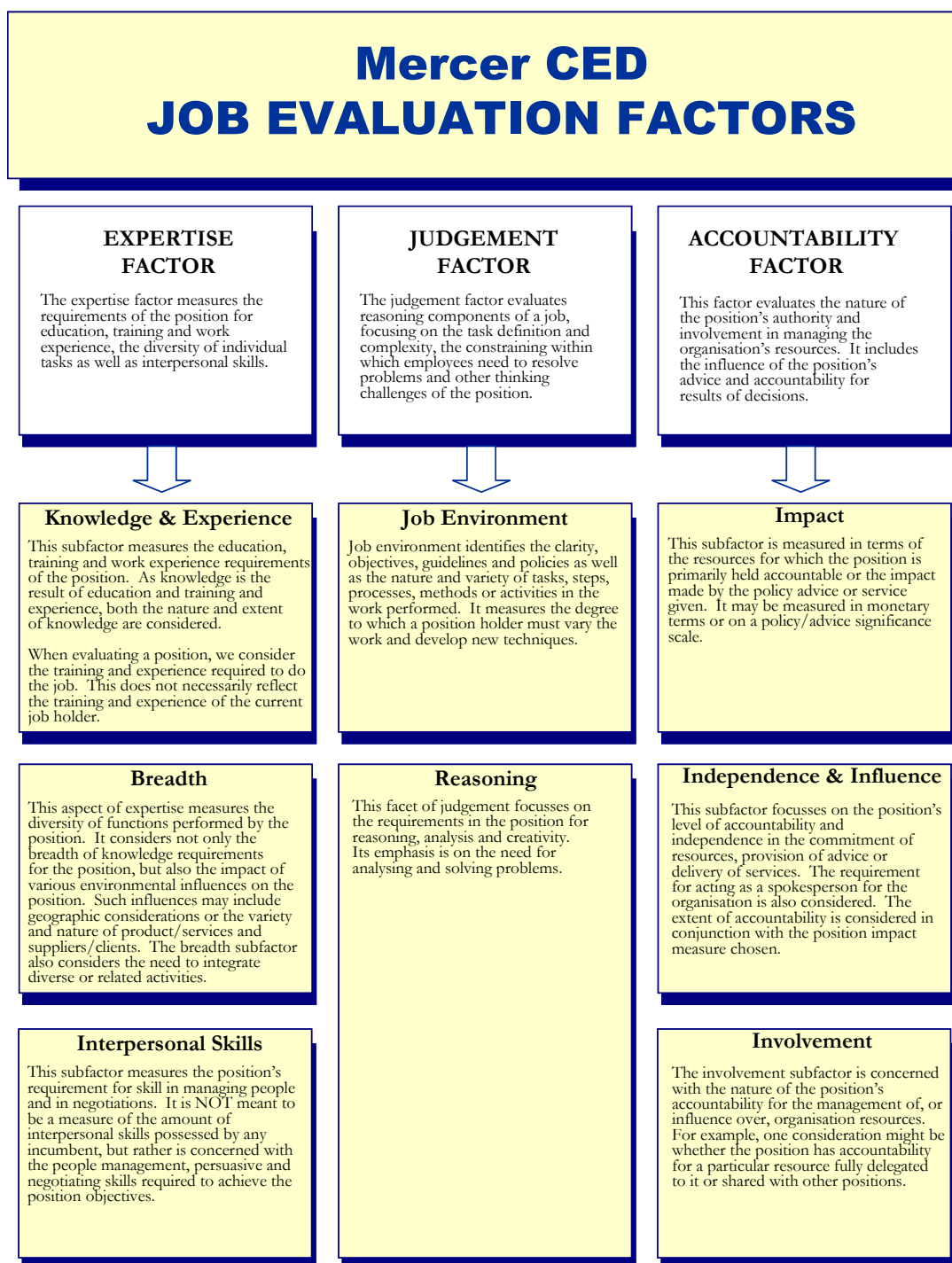
The Mercer CED Job Evaluation methodology provides a systematic and analytical to defining jobs in terms of compensable factors such as size, scope, complexity, specific knowledge and experience requirements and accountability. It results in a quantitative measure of work value that can then be used as a mechanism to access market remuneration data for jobs of equivalent size for comparative purposes.

The job evaluation outcomes are used to establish a work value level for the position. The work value results are then applied to determine a competitive market based remuneration outcome for the position. The use of the job evaluation methodology to establish a work value level also enables internal relativities to be assessed.

Each factor is given a rating to determine a job evaluation profile, which is converted to points. The total points result in an overall work value score for the position which can be used to identify the internal relativities within the organisation. It should be emphasised that our assessment is of the relative work value of the position, not on the qualities that the individual will bring to the job.

Work-value scores can be directly correlated to General Market remuneration through a pay line. The General Market pay lines represent the mathematical relationship between Mercer CED work-value points and market remuneration. Further detail on the evaluation factors is provided in the following page.

## Mercer CED Job Evaluation Methodology (continued)



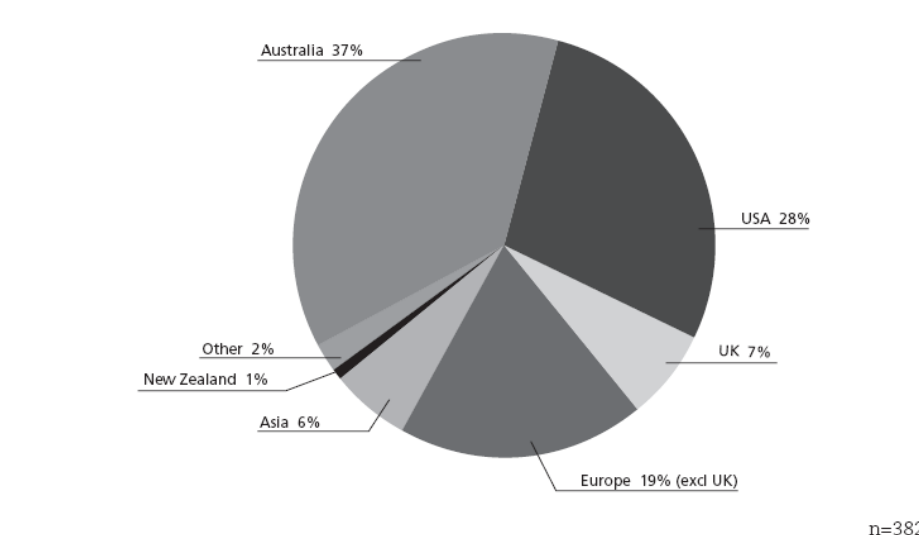
# APPENDIX B

## Mercer's Quarterly Salary Review

**Table 15: Mercer QSR Survey Sample – Size of Operations**

Size of operations				
	Q1	Median	Q3	Average
Value of gross assets (\$m) (n = 211)	54	190	1133	5164
Sales turnover (\$m) (n = 410)	74	200	693	1092
Gross profit (\$m) (n = 182)	16	51	155	481
Net profit (\$m) (n = 181)	7	23	92	227

**Figure 1: Mercer QSR Survey Sample – Parent Company Location**



**Table 16: Mercer QSR Survey Sample – Employee Numbers**

Table 1.4 Employee numbers	
n = 421	% of organisations
Less than 100	23
100 to <250	20
250 to <500	12
500 to <1,000	13
1,000 or more	32



# APPENDIX C

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## Statistical Terms

- The **25th percentile (Q1)** is the position where 25% of organisations pay less and 75% of organisations pay more for a similarly sized role
- The **median/ 50<sup>th</sup> percentile** is the position where 50% of organisation pay less and 50% of organisations pay more for a similarly sized role
- The **75th percentile (Q3)** is the position where 75% of organisations pay less and 25% of organisations pay more for a similarly sized role
- The **Average** is the sum of all data reported divided by the number of observations in the sample
- **Paylines** are regressed lines of job size (work value) and remuneration that are constructed from referencing Mercer's extensive databases. They enable the estimation of market remuneration data for roles of the same size. i.e. roles with the same work value assessment outcomes.

## Remuneration Components

- **Base Salary (BS)** – Annual Salary, including salary sacrificed items, but excluding allowances or additional payments

**Remuneration and Other Legislation Amendment Bill 2011  
Bills Digest No 104**





## Remuneration and Other Legislation Amendment Bill 2011

Cathy Madden and Nicholas Horne  
Politics and Public Administration Section

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## Remuneration and Other Legislation Amendment Bill 2011

**Date introduced:** 24 March 2011

**House:** House of Representatives

**Portfolio:** Prime Minister

**Commencement:** Sections 1–3 commence on the day the Act receives Royal Assent. Schedule 1 and 2 commence on a day to be fixed by Proclamation, or on the day after six months from Royal Assent, whichever occurs first.

**Links:** The links to the [Bill, its Explanatory Memorandum and second reading speech](#) can be found on the Bill's home page, or through <http://www.aph.gov.au/bills/>. When Bills have been passed and have received Royal Assent, they become Acts, which can be found at the ComLaw website at <http://www.comlaw.gov.au/>.

### Purpose

The primary purpose of the Remuneration and Other Legislation Amendment Bill 2011 (the Bill) is to amend the *Remuneration Tribunal Act 1973* (Remuneration Tribunal Act) to give the Remuneration Tribunal responsibility for determining:

- the base salary for parliamentarians, and
- remuneration amounts for Departmental Secretaries and other offices established under the *Public Service Act 1999* (the Public Service Act).

### Background

#### Remuneration Tribunal

The Remuneration Tribunal (the Tribunal), an independent statutory authority, was established in 1973 to determine the allowances (including salaries) of parliamentarians and ministers and to determine the remuneration of departmental secretaries and statutory office holders.

Since 1999, in particular with the introduction of the Public Service Act and the *Parliamentary Service Act 1999* (Cth), the Tribunal has had only an **advisory** role in determining the salary of members of parliament and departmental secretaries and heads of executive agencies.

All of the Tribunal's determinations and reports relating to Commonwealth offices are matters of public record, and must be given to the Minister and tabled in the Parliament. Currently either

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House of the Parliament has 15 sitting days, from the date of tabling to move a motion for disallowance of those determinations.<sup>1</sup>

## Legal basis for remuneration of parliamentarians

Members of Parliament receive an annual allowance, an electorate allowance and other entitlements including travel, retirement travel and superannuation.<sup>2</sup> Relevant to this Bill, the amount of the annual allowance (also known as base salary) is set out in regulations made by the Governor-General in accordance with the *Remuneration and Allowances Act 1990* (Remuneration and Allowances Act) which requires the Governor-General to ‘consider advice from the Remuneration Tribunal about the proposed regulation’.<sup>3</sup> Clearly then, it is not the Tribunal which sets the actual base salary for parliamentarians.

The Remuneration and Allowances Act provides that the annual salary for members of parliament is equal to the minimum annual rate of salary payable to an SES employee with a classification of SES Band 2, or if the regulations prescribe a percentage (not more than 100%) of a reference salary—that percentage of the **reference salary**.<sup>4</sup> In accordance with that provision, the Tribunal determines a classification for the Principal Executive Offices, under which it sets a number of reference salaries, including Reference Salary A.<sup>5</sup> Parliamentary salary is set as a percentage of Reference Salary A.<sup>6</sup>

For some years until 1 July 2008, the regulations specified 100 per cent of Reference Salary A as the amount of the annual salary for Members of Parliament.<sup>7</sup> However, by Remuneration and Allowances Amendment Regulations 2008 (No. 1) parliamentary base salary in 2008/09 and future years will be set at an amount equal to the Reference Salary A determined by the Tribunal, less the whole dollar increase to the reference salary determined by the Tribunal for the 2008/09 year. From 1 July 2008, parliamentary salary has been equal to Reference Salary A, as determined by the Tribunal, less \$5470.<sup>8</sup>

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1. Section 42, *Legislative Instruments Act 2003*.

2. The legislative basis for the payment of annual allowance to members and senators lies in section 48 of the Constitution.

3. Subclause 1(3) Schedule 3 to the Remuneration and Allowances Act.

4. Subclause 1(2) Schedule 3 to the Remuneration and Allowances Act.

5. Remuneration Tribunal, Determination 2005/19- Principal Executive Office— Classification Structure and Terms and Conditions, F2010C00645, <http://www.comlaw.gov.au/Details/F2010C00645>

6. For further information see L Manthorpe, C Madden and D McKeown, ‘Parliamentary allowances, salaries and entitlements’, Background note, Parliamentary Library, Canberra, February 2011, viewed 9 May 2011, <http://www.aph.gov.au/Library/pubs/BN/pol/parlrem.pdf>

7. *ibid.*

8. Remuneration Tribunal, ‘Parliamentarian’ allowances and entitlements, <http://www.remtribunal.gov.au/federalParliamentarians/>

## Australian National Audit Office review and response

On 8 September 2009, the Australian National Audit Office (ANAO) published a report of its review of parliamentary entitlements.<sup>9</sup> As part of its response, the Government set up an independent panel to review the parliamentary entitlements scheme.<sup>10</sup> The review, chaired by former senior public servant, Barbara Belcher, was to provide advice and recommendations to Government on issues such as:

- developing a single principles-based legislative basis that authorises the provision of specified entitlements, identifies who is eligible to access these entitlements and in what circumstances, and the purposes for which these entitlements may be used and
- recommending framework changes that remove instances of overlap, duplication, inconsistency and gaps in the provision of entitlements.<sup>11</sup>

The Belcher Review report was given to the Special Minister of State on 9 April 2010 and released publicly by the government on 24 March 2011.<sup>12</sup>

Special Minister of State, Gary Gray on introducing the Bill said that:

... in restoring the Tribunal's power to determine the base salary of parliamentarians the bill will implement the cornerstone recommendation in the report of the Committee of review of Parliamentary Entitlements... [This] will provide more transparency and—importantly— independence in the determination of parliamentary base salaries.<sup>13</sup>

The Belcher Review drew a distinction between remuneration—that is, salary and ‘tools of trade’—that is, entitlements, such as office facilities and transport, and recommended that each be dealt with separately. The former will be determined by the Remuneration Tribunal and the latter to be covered by a single piece of legislation to be administered by the Minister.

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9. Australian National Audit Office, *Administration of parliamentarians' entitlements by the Department of Finance and Deregulation*, Audit report no. 3, 2009–10, viewed 6 May 2011, [http://www.anao.gov.au/uploads/documents/2009-10\\_ANAO\\_Audit\\_Report\\_3\\_.pdf](http://www.anao.gov.au/uploads/documents/2009-10_ANAO_Audit_Report_3_.pdf)
  10. Senator J Ludwig (Cabinet Secretary, Special Minister of State), *Reform of Parliamentary entitlements*, media release, 8 September 2009, viewed 6 May 2011, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2FAKOU6%22>
  11. Committee for the Review of Parliamentary Entitlements, *Committee Report*, Commonwealth of Australia, Canberra, 9 April 2010, p. 22, viewed 6 May 2011, <http://www.finance.gov.au/publications/review-of-parliamentary-entitlements-committee-report/docs/review-of-parliamentary-entitlements-committee-report.pdf>
  12. Ibid.
  13. G Gray (Special Minister of State and Special Minister of State for the Public Service and Integrity), ‘Second reading speech: Remuneration and Other Legislation Amendment Bill 2011’, House of Representatives, *Debates*, 24 March 2011, viewed 6 May 2011, [http://parlinfo.parlInfo/genpdf/chamber/hansardr/2011-03-24/0082/hansard\\_frag.pdf;fileType=application%2Fpdf](http://parlinfo.parlInfo/genpdf/chamber/hansardr/2011-03-24/0082/hansard_frag.pdf;fileType=application%2Fpdf)

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## Remuneration of departmental secretaries

The remuneration of departmental secretaries, along with other terms and conditions, is currently determined by the Prime Minister under section 61 of the Public Service Act. The Prime Minister makes the determination for secretaries' remuneration and other conditions following advice from the Remuneration Tribunal.

The current system for remuneration of departmental secretaries is two-tiered, with the secretaries of the Departments of the Prime Minister and Cabinet, Defence, and the Treasury receiving a higher level of remuneration than the secretaries of other departments.

The Remuneration Tribunal undertook a review of the Office of Secretary in 2010. The first part of the Tribunal's report, dealing with the classification structure, was released in March 2010; the second part, yet to be released, will deal with remuneration.<sup>14</sup> The Tribunal also commissioned work on the work value of the Office of Secretary.<sup>15</sup>

In the first part of its report the Tribunal has proposed maintaining a two-tier classification structure for departmental secretaries. The Tribunal would allocate initial Secretary offices between the levels, along with the remuneration of the secretaries of the Departments of the Prime Minister and Cabinet and Treasury. The Tribunal also proposed that the Secretary of the Department of Prime Minister and Cabinet should determine the placement of individual offices within each tier in consultation with the President of the Tribunal.<sup>16</sup>

In addition, the Tribunal recommended that, along with the secretaries of the Departments of the Prime Minister and Cabinet, Defence, and Treasury, the secretaries of the departments of Education, Employment and Workplace Relations; Families, Housing, Community Services and Indigenous Affairs; Finance and Deregulation; Foreign Affairs and Trade; and Health and Ageing should be re-classified to the first level. The secretaries of the other departments would be classified to the second level.<sup>17</sup>

The Tribunal also expressed the view that current remuneration for secretaries is inadequate, and signalled 'an initial reasonable adjustment of remuneration for existing office-holders' in the second

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14. Remuneration Tribunal, *Review of the Office of Secretary, Report—part 1*, Commonwealth of Australia, Canberra, February 2010, viewed 6 May 2011,

<http://www.remtribunal.gov.au/statementsreports/Review%20of%20the%20Office%20Of%20Secretary%20-%20Report%20-%20Part%201.pdf>

15. J Egan, *Review of work value for the Office of Secretary: Australian Government Departments of State*, Report for the Commonwealth Remuneration Tribunal, Sydney, August 2009, viewed 6 May 2011,

<http://www.remtribunal.gov.au/statementsreports/Egan%20Associates'%20Report%20-%20Secretaries%20-%20Review%20of%20Work%20Value.pdf>

16. Remuneration Tribunal, *Review of the Office of Secretary, Report—part 1*, op. cit., pp. ii–iii.

17. Ibid.



part of the report together with ‘a longer term remuneration structure entailing levels of remuneration which may be expected to be substantially above the current levels’.<sup>18</sup>

## Basis of policy commitment

The Government has indicated a strong commitment to reform of the parliamentary entitlements framework. The Special Minister of State, Senator Joe Ludwig, welcomed the ANAO report on the administration of parliamentary entitlements and stated:

The Rudd Government has accepted all of the Auditor-General’s recommendations. I am announcing a raft of reform measures that will reduce cost and increase transparency of the parliamentary entitlements system...

We are committed to reform, openness and transparency to ensure that we maintain the trust and confidence of the Australian people.<sup>19</sup>

The reform to departmental secretaries’ remuneration and conditions was announced by the then Opposition in their 2007 policy ‘*Labor’s approach to the Australian public service*’. The policy provided that:

... Labor will move away from a performance pay arrangement for agency heads and departmental secretaries, and restore the jurisdiction of the Remuneration Tribunal to fix pay and conditions of agency heads and secretaries.<sup>20</sup>

## Policy position of non-government parties/independents

The Opposition supports the Bill. The Shadow Special Minister of State, Bronwyn Bishop MP, stated that:

I think the idea that we have a tribunal that is free of political process to make these determinations is a fair way to go, and an improvement on the current system.<sup>21</sup>

Independent Member Tony Windsor supports the intent of the Bill for the Remuneration Tribunal, independent of parliament, having the capacity to determine base parliamentary salary. Windsor sees the Bill as a means of ‘increasing transparency and independence’.<sup>22</sup>

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18. Ibid.

19. Senator J Ludwig, op. cit.

20. Senator P Wong, *Labor’s approach to the Australian Public Service*, speech to the Institute of Public Administration, 20 September 2007, viewed 6 May 2011, [http://parlinfo.parlInfo/download/media/pressrel/OP8W6/upload\\_binary/op8w60.pdf;fileType=application/pdf#search=%22labor's%20approach%20to%20the%20public%20service%22](http://parlinfo.parlInfo/download/media/pressrel/OP8W6/upload_binary/op8w60.pdf;fileType=application/pdf#search=%22labor's%20approach%20to%20the%20public%20service%22)

21. B Bishop, ‘Second reading speech: Remuneration and Other Legislation Amendment Bill 2011’, House of Representatives, *Debates*, 24 March 2011, viewed 6 May 2011, [http://parlinfo.parlInfo/genpdf/chamber/hansardr/2011-03-24/0083/hansard\\_frag.pdf;fileType=application%2Fpdf](http://parlinfo.parlInfo/genpdf/chamber/hansardr/2011-03-24/0083/hansard_frag.pdf;fileType=application%2Fpdf)

The Greens do not support removing the role of parliament in relation to Tribunal determinations on the grounds that ... 'transparency and accountability demand that the parliament maintain oversight of such matters'.<sup>23</sup>

Senator Bob Brown has previously moved a disallowance motion when a Remuneration Tribunal determination relating to remuneration and travel allowances for members of parliament have been tabled.<sup>24</sup>

Independent Senator Nick Xenophon and Family First Senator Fielding have not indicated a position on the legislation.

## Position of major interest groups

The Tribunal made submissions to the Belcher Review calling for the 'remuneration of parliamentarians to be determined independently and by an examination of the roles and responsibilities of a parliamentarian, rather than by the Parliament itself'.<sup>25</sup> The Tribunal has indicated that it welcomes the Government's intention to enable the Tribunal to determine the base salary of parliamentarians and the remuneration and other conditions of secretaries of departments.<sup>26</sup>

## Financial implications

According to the Explanatory Memorandum, 'the measures proposed in this Bill have no impact on the budget'.<sup>27</sup>

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22. T Windsor, 'Second reading speech: Remuneration and Other Legislation Amendment Bill 2011', House of Representatives, *Debates*, 24 March 2011, viewed 6 May 2011, [http://parlinfo.parlinfo/genpdf/chamber/hansardr/2011-03-24/0084/hansard\\_frag.pdf;fileType=application%2Fpdf](http://parlinfo.parlinfo/genpdf/chamber/hansardr/2011-03-24/0084/hansard_frag.pdf;fileType=application%2Fpdf)
  23. A Bandt, 'Second reading speech: Remuneration and Other Legislation Amendment Bill 2011', House of Representatives, *Debates*, 24 March 2011, viewed 6 May 2011, [http://parlinfo.parlinfo/genpdf/chamber/hansardr/2011-03-24/0085/hansard\\_frag.pdf;fileType=application%2Fpdf](http://parlinfo.parlinfo/genpdf/chamber/hansardr/2011-03-24/0085/hansard_frag.pdf;fileType=application%2Fpdf)
  24. B Brown, *Greens say 'wait' on MP's pay rise*, media release, 24 September 2009, viewed 6 May 2011, [http://parlinfo.parlinfo/download/media/pressrel/LXRU6/upload\\_binary/lxru60.pdf;fileType=application/pdf#search=%22brown%20remuneration%22](http://parlinfo.parlinfo/download/media/pressrel/LXRU6/upload_binary/lxru60.pdf;fileType=application/pdf#search=%22brown%20remuneration%22); Remuneration Tribunal determination –proposed disapproval, Australia, Senate, *Journals*, no. 84, 20 August 2009, p. 2363, viewed 6 May 2011, [http://parlinfo.parlinfo/download/chamber/journals/20090820\\_SJ084/toc\\_pdf/jnlf\\_084.pdf;fileType=application%2Fpdf#search=%22brown%20remuneration%22](http://parlinfo.parlinfo/download/chamber/journals/20090820_SJ084/toc_pdf/jnlf_084.pdf;fileType=application%2Fpdf#search=%22brown%20remuneration%22);
  25. Remuneration Tribunal, *Submission to the Review of Parliamentary Entitlements*, 17 December 2009, viewed 6 May 2011, [http://www.finance.gov.au/parliamentary-services/docs/The\\_Remuneration\\_Tribunal.pdf](http://www.finance.gov.au/parliamentary-services/docs/The_Remuneration_Tribunal.pdf)
  26. Remuneration Tribunal, *Amendment of the Remuneration Tribunal Act 1973*, statement, 24 March 2011, viewed 6 May 2011, <http://www.remtribunal.gov.au/statementsreports/Statement%20RTS%2024%20March%202011.pdf>
  27. Explanatory Memorandum, Remuneration and Other Legislation Amendment Bill 2011, p. 1.

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## Main issues

### Departmental secretaries

Under the proposed measures the Tribunal would be required to do the following:

- determine the remuneration of two offices of secretary: those of the Departments of Prime Minister and Cabinet and the Treasury, along with the remuneration and leave entitlements of the Public Service Commissioner, Merit Protection Commissioner, and heads of executive agencies
- determine a classification structure for departmental secretaries and would be empowered to determine matters 'significantly related' to that structure
- assign secretaries within the classification structure and
- determine the terms and conditions, other than remuneration, applying to the offices of secretaries.

As noted above, currently the remuneration of departmental secretaries is two-tiered with the Secretaries of the Departments of Prime Minister and Cabinet, Treasury, and Defence being remunerated at one level and other secretaries being remunerated at a lower level. The review of the Office of Secretary conducted by the Tribunal recommended retaining a two-tier classification structure with additions to the top tier. The Tribunal also envisages increasing remuneration for departmental secretaries.

If the Bill is enacted, the Tribunal may implement its proposed two-tier structure in determining a classification structure for secretaries and in assigning secretaries within that structure. As noted above also, the Tribunal has envisaged pay points within the two levels (noted by the Special Minister of State in his second reading speech).<sup>28</sup> The pay points system could also become a part of the classification structure determined by the Tribunal.

Under the provisions in the Bill the Secretary of the Department of Prime Minister and Cabinet would, in consultation with the President of the Tribunal and the Public Service Commissioner, be required to assign remuneration amounts to secretaries other than him/herself and the Secretary of the Treasury in accordance with the classification structure set by the Remuneration Tribunal. This would constitute a significant departure from current practice.

The Bill contains transitional provisions which would provide that current determinations for the remuneration of the Public Service Commissioner, the Merit Protection Commissioner, departmental secretaries, and heads of executive agencies would continue to operate until determinations made under the Bill's amendments came into effect. As noted above, the Tribunal has expressed a view that remuneration for secretaries is inadequate and has signalled future increases in secretaries'

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28. See footnote 12.

remuneration. Any such increases, while not resulting directly from the Bill itself, would potentially constitute an additional cost on the budget.

## Key provisions

### Schedule 1

#### Part 1—Remuneration Tribunal Act

**Item 6** of part 1 of Schedule 1 to the Bill inserts **proposed Division 4** into the Remuneration Act. Within Division 4, **new section 13** requires the Tribunal to determine a classification structure for offices of departmental secretaries, and to determine the classification to which each Departmental Secretary is assigned, from time to time. In addition, the Tribunal **may** determine, any matter that is ‘significantly related’ to the classification structure. **New subsection 13(4)** authorises the Tribunal to hold inquiries for the purpose of carrying out any of these functions. After the initial determination by the Tribunal, the Secretary of the Department of Prime Minister and Cabinet may make recommendations to the Tribunal about the level to which a secretary may be assigned.

Under **new subsections 14(1)–(2)** the Tribunal must determine the remuneration of two of the offices of secretaries: the Secretaries of Department of Prime Minister and Cabinet and the Department of Treasury, consistent with the classification structure. **New subsections 14(3)–(7)** relate to the remuneration of the other secretaries. The Secretary of the Department of Prime Minister and Cabinet would be required to assign each of the other departmental secretaries to an amount of remuneration, from time to time, in consultation with the Public Service Commissioner and the President of the Tribunal. The remuneration must be consistent with the classification structure. The assignment has to be made in writing and comes into operation on a specified date.

**New section 15** requires the Tribunal to inquire into and determine terms and conditions, other than remuneration, for departmental secretaries from time to time. **New section 16** would require the Tribunal to publish determinations made under Division 4 in the gazette and on its website within 14 day of it been made.

**New subsection 5(2B)**, at **item 4** of Part 1 of Schedule 1 to the Bill is a consequential amendment which would enable the Tribunal to inquire into and determine the remuneration for departmental secretaries and other matters which are included in proposed Division 4.

Similarly, **new subsection 7(7)** at **item 5** of Part 1 of Schedule 1 to the Bill would remove the requirement for the determinations made under the new Division 4 to be tabled in the Parliament and therefore the ability of the Parliament to disallow such determinations.

## Part 2—Public Service Act

**Item 7** of Part 2 of Schedule 1 to the Bill repeals and replaces section 46 of the Public Service Act which relates to the remuneration of the Public Service Commissioner. The **new section 46** provides for the Public Service Commissioner’s remuneration and recreation leave entitlements are to be determined by the Tribunal.<sup>29</sup> Notably, **new subsection 46(5)** provides that the Agency Minister may grant the Public Service Commissioner leave of absence. This is consistent with the terms of existing section 48 which allows the Agency Minister to appoint an acting Public Service Commissioner during any period, or during all periods, when the Commissioner is absent from duty.

**Item 8** of Part 2 of Schedule 1 to the Bill repeals and replaces section 53 of the Public Service Act which relates to the remuneration of the Merit Protection Commissioner. The **new section 53** is in the same terms as new section 46—that is, it provides that the Merit Protection Commissioner’s remuneration and recreation leave entitlements are to be determined by the Tribunal and it makes formal provision for the Merit Protection Commissioner to take leave of absence.<sup>30</sup>

**Item 10** of Part 2 of Schedule 1 to the Bill repeals and replaces section 68 of the Public Service Act which relates to the remuneration of the heads of executive agencies. It is in similar terms to new sections 46 and 53 as outlined above.<sup>31</sup>

**Item 9** of Part 2 of Schedule 1 to the Bill repeals and replaces section 61 of the Public Service Act. **New Section 61** provides that remuneration and terms and conditions of secretaries are as provided by Division 4 of the Remuneration Tribunal Act.

## Schedule 2—Members of Parliament

As already stated, the Remuneration and Allowances Act provides that the annual salary for Members of Parliament is paid as a percentage of Reference Salary A. The purpose of the amendments in Schedule 2 to the Bill is to give effect to the recommendations in the Belcher Review report.

Specifically, **item 17** repeals subsection 5(2C) of the Remuneration Tribunal Act to remove the Tribunal’s power to provide advice about setting the annual allowance for members of parliament.

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29. **Item 12** of Part 3 to Schedule 1 to the Bill contains transitional provisions to save the operation of an existing remuneration determination under the Public Service Act in relation to the Public Service Commissioner, until such time as the Tribunal’s first determination in respect of that office comes into effect.

30. **Item 13** of Part 3 to Schedule 1 to the Bill contains transitional provisions to save the operation of an existing remuneration determination under the Public Service Act in relation to the Merit Protection Commissioner, until such time as the Tribunal’s first determination in respect of that office comes into effect.

31. **Item 14** of Part 3 to Schedule 1 to the Bill contains transitional provisions to save the operation of an existing remuneration determination under the Public Service Act in relation to the Departmental Secretaries, until such time as the Tribunal’s first determination in respect of that office comes into effect.

Further, **item 19** inserts **new subsection 7(8AA)** of the Remuneration Tribunal Act to remove the requirement that determinations under subsections 7(1), 7(2) and 7(4) of the Remuneration Tribunal Act, which deal with allowances for members of parliament, ministers of state and related matters, be subject to disallowance under the *Legislative Instruments Act 2003*.

**Item 20** of Schedule 2 to the Bill inserts **new section 7A** to require the Tribunal to publish reasons for the determinations under subsections 7(1), 7(2) and 7(4) of the Remuneration Tribunal Act on its website.

The amendments to the *Parliamentary Contributory Superannuation Scheme Act 1948* and the *Parliamentary Superannuation Act 2004* are consequential amendments to ensure that references to the term '**parliamentary allowance**' are consistent with the Remuneration and Allowances Act.

## Concluding comments

The focus of attention for this legislation has been on the proposal to provide the Remuneration Tribunal with the authority to set the base salary (annual allowance) for members of parliament. The Tribunal will act as the independent umpire. However, determinations will no longer be subject to parliamentary scrutiny. It is envisaged that by requiring the Tribunal to publish its reasons for a determination, it will reinforce the integrity of the scheme and remove the public disquiet when members of parliament receive a pay rise. Very little interest has focused on the proposed significant changes to how departmental secretaries and heads of executive agencies are remunerated and how their terms and conditions are set. It is in this area that there may be further developments.

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**Short History of Federal Parliamentary Base Salary**





### Short History of Federal Parliamentary Base Salary

The Australian Parliament was established by an Act of the British Parliament, the *Australian Constitution Act 1900*. That Act contained a section, Section 48, which determined that all members of the Parliament would receive an ‘allowance’ of 400 pounds per annum, until the Parliament decided otherwise. This constitutional provision raises two interesting points.

First, right from the time that Parliament had the power to make laws, it had the power to determine the remuneration of its members itself. Secondly the constitution set a single rate of pay for all members of both Houses, including for members of widely varying electorates. This is a convention that has been followed ever since – bearing in mind the effect of differential rates of Electorate Allowance, The subject of Electorate Allowance is discussed in more detail later.

The Constitution also provided, at section 66, an appropriation of money from which the salaries of Ministers of State were to be paid, with a similar provision that the Parliament itself could vary the quantum. The Parliament does this from time to time by amending the *Ministers of State Act 1952*, or by making a Regulation under that Act.

However, to vary the procedure by which ministerial salaries were paid would seem to require an amendment to the Constitution. Suffice it to say that no change to the constitutional salary setting provisions for Ministers has occurred in the 110 years since Federation.

What this means in the current context is that while the Tribunal will in future be able to determine most aspects of parliamentary remuneration, it will not be able, and has indeed never been able, to determine the salaries of Ministers of State. Rather, in accordance with this is reflected in section 6 of the *Remuneration Tribunal Act 1973*, by which the Tribunal is required to report in contrast to determine at least annually on ‘the question whether any alterations are desirable in the salaries payable to Ministers of State’. In practice, it does this by reporting on what amounts it considers, from time to time, should be paid to various classes of Ministers. The Executive sets the actual pay for individual Ministers, and this will continue. This will also be the subject of further comment later in this Report. The Tribunal does not know whether, or not, its annual report on the additional salaries of ministers has a bearing on the actual additional salaries paid to this very significant group of office holders. The Tribunal is not informed of the actual additional salaries of ministers; accordingly other than its report, it does not publish any information about them.

From the commencement of the Australian Parliament in 1901 until the early 1970s parliamentary pay was set by the Parliament itself – for instance from 1952 the ‘allowance’ (still so referred to) was set in the *Parliamentary Allowances Act 1952*, which was amended to adjust the amount a number of times. To provide an external view on these issues, the Government of the day commissioned inquiries in 1952, 1955, 1959 and in 1971. The 1971 review, conducted by Mr Justice Kerr, recommended the formation of a standing Tribunal to conduct inquiries into parliamentary pay.

While the previous *ad hoc* inquiries had done valuable work, and there was some common membership in the inquiry teams in the 1950s, it was an apparent flaw in such a process that there was no establishment of a group with ongoing knowledge and experience in the subject. The establishment of a standing Tribunal was seen as a resolution to this.

Although the establishment of a Tribunal did not immediately follow the 1971 Kerr Report, the passage of the *Remuneration Tribunal Act 1973* established the Tribunal from the commencement of 1974. From then until 1990 the Tribunal had a decisive, though not always easy, role in setting parliamentary remuneration by way of Determinations - which were disallowable, and not infrequently disallowed, by the Parliament. It is the view of the Tribunal – although the Tribunal accepts that this is not necessarily a view that is universally

shared – that many of the disallowances were based on factors other than a consideration of work value.

In short, it appeared to the Tribunal that pay adjustments were often disallowed when it was politically expedient to do so, rather than the disallowances representing an assertion that the decision of the Tribunal was wrong, in terms of setting pay for the work.

Ultimately through the passage of legislation in 1990 – specifically the *Remuneration and Allowances Act 1990* and the *Parliamentary Entitlements Act 1990* – the Parliament again asserted its own primary role in the setting of various items for parliamentarians. The first-named specifically overrode certain determinations that had been made by the Tribunal. Both of these Acts remain in force, although amendments to the *Remuneration and Allowances Act 1990* in particular, taking effect from 1 July 1991 onwards, re-established the power of the Tribunal to set certain remuneration figures – for parliamentary office holders (e.g the Speaker of the House, Whips, Chairs of Parliamentary Committees etc) for instance.

However, until the passage of ROLA, the R&A Act, the Tribunal had no direct role in setting the base pay for parliamentarians. This fact explains in large part why there had been confusion, about lines of responsibility in setting parliamentary base salary. When the R&A Act was made in 1990, the relevant section of the Remuneration Tribunal Act was not changed. On the face of it the Tribunal was still required to determine what was commonly referred to as parliamentary base salary, or more formally referred to as an allowance under section 48 of the Constitution, at periods of no more than 12 months.

The R&A Act set base parliamentary pay by linkages to other offices. Initially pay was set by reference to one, then another, fixed pay point in the Senior Executive Service pay scale for the Australian Public Service. However, the effect of enterprise bargaining in the APS, which devolved pay setting, meant that ultimately no such fixed pay point existed. Having considered advice given by the Tribunal, advice given at the Government's request, the R&A Act was further amended to link parliamentary base salary to a reference point in the Principal Executive Office classification structure that the Tribunal established under the RT Act.

In fact parliamentary pay was not linked to the reference salary per se, but rather to a 'percentage' of the reference salary. This was originally 95%, then 100%, until 2008 when the Government decided to not accept the percentage rise to the reference salary for that year.

**Assessment of the work of a federal parliamentary backbencher –  
specification given to Egan Associates**



## **Assessment of the work of a federal parliamentary backbencher – specification given to Egan Associates**

### **(Extract from contract)**

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#### **1. Proposal**

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**(see Context paragraph Error! Reference source not found.)**

- Following the passage of relevant legislation, the Remuneration Tribunal is obliged to determine the base pay of members of the Australian Parliament.
- The Remuneration Tribunal intends to conduct an assessment of the role and work value of a federal parliamentarian.
- As well a qualitative assessment, the Remuneration Tribunal will also examine quantitative factors so as to inform its consideration of appropriate remuneration.
- The Commission, the body in which the Secretariat to the Remuneration Tribunal resides, is contracting with the Service Provider to conduct a study assessing the work value (the workload and accountabilities) of a backbencher in the Australian Parliament, and to produce a report on its findings.
- The purpose of the report is to assist the Remuneration Tribunal in its considerations of appropriate reward for Members of Parliament with differing accountabilities and constituencies.
- The project has a prime focus on Members of the Federal Parliament.
- It is acknowledged that since Federation, a single rate of pay has been set for all members of both Houses and the Tribunal seeking to confirm or otherwise the efficacy of this long established practice.

#### **Limitations of study**

- The role of state/territory parliamentarians; the assistance and/or administrative support provided to parliamentarians; and the matter of additional remuneration paid to parliamentarians fulfilling additional roles to that of a backbencher; are not of primary relevance to the study.
- The study will not investigate the specific role of Ministers; shadow ministers or parliamentary office holders.

#### **2. Services**

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**(see clause Error! Reference source not found.)**

- 1) The Service Provider is to produce a composite report on the expectations of, and the workload of, a backbencher - both senator and member of the lower house - in the Australian Parliament.

Among the matters to be addressed are:

- Who becomes a member of parliament?
  - What is their background and what are their qualifications?
  - What sort of career would they be likely to have were they not in the Parliament?
  - The various roles of a member – as a representative of their electorate; as a legislator; as a member of parliamentary committees – both their outside and inside Canberra roles, as it were, should be examined;
  - Working hours;
  - Level of responsibility;
  - Job security; and
  - Other related matters.
- 2) In order to produce this report, the Service Provider will be required to interview and provide summary interview notes of at least twenty-five Members of the Parliament across party lines, while concurrently having regard to the diversity of electorates and the proximity of electorates to Canberra. The Remuneration Tribunal and its Secretariat will assist to facilitate those interviews.
- In order to ensure that members of the Tribunal are fully informed it is proposed that each member of the Tribunal participate in interviews with Members of Parliament, thus learning first hand of the nature of the role and accountabilities of a Member of Parliament. Each interview should be conducted by the Service Provider and at least one Tribunal Member.
- 3) The Service Provider should also interview and provide a summary of interview of a senior staff member of at least six members of parliament to gain their perspectives of the workload of a parliamentarian.
- 4) The Service Provider should also interview the Secretaries of the major political parties for the purpose of gaining their perspective on:
- the role of a member of Parliament;
  - whether it is difficult to attract appropriate candidates; and
  - what the challenges in attracting candidates are.
- 5) The Service Provider, having summarised the workload and nature of accountabilities of a member of Parliament, should, in the report, offer a perspective in relation to both the work load and accountability of relevant comparator employment groups in the public sector.
- 6) The Service Provider is to identify, analyse and comment on any comparators from the federal public sector that might provide indications relevant to conclusions on appropriate remuneration.
- 7) The Service Provider will also be required to provide the Tribunal with information in relation to remuneration arrangements in the private sector in regard to payment to members of professions, executives and others where work value and workload are considered to be comparable.

## 8) General questionnaire

As an integral component of the project and as a complement to the interview program outlined above, all parliamentarians are to be afforded the opportunity to respond to a questionnaire aimed at elucidating information about their workload and its composition.

The Service Provider will need to:

- frame the questionnaire so as to complement the themes to be covered in interview; and
- incorporate the analysis of the responses received into the report.

The content of the questionnaire is to be settled in consultation with the Tribunal.

It is expected that this element of the project could be undertaken 'on-line' (by, for example, forwarding a copy of the questionnaire to each parliamentarian by e-mail).

The Tribunal's Secretariat will assist in this task, as appropriate – by, for example, providing information relevant to the framing of the questionnaire.

## 9) Quantitative Component

The Tribunal will also examine quantitative factors so as to inform its consideration of appropriate remuneration.

Accordingly, the Tribunal requires the report to include an assessment of public and private sector comparators (including the reasons for their being selected as comparators). In this regard, it is noted that federal public sector comparators (such as SES officers) have been identified previously in respect of parliamentarians; their effectiveness and continuing relevance is to be assessed.

The Tribunal accepts that this element of the work might best be undertaken on a primary Service Provider/subcontractor basis - with responsibility for the overall completeness of the work being vested in the primary Service Provider but with the particulars of the task of the subcontractor being settled in close consultation with the Tribunal.

The subcontractor will be provided with a comprehensive statement of the role of a Member of Parliament as a foundation for their work and would be briefed by the Service Provider and/or the Tribunal.

It should be noted that in conducting the research, the Service Provider will identify:

- the workload, role and accountability of Members of Parliament in respect of their work in the Parliament, including membership of Joint Committees, Standing Committees, ad-hoc committees, informal committees and Select committees; and
- their administrative responsibilities in relation to their role as Members of Parliament and in respect of their electoral office and their role in a political party is also to be considered.



**Electorate Allowance - background**



## **Electorate Allowance - background**

**Prior to 1952** – A member of parliament received a salary (or parliamentary allowance) out of which he or she paid all expenses except those reimbursed by stamp and travelling allowances. (Some travel and telephone facilities were also provided.)

The whole of the member's salary was included in assessable income for taxation purposes, but some deductions for expenses incurred were allowed.

**1952** – The *Committee of Enquiry into the Salaries and Allowances of Members of the National Parliament* recommended that each parliamentarian should receive, in addition to his or her salary, "an annual sum not liable to taxation or to statutory deduction [in respect of the weekly contribution to the member's retiring allowance fund] which would supersede any deduction for expenses now made by the Commissioner for Taxation".

The Committee observed that "a senator, although he represents the State as one electorate, is not faced with the same calls nor is he so closely in contact with his constituents as a member of the House of Representatives". Accordingly, it recommended "that the sum payable [to a senator should] be £550 per annum" (approximately \$1,100).

With respect to members of the House of Representatives, the Committee recommended that the electorates should be divided into five groups and that each member should be paid "the amount tax free set out below, opposite the number of the group in which his electorate is included":

Group I	£400 (approximately \$800)
Group II	£500 (\$1,000)
Group III	£600 (\$1,200)
Group IV	£750 (\$1,500)
Group V	£900 (\$1,800)

Group I included mainly urban electorates. Group V comprised the largest electorates.

The Committee noted evidence "that in a number of instances the amount available to a member or senator after taking account of the expenses necessarily or actually incurred in the performance of his duties was less than half his nominal salary and in some instances was less than the basic wage".

The Committee's recommendations were adopted via the *Parliamentary Allowances Act 1952*.

**1956** – The 1956 *Committee of Inquiry into the Salaries and Allowances of Members of the Commonwealth Parliament* recommended that the "electorate and other parliamentary expenses" allowance should be as follows:

Members whose electorates are classified under Group I	£600 pa (\$1,200)
All other Members	£800 pa (\$1,600)
All Senators	£700 pa (\$1,400)

Electorates under Group I, as before, included urban electorates.

The Committee's recommendation was based on the view that there was "a difference between the expenses of a city Member who travels his electorate and returns home every evening and a country Member or Senator who has hotel bills and extra travelling expenses to meet". It also considered that "all Members representing country electorates should be paid the same rate of electorate allowance".

The Committee noted also that it sought to "reimburse a Member for what he spends in legitimate expenses" and to "minimise the number of points of entry into the public purse – by making the electorate allowance as all-embracing as possible".

The Committee also recommended the removal of the allowance's tax free status as "no section of the community should receive as an allowance for their expenses any sum of money which is statute barred from income tax".

The Committee's recommendations were adopted.

**1959** – The 1959 *Committee of Inquiry into the Salaries and Allowances of Members of the Commonwealth Parliament* recommended that the *Parliamentary Allowances Act 1952-1956* be amended to increase the rates of allowance, slightly changing the composition of the urban electorate group specified in the Schedule.

The Committee observed that the rates recommended were "no more than sufficient to ensure that Members shall have available for the maintenance of themselves and their families, for the upkeep of their homes, for the education of their children, and for the outgoings normally paid by persons in private employment out of their remuneration, the full amount of their parliamentary salaries (less, of course, the compulsory Retiring Allowance contributions)".

The Committee also noted that the expenses which it expected to be covered by the electorate expense allowance included:

- postage;
- travelling within the electorate by the senator or member's own car, public transport, hire-cars and taxi cabs, "with some provision for car depreciation and repairs";
- donations, subscriptions, etc;
- telephone rental and local calls from home;
- accommodation and living expenses associated with interstate tours and visits to the Territories;
- for country senators and members, travelling expenses for accommodation on trips within the electorate;
- obligatory entertainment expenses within the electorate and in Canberra.

The above recommendations were adopted via the *Parliamentary Allowances Act 1959*.

**1964** – The *Parliamentary Allowances Act 1964* put in place the following rates:

Senators	£1,050 [\$2,100]
Members: city electorates	£1,100 [\$2,200]
Members: country electorates	£1,300 [\$2,600].

**1968** – The rates were adjusted upwards by the *Parliamentary Allowances Act 1968*.

**1970** – The *Parliamentary Allowances Act 1970* brought the rate for senators up to the rate for city members (with no change to that rate). In addition, the composition of the urban electorate group was changed to reflect the 1968 distribution of electorates.

**1971** – Mr Justice John Kerr conducted an inquiry into the *Salaries and Allowances of Members of the Parliament of the Commonwealth*. He recommended that "the present classification of electorates into city (or urban) and country electorates continues and that the electorates categorised as those attracting the lower rate be those currently listed in the schedule to the *Parliamentary Allowances Act*". He also proposed that "the annual rate of electorate expenses allowance for Senators be \$3,200, for Members representing city (or urban) electorates be \$3,200, and for Members representing country electorates be \$4,100".

The Government broadly accepted Mr Justice Kerr's recommendations, but thought it desirable to "give a lead in moderation and restraint in the field of wage and salary increases".

**1973** – A single rate of \$4,100 pa was set for all senators and members.

**1974** – In its first determination on the electorate allowance, the Remuneration Tribunal maintained the rate set in 1973. On 25 July 1974, however, the Senate disapproved all the Tribunal's initial determinations on parliamentarians' salaries and allowances.

**1975** – The Tribunal made a determination which again set the allowance at \$4,100 pa for all senators and members.

**1976** – The Tribunal, via *Determination 1976/6*, increased the rate of electorate allowance and, based on electorate size, reintroduced two levels of allowance for members of the House of Representatives.

The Tribunal noted that “while the items covered by electorate allowances vary from State to State” most State parliamentarians had higher electorate allowances than senators or members.

With respect to the reintroduction of the two levels of allowance, the Tribunal considered it appropriate to make this change as “expenses necessarily incurred by members of the Parliament from large electorates exceed those of members from the geographically smaller electorates due to dispersal of population over large areas”. However, it “conformed to past practice in relating the electorate allowance for senators to the lower rate”.

It should be noted that *Determination 1976/6* also included a number of entitlements covering items previously paid for out of the electorate allowance.

**1977** – The Tribunal increased the rates of electorate allowance (*Determination 1977/8*), noting that these increases were broadly in line with the movement in the Consumer Price Index (CPI) (excluding hospital and medical services) since the last review. The Tribunal also determined that the highest rate would apply to a member representing an electorate with a population of 120,000 persons or more.

**1978** – The Tribunal again increased the rates of electorate allowance (*Determination 1978/8*). It noted that it expected the allowance to “meet expenditure for the following: a major part of travel within the electorate, in particular private vehicle running expenses, and any accommodation within the electorate in excess of the existing entitlement; accommodation expenses when travelling within Australia on party committee business; entertainment expenses within the electorate and in connection with parliamentary duties elsewhere in Australia; donations and subscriptions including those to clubs, and associations; office equipment and supplies additional to the standard supply, such as repetitive typewriter, subscriptions to journals and telephone services and postage in addition to the entitlements determined”.

The Tribunal also removed the references to population size of the electorate, based on changes which meant that disparities between electorates had been greatly reduced.

**1980** – The Tribunal increased the rates of electorate allowance to “take reasonable account of higher costs” (*Determination 1980/6*).

**1981** – By *Determination 1981/10*, the Tribunal increased the rates of electorate allowance to reflect “higher costs including motor vehicle running expenses and accommodation expenses”. The Tribunal also noted that “accommodation and associated expenses, such as those incurred whilst travelling on party Committee business and for a major part of electorate travel, should continue to be met from the electorate allowance”.

**1982** – The Tribunal, via *Determination 1982/8*, reintroduced a rate of electorate allowance based on the population size of the electorate. The new rates, which were in line with the CPI increase, were as follows:

“Electorate Allowance:

- (i) A senator shall receive an electorate allowance at the rate of \$14,000 per annum.

- (ii) A member of the House of Representatives shall receive the following electorate allowance:
- electorate of less than 5,000 square kilometres
    - at the rate of \$14,000 per annum
  - electorate of population of 140,000 or more
    - at the rate of \$17,000 per annum
  - electorate of 5,000 square kilometres or more
    - at the rate of \$20,300 per annum."

**1984** – In April 1984, the Tribunal increased the rates of electorate allowance (*Determination 1984/7*). The Tribunal noted that since the allowance was last adjusted, the CPI had increased by 18%. The increase determined by the Tribunal, having regard to the Wage Principles established by the Australian Conciliation and Arbitration Commission, was 15%.

The *Remuneration and Allowances Act 1984* subsequently modified the *Determination* to reduce the rates set by the Tribunal (later reflected in *Determination 1984/15*).

**1985** – Once again, the Tribunal removed the references to population size from the relevant provisions of the *Determination* (now *Determination 1985/8*) and reverted to two (increased) rates of electorate allowance.

**1986** – The Tribunal (via *Determination 1986/8*) adjusted the rates of allowance to reflect cost movements since 1985 and split the existing lower tier for members into two tiers:

"A senator or member shall receive an electorate allowance as follows:

	Rate per annum of <u>electorate allowance</u> \$
senator	17,329
member - electorate of less than 2,000 square kilometres	17,329
- electorate of 2,000 square kilometres or more but less than 5,000 square kilometres	20,605
- electorate of 5,000 square kilometres or more	25,127."

The change was made in response to submissions received from members claiming that additional costs were involved in servicing electorates of 2,000 to 4,999 square kilometres when compared with electorates under 2,000 square kilometres, "the vast majority of these latter electorates being urban or city electorates with a minimum country influence".

In addition, the Tribunal indicated that one of the significant facts arising from the expenditure review "was the impact the fringe benefits tax is having, or may have, on the dollar value of the electorate allowance". In this context, it "accepted that certain items of expenditure expected to be met from such allowance will no longer be tax deductible".

In wider developments, changes to income tax legislation permitted deductions to be claimed for employment-related expenses only if the claim could be substantiated by receipts or other specific records. The Australian Taxation Office (ATO) noted that expenditures met by parliamentarians out of electorate allowances were subject to the new statutory requirements.

**1987** – The Tribunal increased the rates of electorate allowance in accordance with "movements in the eight capital cities consumer price index" (*Determination 1987/14*).

**1988** – The Tribunal again adjusted the electorate allowance rates in line with CPI movements in the eight capital cities (*Determination 1988/15*).

The consultancy firm Cullen Egan Dell's commissioned *Report on Pay and Allowances for Members of Parliament* was finalised in November 1988. It recommended, amongst other things, that all members and senators "irrespective of their electorate size, should be given an annual electorate allowance of \$10,000. This allowance will be provided to cover electorate expenses other than transport, accommodation, and communication".

**1989** – In November 1989, as an interim measure following various delays, the Tribunal increased the rates of electorate allowance (*Determination 1989/14*).

**1990** – No change was made to the rates or structure of the electorate allowance via *Determination 1990/13*. However, the Tribunal determined that a senator or member should be given, at his or her request, a standard private plated vehicle (PPV) for the purpose of carrying out parliamentary duties and for other usage. Recourse to the new entitlement meant an adjustment to salary/electorate allowance of \$6,000 pa (*Determination 1990/14*).

In its *Statement on Private Plated Commonwealth Vehicles for Use by Members and Senators*, the Tribunal noted suggestions put to it that parliamentarians who took up the option of a standard PPV would be taxed on the amount of the electorate allowance which they would have received had they not chosen to have such a vehicle, notwithstanding that the effective rate of the allowance had been reduced by the amount attributed to the vehicle. In order to prevent this from occurring, the Tribunal varied the electorate allowance provisions to specify the actual (reduced) electorate allowance rates for those who took up the option of a standard PPV (*Determinations 1990/23 and 1990/24*).

**1992** – The Tribunal again increased the rates of electorate allowance (*Determination 1992/10*). It noted that it was “satisfied that since 1978 the services which Members are expected to provide, in particular to their constituents in their electorate, have expanded very substantially”. Conversely, it also noted that there had been significant changes such as “the option of a private plated vehicle to assist the Member in travel within the electorate and otherwise”. In addition, other matters which the electorate allowance had previously covered were now “specifically provided for”.

It concluded that the provision of a lump sum electorate allowance was still warranted based on “the undesirability of close supervision, by Government or the Tribunal, of the manner in which a Member chooses to serve his electorate: this is a matter which, in principle, and within appropriate limits, a Member is entitled to determine for himself”. In this respect, it regarded the necessity to demonstrate electorate allowance expenditure for income tax purposes as a useful “check on what is expended”.

**1993** – The Tribunal increased the electorate allowance rates and removed (as no longer necessary) the two rates of allowance within each category (*Determination 1993/18*).

**1995** - The Tribunal increased the rates of electorate allowance (*Determination 1995/22*).

**1996** – Taking into account movements in the CPI, the Tribunal again increased the rates of electorate allowance (via *Determination 1996/19*).

**1997** – The Tribunal undertook a detailed review of parliamentarians’ remuneration and allowances but made minimal changes to the electorate allowance as a result.

The Tribunal reiterated that it was not practicable to specify comprehensively all the legitimate expenses which might be covered by the electorate allowance. It noted, however, that many expenses were readily identifiable and covered in advices from the ATO. These included:

- attendance at functions in the electorate (e.g. tickets, donations, purchases at fetes);
- donations to appeals and organisations including churches and political parties;
- expenses associated with being the patron of an organisation;
- presentations for school speech days, sporting clubs, senior citizens awards etc;
- additional telephone and postage costs beyond those met by the Commonwealth;
- newspaper and periodical subscriptions beyond those provided by the Commonwealth;
- subscriptions to organisations (e.g. political, parliamentary and professional);

- replacement of, or cost of capital additions to, equipment for use in discharging parliamentary or electorate duties where these were not provided by the Commonwealth (e.g. personal tape recorder, home computer and software);
- replacement of, or cost of additions to a professional library;
- replacement of home office facilities in a room set aside for official duties, and lighting and heating of a home office;
- additional full-time, part-time or casual secretarial assistance and wages to spouse for electorate duties performed from time to time;
- accommodation and meals while travelling on business throughout the electorate;
- spouse costs when representing a member at official functions in special circumstances (e.g. due to illness) and specifically allowable functions;
- additional fares, accommodation, meals and transport associated with official overseas travel other than where these costs were met by the Commonwealth; and
- referendum campaign and election expenses or expenses in contesting an election.

**2000** – The Tribunal again adjusted the electorate allowance (*Determination 2000/2*).

**2003** – The Tribunal noted that it had received submissions seeking funds to cover venue hire and conference expenses. It considered these items covered by the electorate allowance.

**2009** – The provisions regarding electorate allowance were instituted in their current form via *Determination 2009/04*, which amended the Principal Determination, *Determination 2006/18*.

The amendments provide a standard base amount of electorate allowance plus supplementary amounts for those members of the House of Representatives whose electorates exceed 2,000 square kilometres in size.



**Life Gold Pass - background**



### Life Gold Pass (LGP) - background

**1918** – The LGP's predecessor – the Life Railway Pass - was introduced following an agreement at the May 1918 Premiers' Conference. The original entitlement was to railway travel over Federal and State railways for life, with the following qualifying periods:

Prime Minister	1 year in office;
Premier	
President of the Senate	3 years in office;
President of the Legislative Council	
Speaker of the House of Representatives	
Speaker of the Legislative Assembly	
Cabinet Minister	4 years in office.

Until the late 1950s, service in a State Parliament and service in the Commonwealth Parliament could be added together in order to determine the qualification.

**1920** – The qualifying period for Cabinet Ministers was reduced from four to three years.

**1925** – The entitlement was extended to Commonwealth members and senators after 25 years of continuous service.

**1929** – The entitlement was extended to the Leader of the Opposition after a qualifying period of six years service.

**1935** – 25 years continuous service was amended to 25 years aggregate service for Commonwealth members and senators.

**1959** – Following the recommendation of the 1959 *Committee of Inquiry into the Salaries and Allowances of Members of the Commonwealth Parliament*, the Government agreed to expand the overall entitlement to include air travel within Australia. The Government also agreed to reduce the qualifying period for the Leader of the Opposition from six to three years.

The Committee of Inquiry also reiterated a 1956 recommendation that the LGP be issued on retirement only. It appears that this recommendation was being progressively applied, as contemporary documents list a number of sitting members and senators who had already qualified for the LGP but who would not be issued with passes until their retirement.

**1965** – The qualifying period for members (and senators?) was reduced from 25 to 20 years, or service in seven Parliaments.

**1973** – The Minister for Services and Property directed that spouses or widows/widowers of an LGP holder would be eligible to air and mainline rail travel on the same basis as the LGP holder, reportedly in recognition of the fact that they shared the burden of political life.

In addition, Cabinet agreed to modify the LGP qualifying periods to:

Prime Minister	1 year or the life of 1 parliament;
President of the Senate	3 years or the life of 1 parliament;
Speaker of the House of Representatives	
Minister	
Leader of the Opposition	
Member/Senator	20 years or service in 7 parliaments.

**1975** – The Minister directed that the LGP be issued upon eligibility. Later that year, following a change of government, the pre-1973 qualifying periods were restored.

**1976** – The Remuneration Tribunal was given determinative jurisdiction over the LGP. In its Review Statement published that year, the Tribunal noted that the LGP was “a special reward for long and faithful service and for holding the highest elected offices in Australia”. It also noted that the LGP recognised “the residual demands involving time and travel placed on public figures after they cease to hold office”.

The original provisions of the Tribunal's *Determination 1976/6* were as follows:

- 2.28** A senator or member, on retirement from the Parliament, shall be eligible for the issue of a Life Gold Pass entitling the holder to travel at official expense for non-commercial purposes within Australia on scheduled commercial/commuter air services, mainline rail services and other government services, or by motor coach or other vehicles operating as regular carriers.
- 2.29** The following qualifying periods shall apply to eligibility for the issue of a Life Gold Pass:
- |       |  |   |
|-------|--|---|
| (i)   | <u>Office</u><br>Prime Minister<br>Ministers<br>President of the Senate<br>Speaker of the House of Representatives<br>Leader of the Opposition<br>Senators and members   | <u>Qualifying Period</u><br>one year<br>six years<br><br>twenty years or the life of seven<br>Parliaments |
| (ii)  | a person who has served as Prime Minister for less than one year, or a minister, presiding officer or Leader of the Opposition who has held office for less than six years, shall have that period doubled in determining his eligibility for a Life Gold Pass by way of service as a senator or member; |   |
| (iii) | periods of broken service may be accumulated.  |   |
- 2.30** A Life Gold Pass holder who has served as Prime Minister shall be entitled at official expense, to first class travel.
- 2.31** A Life Gold Pass holder who has not served as Prime Minister shall be entitled at official expense to:
- |       |   |
|-------|---|
| (i)   | first class travel on all modes of transport other than air travel; and |
| (iii) | economy class travel on air flights.                                    |
- 2.32** The spouse of a Life Gold Pass holder shall be entitled to accompany the holder at official expense at the class of travel determined in 2.30 and 2.31, as appropriate.
- 2.33** A widow or widower, as the case may be, of a Life Gold Pass holder shall be entitled to travel at official expense for a period of twelve months from the death of the Pass holder.
- 2.34** The Life Gold Pass holder issued to a sitting senator or member shall be suspended until he retires from the Parliament."

**1977** – The Tribunal determined that “a person who has served as Prime Minister for less than one year, or a minister, presiding officer or Leader of the Opposition who has held office for less than six years, shall have that period trebled in determining his eligibility for a Life Gold Pass by way of service as a senator or member” (*Determination 1977/9*).

In addition, the provisions regarding class of travel were amended to ensure that persons utilising the entitlement were entitled to the same class of travel as determined from time to time for sitting senators or members for travel within Australia.

**1980** – The Tribunal determined that “the spouse of a sitting senator or member who has satisfied the [LGP] 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” (*Determination 1980/8*).

**1981** – The Tribunal determined that the life of seven parliaments could also include the life of six parliaments plus a further period of three years service (*Determination 1981/13*).

**1984** – The Tribunal tightened the wording of the clauses relating to qualifying periods in order to prevent possible misinterpretation (*Determination 1984/18*). In addition, it made two changes to the entitlements of spouses by excluding travel by spouses on “metropolitan rail, bus and tram services”; and providing that the widow or widower of a “senator or member who dies in office and who has at the time of death qualified for a life gold pass” is also entitled to travel at government expense for a period of 12 months from the death of the senator/member.

**1991** – The Minister for Administrative Services agreed that persons with a LGP entitlement could use the Commonwealth car-with-driver service (COMCAR) for travel to and from the

airport nearest their home and to and from the point of destination in the city being visited. This approval appears to have extended to travel to and from railway stations as well as parking costs if a pass-holder used his or her car instead of the COMCAR service.

**1994** – The Tribunal introduced a limit of 25 return trips pa to apply to future pass-holders (*Determination 1993/18*).

**1998** – The Tribunal determined that frequent flyer points accrued using the LGP should only be used to reduce the cost of future LGP travel by the person accruing the points. Related guidelines were inserted into the relevant Determination (*Determination 1998/1*).

The Tribunal also determined that travel “within Australia” should exclude the external Territories (i.e. Christmas Island, Norfolk Island and the Cocos (Keeling) Islands).

Elsewhere in *Determination 1998/1*, the Tribunal determined that when travelling within Australia by air or rail at government expense, sitting senators or members would now be entitled to “either first class or business class, whichever is appropriate for the mode of transport used”. This change also applied to pass holders.

**2000** – Parliamentary Secretaries were allowed to qualify for the LGP on the same basis as senators and members. In addition, the Tribunal specified that the entitlement now extended to enabling a spouse to travel for the purposes of “joining” (not just accompanying) the pass-holder (*Determination 2000/02*).

**2001** – The Auditor-General’s report on *Parliamentarians’ Entitlements: 1999-2000* found that the parliamentary entitlements framework, including the LGP, was poorly structured, too complex and not sufficiently transparent. The Prime Minister subsequently announced that future expenditure by pass-holders would be publicly disclosed and that legislation would be introduced to limit all future former Prime Ministers to 40 publicly funded domestic trips a year and all pass-holders (and certain spouses who qualified under previous arrangements) to 25 domestic trips a year.

**2002** – The *Members of Parliament (Life Gold Pass) Act 2002* (the Act) established a uniform set of arrangements for all pass-holders, their spouses and their widows or widowers. It also provided a mechanism for withdrawing the benefit of travel from pass-holders following conviction of a “corruption offence”.

The Tribunal retained determinative jurisdiction only in relation to qualifying periods for the LGP and to principles associated with general travel (such as frequent flyer point requirements) where these were not inconsistent with the Act.

The ability to use COMCAR for trips connected with the LGP entitlement was also withdrawn by the Government (except with respect to former Prime Ministers).

**2004** – The Tribunal recommended that, as a general principle, pass-holders should certify in writing that their travel was for non-commercial purposes.

The Tribunal also made a change to the class of travel determined for senators and members (via *Determination 2004/22*) as follows:

**“2.6** When a senator or member is travelling by air, rail or sea at government expense, the fare shall not exceed the cost of a business class air fare for the most reasonable and usual route, between the departure and destination points. Where a business class air fare is not published for the destination point, the cost to the Commonwealth of travel by air, rail or sea must not exceed the economy class air fare for the most reasonable and usual route, between the departure and destination points. The Special Minister of State may approve payment of the full cost of the fare for travel on an alternative mode of transport where a senator or member provides a medical certificate which states that he or she is unable to travel by air.”

As the Act applied the same class of travel to pass-holders as determined by the Tribunal from time to time for serving parliamentarians, this change also affected the LGP entitlement.

**2008** – The Act was amended by the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws - General Law Reform) Act 2008* which, amongst other things, extended the LGP travel entitlements to include the de facto partners (“whether of the same or a different sex”) of pass-holders.

**2009** – The Members of Parliament (Life Gold Pass) Regulations 2002, which prescribe the kinds of circumstances which constitute “exceptional circumstances” for the purposes of Part 7 of the Act, were amended to bring them into line with the new de facto partner provisions in the Act.

**2011** – The Tribunal determined that pass holders could donate their frequent flyer points to charity (*Determination 2011/18*).

**Severance Travel - background**





## Severance Travel - background

**1973** – The Government introduced a system entitling former senators and members with at least eight years' parliamentary service to unrestricted travel within Australia for the same number of years as they had served in Parliament. The entitlement was abolished in 1975.

**1976** – The Remuneration Tribunal noted in its *1976 Review* that “after a senator or member completes his term of office there is usually a period in which he is invited to public functions, asked to give talks and is involved in servicing requests from his former constituents”. Accordingly, the Tribunal determined, via *Determination 1976/6*, as follows:

**“2.35** A senator or member, not qualifying for a Life Gold Pass on retirement, shall be eligible to travel at official expense for non-commercial purposes within Australia on scheduled commercial/commuter air services, mainline rail services, or by motor coach or other vehicles operating as regular carriers, for the following periods:

- service in one Parliament – travel for a period of six months from the date of retirement from the Parliament;
- service in two Parliaments – travel for one year from the date of retirement from the Parliament; and
- service in three or more Parliaments – travel for a period of two years from the date of retirement from the Parliament.

**2.36** A former Prime Minister shall be entitled at official expense to first class travel.

**2.37** A senator or member who has not served as Prime Minister shall be entitled at official expense to:

- (i) first class travel by mainline rail; and
- (ii) economy class travel on air flights.

**2.38** Severance travel does not extend to the spouse of a senator or member.”

**1977** – The Tribunal varied the period of travel to apply from the date of retirement for those with service in more than three Parliaments as follows:

- service in four Parliaments – three years;
- service in five Parliaments – four years;
- service in six Parliaments – five years.

In addition, the Tribunal amended the provisions regarding class of travel to ensure that all persons (including former Prime Ministers) utilising the entitlement were permitted the same class of travel as determined from time to time for sitting senators or members (*Determination 1977/9*).

**1978** – The Tribunal determined that periods of broken service could not be accumulated for the purpose of establishing the entitlement (*Determination 1978/9*).

**1979** – Following a number of submissions from senators and members, the Tribunal reversed its 1978 decision concerning the accumulation of broken periods of service, subject to any future entitlements being reduced by the amount already utilised (*Determination 1979/10*).

**1993** – In line with similar changes made to the Life Gold Pass (LGP) entitlement, the Tribunal introduced a cap of 25 return trips pa for members and senators with service in two or more Parliaments. For those with service in only one Parliament, travel was capped at 12 return trips (*Determination 1993/18*).

**1998** – The Tribunal determined that frequent flyer points accrued as a result of severance travel could only be used to reduce the cost of future severance travel 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 relevant Determination (*Determination 1998/1*).

The Tribunal also determined that travel “within Australia” should exclude the external Territories (i.e. Christmas Island, Norfolk Island and the Cocos (Keeling) Islands).

In its January 1998 *Statement on Members of Parliament – Remuneration and Allowances*, the Tribunal noted that the Government had sought its view on whether periods of broken service, for which severance travel had already been claimed, could be counted again for eligibility for a LGP. The Tribunal advised that “double counting should not occur”.

**2001** – The Auditor-General’s report on *Parliamentarians’ Entitlements: 1999-2000*, released in August 2001, found that the parliamentary entitlements framework was poorly structured, too complex and not sufficiently transparent. The criticisms of severance travel were similar to those made regarding the LGP entitlement. They related, in the main, to information systems and administrative procedures which did not provide a sound basis for managing the entitlement.

On 27 September 2001, the Prime Minister issued a press release which announced, amongst other things, that future expenditure by severance travel beneficiaries would be publicly disclosed on a six monthly basis.

**2003** – The Tribunal moved the provisions regarding frequent flyer points to another part of the relevant Determination (*Determination 2003/14*).

**2004** – Referring in its April 2004 *Statement – Annual Review of Parliamentary Allowances for Expenses of Office* to the need for greater accountability and transparency of former parliamentarians in relation to their use of the severance travel entitlement, the Tribunal included a provision requiring those undertaking severance travel to certify in writing that their travel was for non-commercial purposes “in accordance with guidelines developed by the Special Minister of State” (*Determination 2004/10*).

**2011** – The Tribunal determined that severance travellers could donate their frequent flyer points to charity (*Determination 2011/18*).

**Overseas Study Travel - background**



## Overseas Study Travel - background

**Late 1960s onwards** – According to a Cabinet submission prepared in 1972, senators and members were able to apply travel entitlements within Australia, Australia's external Territories and New Zealand, towards the cost of overseas travel.

**1973** – The incoming Government introduced a system whereby senators and members, in the life of a Parliament, could convert travel entitlements to Australia's external Territories and New Zealand towards the cost of an overseas trip. At the time, the maximum value of this conversion was \$2,100. A spouse of a senator or member could also convert the costs of the entitlement to an interstate trip (then \$400 pa) towards the cost of an overseas trip when accompanying the senator or member. In each case, any credits could only be carried over to the following Parliament. The system was suspended in 1975.

**1976** – The Remuneration Tribunal indicated in its 1976 *Review* that it had decided to reinstate an overseas study travel entitlement for parliamentarians "because of Australia's geographical isolation and the benefits to be gained by senators and members of the Federal Parliament from seeing at first hand the social and political trends and developments in other countries". Accordingly, the Tribunal made its first determination in respect of overseas study travel (via *Determination 1976/6*), as follows:

**"2.47** A senator or member shall be entitled to financial assistance from the Government in order to enable him to travel outside the Commonwealth of Australia for the purpose of undertaking studies and investigations of matters related to his duties and responsibilities as a member of the Parliament.

**2.48** The conditions upon which such financial assistance may be obtained and used are as follows:

- (i) there is no entitlement until a senator or member has completed three years' service in the Parliament. For this entitlement service in the Parliament shall be deemed to commence from the date on which a senator or member is first entitled to receive salary and allowances;
- (ii) after becoming eligible for the entitlement a sitting senator or member shall be credited with an amount of money equal to the cost of a round-the-world (Canberra to Canberra) first class air fare, which credit may then be drawn upon by the senator or member for overseas study travel pursuant to these conditions;
- (iii) a credit equal to the cost of a round-the-world (Canberra to Canberra) first class air fare shall be made to an eligible sitting senator or member once only in the life of each Parliament. The cost of the round-the-world air ticket, for the purpose of the calculation of the credit, shall be the cost at the date of the first use of the credit by the senator or member in the life of the Parliament in which the credit falls due;
- (iv) this credit may be used by a senator or member for the cost of fares only and shall not be used for accommodation, living expenses and incidental matters nor for any part of the cost of a 'package' tour other than the fare component;
- (v) this credit is available for use on more than one overseas study journey during the life of a Parliament;
- (vi) this credit may be used towards the cost of the fares only of a spouse accompanying the senator or member on an overseas study journey, and shall not be used towards the cost of accommodation, living expenses and incidental matters incurred by the spouse, nor for any part of the cost of a 'package' tour other than the fare component; and
- (vii) a credit, or part thereof, which has not been used during the life of one Parliament by an eligible senator or member may be carried forward to be used by a sitting senator or member during the life of the next Parliament, provided that an unused credit may be carried forward to be used only during the life of that next Parliament, and provided further that the maximum amount of the unused credit which may be carried forward is one-half of the cost of a round-the-world (Canberra to Canberra) first class air fare.

**2.49** A sitting senator or member shall not be permitted to draw upon the credit available to him for overseas study purposes unless and until he has submitted to the Minister for Administrative Services, prior to his embarking upon the overseas journey, a statement in writing setting out fully:

- (i) the purpose or purposes of the journey,
- (ii) a detailed itinerary of the places intended to be visited,
- (iii) the names and positions of persons with whom it is intended that discussions be held; and
- (iv) whether or not the senator or member will be accompanied by his spouse.

(A copy of the above statement may be obtained from the Minister upon request by any member of either House of the Parliament and the statement may be tabled in the Parliament at the discretion of the Minister.)

**2.50** The entitlement of a senator or member to travel at official expense within Australia on parliamentary or electorate business shall not be used to offset the cost of overseas study travel.

- 2.51** The entitlement of a spouse to travel within Australia at official expense, shall not be used to offset the cost of overseas study travel.
- 2.52** The entitlement to overseas study travel shall cease when a person is no longer a member of Parliament and no travel is to be initiated following the dissolution of Parliament. No travel shall be initiated by a senator after the writs for an election for his seat have been issued unless and until he is subsequently re-elected to the Senate."

*Determination 1976/6* also contained a provision restoring credits applicable to overseas travel as at 11 November 1975 "up to the limit set by the new system for accumulation from one Parliament to the next".

**1977** – The Tribunal determined that the written statement to be provided to the Minister for Administrative Services prior to travel must include information concerning the length of the proposed visit. The requirement that it should also list the names and positions of persons with whom meetings would be held was omitted (*Determination 1977/9*).

**1978** – The Tribunal clarified the provisions regarding the initiation (or commencement) of travel by senators around the time of an election. It also determined that senators or members may "initiate travel from the declaration of a poll re-electing the senator or member to the Parliament" (*Determination 1978/9*). In addition, the Minister was provided with the discretion, in "special circumstances", to allow travel to be initiated by a senator or member from the date of the poll and prior to the declaration of the poll.

**1980** – A provision allowing carried forward credits to be "adjusted at the time of any subsequent use ... in accordance with the percentage movement in the cost of the said air fare since the latest use of the entitlement by the senator or member" was inserted into *Determination 1980/8*.

**1981** – The Tribunal specified that a round-world airfare meant a "Canberra-London-Canberra via Eastern Hemisphere Route and Atlantic-Pacific Route" airfare (*Determination 1981/13*). In addition, the cost of fares was expanded to include "charter and hire transport charges".

**1982** – The use of the entitlement to pay for "ship cruises" was proscribed by the Tribunal (*Determination 1982/11*).

**1984** – Following a submission from the Government, the Tribunal extended the entitlement to include a "nominee" with whom the senator or member had "established a bona fide stable domestic relationship" (*Determination 1984/18*).

The Tribunal also decided that some actual accommodation and subsistence costs could be covered by the entitlement "up to a maximum of one third of the cost of fares, including charter and hire transport charges".

**1986** – All references to a "nominee" in relation to the entitlement were removed from the then current determination (*Determination 1986/11*) by the *Remuneration and Allowances Alteration Act 1986*. The amendment relating to nominees was put forward by Senator Brian Harradine.

**1992** – The Tribunal inserted a new provision into the relevant Determination noting that "spouse" in relation to a senator or member was "as defined in the *Parliamentary Entitlements Act 1990*" i.e. "a person who is living with the [senator or member] on a genuine domestic basis although not legally married to the [senator or member]" (*Determination 1992/10*).

The Tribunal also decided to increase the limit on reimbursement of accommodation and subsistence costs from one third to half the cost of the fares for the visit. This was in line with the Government's submission that airfares "have tended to become more flexible and on occasion reduce as a result of structural changes within the airline industry", while accommodation and subsistence costs "have tended generally to increase and to be subject to great variation around the world".

**1998** – The Tribunal, via *Determination 1998/1*, made a number of modifications including:

- changing the qualification period so that broken service could be counted “provided that the re-election occurs within 6 years of leaving Parliament”;
- removing the limit on reimbursement of accommodation and subsistence costs actually incurred, within the overall limit specified in the provisions;
- requiring the submission within 30 days of return of a post-study travel statement outlining any changes to the purpose and itinerary for the visit, main findings or outcomes, and the relevance of the tour to the senator’s or member’s parliamentary responsibilities;
- banning the use of the entitlement where the senator or member did not submit a pre- or post-study travel statement; and
- mandating that frequent flyer points accrued as a result of overseas study travel could only be used to reduce the cost of future travel under the provisions of the Determination by the person accruing the points and that the details of such usage should be reported to the Special Minister of State.

The changes regarding travel statements were proposed by the Government. The other changes were made for consistency with other entitlements or were made to ensure that senators or members could “design their study tours to maximum effectiveness in line with the purpose of the visit”.

**2003** – The Tribunal decided to make a number of changes to the entitlement, via *Determinations 2003/14* and *2003/20*, including:

- extending the range of reimbursable items, within the overall limit specified in the provisions;
- providing the flexibility for spouses to join, rather than to just accompany, senators and members travelling overseas;
- enabling senators and members in exceptional circumstances, with “the prior approval of the Special Minister of State”, to submit pre-study travel statements after travel has commenced;
- introducing a time limit for the lodgement of reimbursement claims.

Many of the changes were based on submissions received over previous years. The new provision regarding the commencement of travel recognised a number of instances where the previous requirement had proven to be restrictive in its application. The time limit on lodgement of claims was consistent with the Tribunal’s domestic travel provisions.

**2004** – The Tribunal, reflecting its intention to allow overseas study travel to be granted in exceptional circumstances to a senator or member while already overseas, removed the reference to “prior” in relation to the approval to be given by the Special Minister of State (*Determination 2004/10*).

**2006** – The Tribunal determined that the value of the entitlement was to be calculated on the basis of a scheduled commercial round the world first class air fare “home base-London-home base”, instead of Canberra-London-Canberra. It also determined that it would be calculated on “1 July of the year that the entitlement is first used” (*Determination 2006/18*).

Accountability arrangements were also tightened and types of expenses clarified. In addition, the Tribunal made it clear that “a senator or member is not entitled to claim or receive reimbursement from any other source for the same benefit”.

Later that year, the Tribunal determined that the entitlements available to a “spouse” of a senator or member might be “available instead to a nominee, at the discretion of the Special Minister of State” (*Determination 2006/20*).

**2008** – The definition of “spouse” referenced in the Tribunal’s determination was amended via the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws – General Law Reform) Act 2008*.

**2011** – The Tribunal determined that frequent flyer points accrued under this entitlement could be donated to charity (*Determination 2011/18*).



**Family Reunion Travel - background**



## Family Reunion Travel - background

**1903** – Members' wives were provided with free railway passes over all lines except suburban, at least for a trial period.

**1920** – Railway passes were provided to wives of Members, to a sister or mother of an unmarried Member, or to the daughter of a widowed Member.

**1924** – Cabinet agreed that a wife should be entitled to travelling orders when accompanying her husband if he was travelling upon duties arising out of his position as Minister.

**1926** – Cabinet agreed 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”. It also agreed that Members' wives could be accompanied by an attendant if their state of health required it.

**1951** – According to the 1952 *Committee of Enquiry into the Salaries and Allowances of Members of the National Parliament* the following arrangements were in place in 1951:

### “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**

....

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 *Committee of Enquiry into the Salaries and Allowances of Members of the National Parliament* 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).

**1956** – The *Committee of Inquiry into the Salaries and Allowances of Members of the Commonwealth Parliament* noted that, at the time, the wife, female relative or other near relative of a senator or member was entitled to travel by air or rail from his or her home to Canberra four times per year or, if the senator/member's home was in Canberra, from Canberra to any part of the senator/member's electorate twice per year. Senators or members living in Western Australia or "on or north of the Tropic of Capricorn" could bring their dependent children to Canberra once a year. A senator or member and his wife could also be granted warrants for additional air travel costing up to £50 - £150 per year (depending on electorate classification).

The Committee recommended no changes to the entitlement other than the abolition of the additional air travel allowance. This recommendation was accepted.

Separately, Prime Minister Menzies agreed to allow two of the Canberra trips to be converted to one interstate trip per year. The impetus for this was the Melbourne Olympic Games. The concession continued provided that travel was by the most direct route.

**1959** – The 1959 *Committee of Inquiry into the Salaries and Allowances of Members of the Commonwealth Parliament* noted that "free air or rail travel is allowed to a Member's wife

from her home to Canberra and back four times a year". The Committee also noted that if the senator/member's home was in Canberra, the wife was able to convert her entitlement of two return trips to the husband's electorate into one return interstate trip. Other arrangements were as in 1956 (except that the additional air travel allowance was no longer in place).

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** – It seems from Mr Justice John Kerr's report on the *Salaries and Allowances of Members of the Parliament of the Commonwealth* that the travel entitlements for wives, at least, had changed very little since the late 1950s.

Mr Justice Kerr recommended that consideration be given to offering a 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". It appears that no action was taken regarding the implementation of this recommendation.

**1974** – Citing the isolation of Canberra and the increased number of sitting days, the Remuneration Tribunal observed that "there should be an improvement in the entitlement of the spouse (or nominee) of a Member to travel to Canberra at public expense". It 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".

**1975** – A Member's spouse or nominee was entitled to the following travel by air: four return visits to Canberra pa and one interstate visit pa. From 1 January 1975, a dependent child was entitled to one return trip to Canberra pa. 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*, 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.
- ....
- 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."

**1977** – The Tribunal clarified that a ‘close relative’ meant a “parent, child, brother or sister”, nominated to receive travel privileges “for the life of a Parliament” (*Determination 1977/9*).

**1978** – In *Determination 1978/9*, the Tribunal, amongst other things, placed further limits on the entitlement. For example, when travelling by air, the entitlement was confined to the cost of the most direct flight available. A ‘dependent child’ was also defined as a “dependent child under 16 years of age or a dependent full-time student under 25 years of age”.

In addition, the payment of a private vehicle allowance was extended to spouses, nominees and dependent children when travelling to or from Canberra.

**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 increased the maximum number of return visits to Canberra by a dependent child to three pa and determined that the spouse or nominee of a senator or member from the Australian Capital Territory (ACT) would be entitled to “travel at government expense on one [additional] return visit to Sydney or Melbourne per annum” (via *Determination 1980/8*).

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

**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”.

**1984** – The number of return Canberra visits which could be converted to intrastate travel was increased 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 the nearest airport or railway station.

**1985** – The Tribunal determined that a spouse/nominee’s nine return visits to Canberra could be replaced by return visits “from Canberra to the senator’s or member’s electorate” (*Determination 1985/11*). 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 (*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 the possible loss of other entitlements, including some relating to travel by a spouse, dependent child or nominee. Similar provisions remain in place today.

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. Benefits provided by the Act include some travel by the spouse or child of a 'Senior Officer' (i.e. 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).

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

- increasing the number of return interstate visits which could be undertaken by a spouse/nominee (other than the spouse/nominee of a senator or member from the ACT) 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 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.

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]."

**1993** – Via *Determination 1993/18*, the Tribunal determined that:

- a spouse of a senator or member (other than an ACT senator or member) 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.

**1998** – The Tribunal clarified that any travel undertaken in accordance with the relevant entitlements must be on scheduled commercial transport except "where the Minister for Defence has already approved the use of special purpose aircraft for a particular journey under the *Parliamentary Entitlements Act 1990*", (*Determination 1998/1*).

The definition of a dependent child was also modified, extending eligibility to, in certain circumstances, an older child not in full-time education.

In another change, the Tribunal determined that a "senator or member could 'pool' his or her entitlement in respect of each dependent child.

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.

In relation to the above changes, the Tribunal noted that “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* extended the pooling provision 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 which was removed by *Determination 1998/1*.

**2000** – The entitlement was modified to, amongst other things, “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 that end, a new category of persons referred to as ‘designated persons’ was introduced (via *Determination 2000/02*).

The Tribunal also increased the family travel entitlement of spouses or nominees of ACT senators and members 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.

The Tribunal also 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. For dependent children, this apparently restored earlier flexibilities which had been removed the previous year.

**2003** – The Tribunal varied the stop-over provision to include a reference to a dependent child travelling in his or her own right (*Determination 2003/14*). It also amended the car transport provisions to allow a senator or member travelling on parliamentary business to be accompanied by his or her spouse/nominee and a designated person or 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 (via *Determination 2004/10*).

The Tribunal also determined 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 was subsequently extended to include dependent children and designated persons.

Later, 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 purposes of calculating the cost to the Commonwealth of a trip to Canberra with respect to the pooling



and conversion of entitlements; and 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;
- clarifying that travel must be for “non-commercial purposes”;
- providing more flexible pooling arrangements.

**2009** – A definition of the word ‘spouse’ was inserted into the definition section of the Principal Determination (*Determination 2006/18*) via *Determination 2009/09*. The current definition encompasses partners of the same or a different sex.

The Tribunal also determined that ‘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’ (*Determination 2009/23*).

**2011** – The Tribunal determined that frequent flyer points accrued under this entitlement could be donated to charity (*Determination 2011/18*).

**Canberra Travel Allowance - background**



### Canberra Travel Allowance - background

**1927** – Prime Minister Bruce declared that a portion of the Hotel Kurrajong should be set aside for the sleeping accommodation of parliamentarians – meals were to be taken at Parliament House.

**1946** – A Canberra Allowance was introduced by Prime Minister Chifley's Government to provide some financial relief for senators and members when visiting Canberra for parliamentary sittings. The allowance did not apply to Ministers – it appears that the official view was that Ministers should live in Canberra.

**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 1952 *Committee of Enquiry into the Salaries and Allowances of Members of the National Parliament* notes that there was, when its Report was made, a 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 *Committee of Enquiry into the Salaries and Allowances of Members of the National Parliament* recommended that the standard living allowance for parliamentarians should be increased to £2/10/- per day, but that the rate for Ministers should be retained.

The Committee 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”. (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 in Canberra.

It is clear from later reports that the Committee's recommendations were implemented (although not in relation to the provision of housing).

**1955** – The *Committee of Inquiry into the Salaries and Allowances of Members of the Commonwealth Parliament* 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”. The payment was only in respect of parliamentary sittings and reasonable travel time. The Committee also recommended no change to the Ministers' special expense allowance. The standard travelling allowance (TA) for Ministers, at locations other than Canberra, increased from £5/5/- per day to £7/7/- per day, a 40% increase.

**1959** – It appears that the 1955 recommendation about maintaining the £2/10/- per day for senators and members was not followed. The 1959 *Committee of Inquiry into the Salaries and Allowances of Members of the Commonwealth Parliament* noted that Members received £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, Western Australia, South Australia and Tasmania could remain in Canberra during “short adjournments”. There is the first indication here that a parliamentarian resident in Canberra could get the allowance, but only for actual sitting days. The reasoning behind this was not explained. The Committee recommended that the allowance be increased to £4/-/- per day, on the same conditions.

The Committee also noted that few Ministers had made Canberra their home base and that no housing had been provided. The Committee recommended that the annual allowance, in lieu of TA in Canberra, be increased from £1,000 pa to £1,500. The recommended TA rate

elsewhere for Ministers was now £12 per day for Senior Ministers and £10 per day for Junior Ministers.

**1971** – Mr Justice John Kerr’s report on the *Salaries and Allowances of Members of the Parliament of the Commonwealth* noted that the Canberra Allowance was payable on exactly the same terms as in 1959. The rate was now \$15 per day. Justice Kerr recommended an increase 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 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 gave serious consideration to 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.

**1974** – In its first report the Remuneration Tribunal noted that there were reasons why the Canberra Allowance, then \$22 per day, differed from TA 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 concluded that a common TA (for all destinations) was warranted.

The Tribunal set a standard rate of \$33 for Members for any overnight stay away from his/her nominated home base on parliamentary business. There was, however, still a differential rate for Ministers - \$33 in Canberra and \$45 elsewhere. This is explained by the fact that Ministers had not previously received TA for Canberra. In fact, they 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”.

**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 TA 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 – it seems

clear from the Tribunal Reports of the time that this had become viewed as part of the salary package by this stage, rather than any sort of accommodation allowance.

**1977** – Again the ‘elsewhere’ TA rate rose, from \$41 to \$45 for a member, but the rate for Canberra remained at \$37 (*Determination 1977/8*). 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 for members was increased to \$45 – the rate for other destinations was increased by a lesser amount to \$49 (*Determination 1978/8*).

**1979** – Standard member rates were increased to \$49 (Canberra) and \$53 (elsewhere) (*Determination 1979/9*). Ministerial/ office holder rates were \$49 and \$67.

**1980** – Standard member rates were increased to \$56 (Canberra) and \$61 (elsewhere) (*Determination 1980/7*). 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 accommodation rates in the larger cities had increased substantially. It 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 (*Determination 1981/12*).

**1982** – The Tribunal determined increased rates (*Determination 1982/10*). At that stage, Canberra residents received \$27 for sitting days, described as ‘a daily expense allowance’.

**1984** – The Tribunal once again determined increased rates (*Determination 1984/17*).

**1986** – The Tribunal again increased the rates, with the exception of the rate set for Canberra residents (*Determination 1986/10*).

**1987** – 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 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 were increased to \$105, \$125 and \$95; ministerial rates to \$105, \$190, \$120. The Canberra resident rate was unchanged (at \$30) (*Determination 1987/16*).

**1988** – The Tribunal again increased the rates, with the exception of the rate set for Canberra residents (*Determination 1988/17*).

**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. 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 (*Determination 1989/16*).

**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 (*Determination 1992/9*). These rates were preserved in 1993.

**1995** – The Canberra rate was raised to \$145 (*Determination 1995/21*), where it remained until 2003.

**2003** – Following a full review of MPs' entitlements in 2002 and various submissions from parliamentarians about the inadequacy of the allowance, the Canberra allowance was increased from \$145 to \$170 (*Determination 2003/8*). At the same time, the question of an annualised allowance was again considered. The Tribunal did not proceed to set such an allowance.

**Since 2003** – Only the amounts have changed since 2003. Increases have been commensurate with percentage increases to the Australian Taxation Office's reasonable benefit limits for travelling allowance for Canberra.

**Private Plated Vehicle - background**





### Private Plated Vehicle - background

**1976** – In response to “numerous representations” relating to the increasing cost of transport within an electorate and “on the basis of practice in commerce and industry and the Government’s own practice in the Public Service”, the Remuneration Tribunal noted in its *1976 Review* that there appeared to be “a prima facie case for the allocation of a self-drive vehicle to each senator and member at official expense and for the Government to bear the running and maintenance costs”.

The Tribunal also noted that the introduction of such an entitlement would need to be accompanied by an adjustment to the electorate allowance. It proposed to examine the issue further at a later date.

**1977** – The Tribunal indicated in its *1977 Review* that, although it was of the view that the provision of a vehicle “would be an economically sound way of meeting many of the transport needs of members”, it was not the appropriate economic climate to make such a change.

**1987** – The consultancy firm Cullen Egan Dell Limited was enlisted by the Tribunal to help conduct a special review into pay and allowances for members of parliament. The review was requested by the Australian Government, parliamentarians, the Australian Council of Trade Unions, and the Confederation of Australian Industry, at a conference held in September 1987 to discuss parliamentarians’ remuneration.

**1988** – The Cullen Egan Dell *Report on Pay and Allowances for Members of Parliament*, recommended, amongst other things, that all members and senators “should be provided with a car for use in carrying out their electorate and parliamentary duties”. This vehicle should be “fully insured, registered, fuelled and maintained by the Parliament”.

The report also recommended that the vehicle should be made available for use by the staff of a senator or member as well as his/her spouse. “Substantial private use” of the vehicle by senators, members, their spouses, or staff was, however, not recommended.

Other recommendations included:

- the provision of a four wheel drive vehicle to senators and members resident in non-urban electorates, and senators in the Northern Territory, Western Australia and Queensland; and
- for those who chose not to accept a self-drive vehicle, the payment of a “private vehicle allowance” additional to that already in place for travel to or from Canberra.

The recommendations were based on the view that parliamentarians should not be financially disadvantaged in carrying out their duties.

The Tribunal noted in its report on the review, attached to its *1988 Review*, that it would “consider the views of government and of Members and determine to what extent the arrangements now made for reimbursement of expenses should be varied in accordance ... with the recommendations of the consultants”.

In the meantime, the Tribunal incorporated a provision in *Determination 1988/18* in respect of four wheel drive vehicles as follows:

- 4.1** A member for the electorates of Maranoa, Grey, Northern Territory, Kalgoorlie and Kennedy shall, at the request of the member, be provided with a Commonwealth-owned, private plate, four wheel drive motor vehicle.
- 4.2** The cost of fuel and oil shall be met by the member. All other costs of maintaining the vehicle shall be met by the Commonwealth.
- 4.3** The charter allowance entitlement as provided in clause 5.2 of a member who requests to be provided with a motor vehicle as provided in clauses 4.1 and 4.2 shall be reduced by \$5,000 p.a.”

**1989** – The Tribunal added the Riverina-Darling electorate to the list of the largest electorates where the option of a four wheel drive vehicle could be taken up (*Determination 1989/17*).

**1990** – Following Government representations as well as developments regarding the provision of vehicles to high level public service employees, 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. Recourse to the new entitlement meant a consequent adjustment to salary/electorate allowance as well as the possible loss of other entitlements (*Determination 1990/14*):

- “4.1 A senator or member shall, at his or her request, and subject to a contribution by the Senator/Member from salary/electorate allowance of \$6,000 per annum, be provided with an Australian-made, Commonwealth-owned, private plated vehicle for use on parliamentary, electorate and private business.
- 4.2 This entitlement shall not extend to vehicles other than those standard vehicles available through the panel period contracts of the Transport and Storage Group, as advised by the Minister for Administrative Services.
- 4.3 All running and maintenance costs shall be met by the Commonwealth.
- 4.4 When used for private purposes the vehicle is to be driven only by
- the senator or member, or
  - a person nominated by the senator or member.
- 4.5 When used for travel to which the senator or member (or eligible family member/nominee) is otherwise entitled by the provisions of this Determination (such as by clauses 1.1, 1.10, 1.11, 1.12, 1.15, 1.20, 2.1, 2.2 – 2.4, 2.5, 2.6) the other entitlements are voided. Likewise, no private vehicle allowance is payable under clause 3.1 – 3.5 for travel by private plated Commonwealth vehicle.”

The clauses mentioned in clause 4.5 related to travel on scheduled commercial transport; car transport at government expense; and travel by a spouse, dependent child or the nominee of a senator or member.

The earlier provisions regarding four wheel drive vehicles were also retained in the Determination, meaning that some members could request both types of vehicle.

In its later *Statement on Private Plated Commonwealth Vehicles for Use by Members and Senators*, the Tribunal noted suggestions put to it that, under the *Income Tax Assessment Act 1936*, parliamentarians who took up the option of a standard private plated vehicle would be taxed on the amount of the electorate allowance which they would have received had they not chosen to have such a vehicle, notwithstanding that the effective rate of the electorate allowance had been reduced by the amount attributed to the vehicle. In order to prevent this from occurring, the Tribunal varied the electorate allowance provisions in September 1990 to specify the actual (reduced) electorate allowance rates for those who took up the option of a standard vehicle (*Determinations 1990/23 and 1990/24*).

**1992** – In line with representations from the Government, the Tribunal determined that the Commonwealth would meet “all running and maintenance costs” - including the cost of fuel and oil - in respect of private plated four wheel drive vehicles provided to members. In addition, as also suggested by the Government, the Tribunal increased the reduction to the charter allowance entitlement for these members from \$5,000 to \$8,000 pa (*Determination 1992/10*).

**1993** – The Tribunal, in accordance with the Government’s submission on this matter and the then current link between a parliamentarian’s base salary and the salary of Senior Executive Service (SES) members of the Australian Public Service (APS), determined that it would be appropriate to apply the same conditions to the provision of standard private plated vehicles to senators and members as applied to members of the SES (*Determination 1993/18*).

As noted in the Tribunal’s *1993 Review*, SES members who were provided with a private plated vehicle at that time paid an annual contribution from salary of “\$500-\$700 according to the size of the vehicle”.

**1995** – For those members provided with a four wheel drive vehicle, the Tribunal increased the reduction to the charter allowance entitlement from \$8,000 to \$8,320 pa (*Determination 1995/22*).

**1998** – The Tribunal clarified that private plated Commonwealth vehicles could not be used by the senator or member “for commercial purposes”.

The Tribunal also determined that non-standard vehicles (including four wheel drive vehicles) could now be provided “on approval by the Special Minister of State” so long as the full additional leasing costs, over and above those of a standard vehicle, were met by the requesting senator or member through a reduction in his or her charter transport entitlement or electorate allowance. The Government had made a submission in favour of this particular change, noting that there were strong arguments for acceptance of such requests if they were based on greater operational suitability or on medical grounds.

In addition, the Tribunal changed the eligibility requirements for the automatic provision of a four wheel drive vehicle by including the senators from the Northern Territory “while the total representation from the Northern Territory in both Houses does not exceed the present level of three”. It also determined that those availing themselves of this part of the entitlement would have their charter allowance “reduced by the lease cost of the four wheel drive vehicle as determined from time to time by the Special Minister of State”. According to the Tribunal’s *1997 Decisions and Reports*, this was done in order to “maintain existing levels and relativities of allowances and in recognition of the transport difficulties experienced in servicing the large electorates” (*Determination 1998/1*).

Later in 1998, the Tribunal (via *Determination 1998/26*) modified the clauses relating to the provision of private plated cars by dropping the references to a “Commonwealth-owned” vehicle - presumably reflecting the privatisation of DASFLEET, the Commonwealth’s leasing, fleet management and car rentals business, which had taken place the previous year.

The Tribunal also made it clear that members and senators who took advantage of the entitlement to a standard vehicle, or a non-standard one in accordance with guidelines developed by the Special Minister of State, were required to meet the personal cost contribution contained in the then current APS Executive Vehicle Scheme (EVS) Guidelines, which also applied to SES members. However, they were not required to reimburse the Commonwealth for the cost of fuel and maintenance while on holiday, as provided by the APS EVS Guidelines, as they did not have access to APS recreation leave entitlements.

For those members and senators automatically provided with a four-wheel drive vehicle on request, the Tribunal also determined that there was an option to reduce the electorate allowance rather than the charter allowance entitlement.

**2000** – The Tribunal specified that the private plated vehicle entitlement could encompass family travel. Minor changes were also made to the wording of the provision concerning the EVS Guidelines, reflecting the recent introduction of the *Public Service Act 1999* (*Determination 2000/02*).

The Tribunal also determined that members representing electorates of 300,000 square kilometres or more could request a four wheel drive vehicle under the standard private plated vehicle entitlement (*Determination 2000/11*). According to the accompanying Explanatory Statement, this meant that “where a member requests a four wheel drive vehicle in accordance with this entitlement, the Commonwealth will meet ... the difference between the lease cost of an Australian made, private plated standard vehicle and a four wheel drive vehicle”.

**2001** – In order to provide consistency with the size criteria specified elsewhere in the entitlement, and to reflect changes to electoral representation in the Northern Territory, the Tribunal amended the clause relating to eligibility for the automatic provision of a four wheel drive vehicle (*Determination 2001/25*).

**2003** – The Tribunal replaced the reference to the APS EVS with a reference to guidelines developed by the Special Minister of State (*Determination 2003/14*).

**2006** – Following a submission from a representative of an inner city electorate and subsequent wider consultations, the Tribunal determined that if a senator or member elected not to be provided with a private plated vehicle, he or she would be entitled to an additional \$19,500 pa of electorate allowance to “meet the costs of transport within and for the service of the electorate” (*Determination 2006/02*). “Transport” included taxis, hire cars and all forms of public transport.

Such an election would be made once a year “provided that no additional administrative or other expenses (e.g. lease cancellation fees) are incurred by the Commonwealth as a result”.

**2011** – The Tribunal removed the requirement that only nominated persons could drive the private plated vehicle when it is used for private purposes (*Determination 2011/18*).

**Summary of Entitlements**



## Summary of Entitlements

The following description of entitlements is provided to demonstrate the variety and complexity of entitlement rather than provide a comprehensive guide to the eligibility to those entitlements. For full eligibility of entitlements interested parties should visit the website [www.maps.finance.gov.au](http://www.maps.finance.gov.au).

The remuneration paid to senators and members is covered briefly – the main purpose of this appendix is to provide a full listing of business expense entitlements. This list includes some items (post retirement and study travel, for example) which also confer a personal benefit on the parliamentarian.

For ease of reading the following colour coded guide provides a reference of those entitlements within the concern of the Tribunal and particularly those which the Tribunal intends to modify or abolish in future.

Entitlement within the scope of the Remuneration Tribunal's determination



Entitlement to be altered



Entitlement authority rests with another entity



In provision of entitlements, those provided to backbenchers can be considered the base level and Ministers and office holders (either government or opposition) receive additional entitlements in acknowledgement of their increased role in parliamentary business.

## Remuneration entitlements

### Members' remuneration



Source of Entitlement: *Parliamentary Allowances Act 1952; Remuneration Tribunal Act 1973; Remuneration and Allowances Regulations 2005; Parliamentary Contributory Superannuation Act 1948; Parliamentary Superannuation Act 2004.*

Each senator and member receives a base salary (which is the same for all). Anybody holding certain specified parliamentary offices is entitled to additional salary, and each senator or member is a member of one or other (1948 or 2004) superannuation scheme. The Department of the Senate is responsible for paying salaries to senators while the Department of the House of Representatives is responsible for paying salaries to members. The salary of a senator or member is paid monthly in arrears on the last day of the month.

### Ministers of State Salaries



Source of Entitlement: *Ministers of State Act 1952; Parliamentary Allowances Act 1952; Parliamentary Presiding Officers Act 1965; Remuneration Tribunal Act 1973; Remuneration and Allowances Regulations 2005; Parliamentary Contributory Superannuation Act 1948; Parliamentary Superannuation Act 2004.*

In addition to the base salary that is paid to all senators and members by the Chamber Departments, each Minister is entitled to an additional salary component. Superannuation based on the total salary is deducted by the Chamber Departments.

## Business Expenses

### Electorate Allowance



Source of Entitlement: *Parliamentary Allowances Act 1952; Remuneration Tribunal Act 1973; Remuneration and Allowances Regulations 2005; Remuneration Tribunal Determination 2006/18.*

Each senator and member is paid an electorate allowance for expenses necessarily incurred in the performance of a senator or member's duty. The taxation requirements relating to electorate allowance is a matter between the Australian Taxation Office and the senator or



member. The Australian Taxation Office has issued a ruling on what may be claimed as an exemption for income tax purposes.

The amount of electorate allowance is the same for all senators, but varies with the size of the electorate for members. Since 1 May 2009, the annual electorate allowance for senators has been \$32,000 and the rates for members are as stated in Table 1.

Table 1 – Electorate Allowance Rates

<b>Electorate Size</b>	<b>Rate of Electorate Allowance per annum</b>
Electorates of less than 2000 km <sup>2</sup>	\$32,000
Electorates of 2000 km <sup>2</sup> to 4999 km <sup>2</sup>	\$38,000
Electorates of 5000 km <sup>2</sup> or more	\$46,000

### Staff of Parliamentarians

Source of Entitlement: *Parliamentary Allowances Act 1952; Parliamentary Entitlements Act 1990; Parliamentary Entitlements Regulations 1997; Members of Parliament (Staff) Act 1984; Determinations 2003-2004/Part III/26, 2007/Part IV/1, 2008/ Part III/3, 2010/6, 2011/02 and 2011/16 pursuant to the MOP(S) Act 1984; Direction 2007/31 pursuant to the MOP(S) Act 1984.*

Senators and members employ staff under the *Members of Parliament (Staff) Act 1984* and they may be classified into two different streams – electorate or personal. Electorate staff are employed to work in the parliamentarian's electorate office and a personal employee is an employee who is not an electorate employee, employed under Part III of the MOP(S) Act by an Office Holder, and includes senior staff. The number of personal positions allocated to and occupied by government, opposition and minority parties is tabled by Finance at each Senate Estimates hearing and published by the [Committee Secretariat](#).

Senators and members are provided with four full-time Electorate Officer positions (electorate staff) to help them carry out their Parliamentary and electorate responsibilities, but not responsibilities relating to party business. Members with a second electorate office provided at Commonwealth expense are provided with a fifth full-time Electorate Officer position.

Electorate employees are employed under Part IV of the *Members of Parliament (Staff) Act 1984*, and are responsible to the employing senator or member. Electorate employees are covered by the *Commonwealth Members of Parliament Staff Enterprise Agreement 2010-2012* (the Enterprise Agreement) which sets out the employees' terms and conditions of employment. The Enterprise Agreement and relevant guidelines, determinations and policies form part of the Members of Parliament (Staff) employment framework.

The employment of electorate and personal employees is also subject to the following Acts:

- *Fair Work Act 2009;*
- *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009;*
- *Long Service Leave (Commonwealth Employees) Act 1976;*
- *Maternity Leave (Commonwealth Employees) Act 1973;*
- *Superannuation Act 1976;*
- *Superannuation Act 1990;*
- *Superannuation Act 2005;*
- *Superannuation Productivity Benefit Act 1988;*

- *Superannuation Benefits (Supervisory Mechanisms) Act 1990;*
- *Superannuation Guarantee (Administration) Act 1992;*
- *Occupational Health and Safety Act 1991; and*
- *Safety, Rehabilitation and Compensation Act 1988.*

### Staff of Ministers

Source of Entitlement: *Parliamentary Allowances Act 1952; Parliamentary Entitlements Act 1990; Parliamentary Entitlements Regulations 1997; Members of Parliament (Staff) Act 1984; Determinations 2003-2004/Part III/26, 2004-2005 Part III/6, 2007/Part IV/1 and 2010/6 pursuant to the MOP(S) Act 1984; Direction 2007/31 pursuant to the MOP(S) Act 1984; Determination 2004.*

All employees of Ministers, both personal and electorate, are employed under Part III of the *Members of Parliament (Staff) Act 1984*.

The Prime Minister determines the number and level of personal employee positions allocated to each Minister. These positions are in addition to the allocation of electorate officer positions. The Prime Minister may also determine administrative arrangements that apply to appointments to personal employee positions.

### Staff of Opposition Office Holders

Source of Entitlement: *Parliamentary Allowances Act 1952; Parliamentary Entitlements Act 1990; Parliamentary Entitlements Regulations 1997; Members of Parliament (Staff) Act 1984; Determinations 2003-2004/Part III/26, 2007/Part IV/1 and 2010/6 pursuant to the MOP(S) Act 1984; Direction 2007/31 pursuant to the MOP(S) Act 1984.*

The Prime Minister also allocates a block of personal employee positions to the Leader of the Opposition. The Leader of the Opposition then allocates these positions to other Opposition office holders and shadow ministers. These personal employee positions are in addition to the allocation of electorate officer positions.

### Other Employees

Source of Entitlement: *There is no prescribed entitlement for senators and members to employ additional staff. Any staff employed by a senator or member that are additional to those allowed by legislation are not governed by arrangements related to entitlements. These employees become the sole responsibility, for all their conditions of employment, of the employing senator or member and do not access entitlements discussed here.*

If a senator or member personally employs a person, the employee's terms and conditions of employment are not governed by arrangements under the *Members of Parliament (Staff) Act 1984* and the employee is not covered by the Enterprise Agreement.

If an employee is employed personally by the senator or member, the senator or member as the employer, is responsible for:

- the employee's remuneration, superannuation and taxation arrangements; and
- other employment matters including, but not limited to, long service leave, maternity leave, workers' compensation and occupational health and safety.

In this situation, state or territory legislation and relevant industrial instruments may apply rather than Commonwealth legislation.

### Parliamentary Staff Allowance

Source of Entitlement: *Parliamentary Allowances Act 1952; Members of Parliament (Staff) Act 1984; Commonwealth Members of Parliament Staff Enterprise Agreement 2010-2012.*

Parliamentary Staff Allowance (PSA) is a four-tiered allowance payable to personal employees in recognition of and as compensation for, reasonable additional hours of work. Each eligible employee receives the rate equivalent to their position. Employees in receipt of PSA work such reasonable additional hours as are agreed with their employing Office Holder, including on public holidays. Personal employees may choose not to receive PSA where they are unable or do not expect to work significant additional hours. Rates of payment are as described in Table 2.

Table 2 – Rates of Parliamentary Staff Allowance

<b>Employee Level</b>	<b>Current rate from 29 April 2011</b>
Senior Staff	\$28,325
Adviser/Media Adviser	\$25,750
Assistant Adviser	\$25,750
MOPS4-1 to MOPS6-2 (other than assistant adviser)	\$21,527
MOPS2-1 to MOPS3-4	\$16,892

#### Electorate Staff Allowance

Source of Entitlement: *Parliamentary Allowances Act 1952; Members of Parliament (Staff) Act 1984; Commonwealth Members of Parliament Staff Enterprise Agreement 2010-2012.*

The Enterprise Agreement provides for payment of electorate staff allowance (ESA) to ongoing and non-ongoing electorate employees in recognition of reasonable additional hours of work and travel outside of business hours. ESA is not provided on the basis of an employee's duties, additional responsibilities, skill level, qualifications, and length of employment or salary level in previous employment and is provided as additional salary, a performance bonus, or retention payment.

Senators and members consult with employees on the allocation, and any re-allocation, of ESA. This consultation process is repeated at any time when the expectations of the employing senator or member about additional hours of work or travel change, or the allocation of ESA changes, to ensure that these expectations remain transparent. Employees who receive ESA are required to work the agreed reasonable additional hours that best suit the operating requirements of the workplace.

ESA is payable to ongoing and non-ongoing employees employed against an established position and is paid on a pro rata basis for part-time employees. ESA is not payable to a casual employee or persons occupying personal positions.

Unlike PSA, ESA is allocated as a total amount pool amount to a senators or members office and senators and members have the flexibility to allocate one of seven levels of ESA to each established position in their office. The allocation of ESA to the Electorate Officer positions may not exceed the caps indicated in Table 3.

Table 3 – Value of Electorate Staff Allowance

Senator or member with four allocated positions		Member with five allocated positions (Second official electorate office)	
From 29 April 2010	\$40493	From 29 April 2010	\$47242
From 29 April 2011	\$41708	From 29 April 2011	\$48660

### Relief Staff Budget ●

Source of Entitlement: *Parliamentary Allowances Act 1952; Members of Parliament (Staff) Act 1984; Determination 2011/1 pursuant to the MOP(S) Act 1984*

A relief staff budget is provided to senators and members each financial year to meet the cost of engaging additional employees in their electorate office, such as during peak workloads and to fill short-term vacancies (for example, to cover periods of annual leave). The ability to engage employees using the relief staff budget is limited by the availability of funds in the relief staff budget and the completion of appropriate employment documentation consistent with the requirements of the *Members of Parliament (Staff) Act 1984* and the employment arrangements specified in the Enterprise Agreement.

The relief budget is set out in Determination 2011/1 (pursuant to the *MOP(S) Act 1984*) and is a dollar amount based on:

- 150 days' salary at the base salary point of the Electorate Officer B classification, and
- an additional 50 days' salary at the base salary point of the Electorate Officer B classification where a senator or member is allocated an additional position for a second official electorate office.

### Electorate Office accommodation and equipment ●

Source of Entitlement: *Parliamentary Allowances Act 1952; Parliamentary Entitlements Act 1990; Remuneration Tribunal Act 1973; Parliamentary Entitlements Regulations 1997; Remuneration and Allowances Regulations 2005; Remuneration Tribunal Determination 2006/18; Procedural Rule 1996/1 pursuant to Remuneration Tribunal Determination.*

Each senator and member is entitled to office accommodation in their electorate, together with equipment and facilities necessary to operate the office, as approved by the Special Minister of State, for purposes related to Parliamentary, electorate or official business, but not commercial business.

This includes:

- an electorate office;
- electorate office furniture and fittings;
- electorate office equipment, including such items as photocopiers, computers and telephones; and
- office supplies and newspapers.

A senator's electorate office may be located within the Commonwealth Parliament Offices in the relevant state capital or elsewhere within the state whilst a member's electorate office must be located within their electorate. Members representing electoral divisions larger than 30,000km<sup>2</sup> are each entitled to a second smaller electorate office within their electorate, at Commonwealth expense.

## Accommodation for Ministers ●

Source of Entitlement: *Parliamentary Allowances Act 1952; Parliamentary Precincts Act 1988; Parliamentary Entitlements Act 1990; Parliamentary Entitlements Regulations 1997.*

For activities associated with Parliamentary, electorate or official business, each Minister is entitled to office accommodation at official expense in:

- the Ministerial Wing of Parliament House;
- his or her home capital city; and
- his or her electorate.

Instead of two separate offices outside Parliament House, a Minister may have a combined Ministerial/electorate office located within his or her electorate.

## Accommodation for Opposition Office Holders ●

Source of Entitlement: *Parliamentary Allowances Act 1952; Parliamentary Precincts Act 1988; Parliamentary Entitlements Act 1990; Parliamentary Entitlements Regulations 1997.*

Each Opposition office holder is entitled to office accommodation at official expense in:

- Parliament House;
- a capital city — the capital city office may be within the Commonwealth Parliament Offices; and
- his or her electorate. An electorate office may be combined with the Opposition office holder's capital city office if the combined office would be within his or her electorate.

## Travel Entitlements for Parliamentarians ■

Source of Entitlement: *Parliamentary Allowances Act 1952; Parliamentary Entitlements Act 1990; Remuneration Tribunal Act 1973; Parliamentary Entitlements Regulations 1997; Remuneration and Allowances Regulations 2005; Remuneration Tribunal Determinations 2006/18 and 2011/16; Procedural Rules 2005/1, 2005/2, 2005/4 and Guideline 8/4/2004 made pursuant to Remuneration Tribunal Determinations.*

Senators and members are entitled to travel within Australia at Australian Government expense for certain purposes. Senators and members are responsible for ensuring that any travel at Australian Government expense is undertaken in accordance with their entitlements, i.e. in most circumstances only for Parliamentary, electorate or official business, but not party business. Senators and members travel entitlements are determined primarily by two Remuneration Tribunal Determinations: *Determination 2006/18 – Members of Parliament – Entitlements* and *Determination 2011/16 – Members of Parliament – Travelling Allowance*.

Senators and members are entitled to use scheduled commercial transport at Commonwealth expense when travelling within Australia (excluding the external territories) on:

- parliamentary business;
- electorate business; or
- official business

but excluding party business, other than meetings of a Parliamentary political party, or of its executive, or of its committees, and the national conference of a political party, of which he or she is a member.

'Official business', for the purpose of the domestic travel entitlement means attendance at:

- properly constituted meetings of a Government advisory committee or task force provided that the senator or member is a member of the committee or task force; and
- functions representing a Minister or a Presiding Officer on official business as a Minister or Presiding Officer, provided that the Minister or Presiding Officer nominates the function in advance in a written request to the senator or member to represent him or her.

This entitlement covers travel on scheduled commercial or commuter air services, mainline rail services, motor coach and other vehicles operating as regular carriers.

Travel to the external territories may be undertaken by some parliamentarians who meet certain conditions.

### Travel for Ministers ■

Source of Entitlement: *Parliamentary Allowances Act 1952; Parliamentary Entitlements Act 1990; Remuneration Tribunal Act 1973; Parliamentary Entitlements Regulations 1997; Remuneration and Allowances Regulations 2005; Remuneration Tribunal Determinations 2006/18 and 2011/16; Procedural Rules 2005/1, 2005/2, 2005/4 and Guideline 8/4/2004 made pursuant to Remuneration Tribunal Determinations.*

A Minister is entitled to:

- travel at the cost of a business class airfare when travelling on scheduled commercial services on official business within Australia;
- use car transport, both chauffeured and self-drive, for official business anywhere in Australia;
- use charter transport for personal transport in connection with his or her Ministerial duties;
- use the charter transport available to him or her as a senator or member for travel within and for the service of his or her electorate;
- use Special Purpose Aircraft for travel within Australia on official business with the approval of the Prime Minister or Minister for Defence;
- travel overseas, with the Prime Minister's prior approval, for official purposes; and
- Travelling Allowance when on official business within Australia for each overnight stay in a place other than his or her home base.

### Travel for Opposition Office Holders ■

Source of Entitlement: *Parliamentary Allowances Act 1952; Parliamentary Entitlements Act 1990; Remuneration Tribunal Act 1973; Parliamentary Entitlements Regulations 1997; Remuneration and Allowances Regulations 2005; Remuneration Tribunal Determinations 2006/18 and 2011/16; Procedural Rules 2005/1, 2005/2, 2005/4 and Guideline 8/4/2004 made pursuant to Remuneration Tribunal Determinations.*

An Opposition office holder is entitled to:

- travel at the cost of a business class airfare (or economy class airfare where a business class airfare is not published for the destination point) for the most reasonable and usual route between the departure and destination points when travelling on scheduled commercial services on official business within Australia;
- use car transport, both chauffeured and self-drive, for official business anywhere in Australia;
- use charter transport for personal transport in connection with his or her Opposition office holder duties;



- use the charter transport entitlement available to him or her as a senator or member for travel within and for the service of his or her electorate;
- use Special Purpose Aircraft for travel within Australia on official business with the approval of the Minister for Defence; and
- subject to certain conditions - travelling allowance when on official business within Australia for each overnight stay in a place other than his or her home base.

Additionally the Leader of the Opposition and the Deputy Leader of the Opposition in the House of Representatives may travel overseas for official purposes, subject to certain limits and conditions.

### Travel Allowance for Senators and Members

Source of Entitlement: *Remuneration Tribunal Act 1973; Remuneration and Allowances Regulations 2005; Remuneration Tribunal Determination 2011/16; Procedural Rules 2005/1, 2005/2, and Guideline 8/4/2004 pursuant to Remuneration Tribunal Determinations.*

Senators and members are entitled to overnight travelling allowance payments in accordance with the rates specified for each locality in Remuneration Tribunal Determination 2011/16.

Travelling allowance is paid by Ministerial and Parliamentary Services and the rates of travelling allowance are reviewed periodically by the Remuneration Tribunal and based on rates published by the Australian Taxation Office. It is worth noting that the rates provided to senators and members are not aligned with their employees' travel rates which are set by the Special Minister of State in accordance with rates determined from time to time by an independent organisation based on current market data.

Where a claim for travelling allowance is made under Remuneration Tribunal Determination 2011/16 senators and members are not entitled to receive reimbursement of travelling expenses for the same overnight stay from any other source of entitlement.

### Travel overseas by Parliamentary delegations

Source of Entitlement: *Parliamentary Allowances Act 1952; Parliamentary Entitlements Act 1990; Parliamentary Entitlements Regulations 1997.*

A senator or member who travels overseas as a member of an official Parliamentary delegation (other than an Inter-Parliamentary Union or Commonwealth Parliamentary Association delegation), within a program approved for each calendar year by the Prime Minister, is entitled to certain costs related to that travel. A delegate is entitled to:

- the cost of travel at the highest available class, including charter travel for the delegation, in accordance with the official itinerary.
- where the country being visited does not contribute to the costs of the visit the Commonwealth meets accommodation, meal and incidental expenses.
- payment of a clothing and equipment allowance based on the rates payable to a Senior Executive Service employee in the Department of Foreign Affairs and Trade every three years. The allowance may be used to purchase luggage, appropriate clothing or other items that are required for the visit.

### Overseas Study Travel

Source of Entitlement: *Parliamentary Allowances Act 1952; Parliamentary Entitlements Act 1990; Remuneration Tribunal Act 1973; Parliamentary Entitlements Regulations 1997; Remuneration and Allowances Regulations 2005; Remuneration Tribunal Determinations 2006/18 and 2011/16; and Procedural Rules 2005/1, 2005/2, 2005/4 made pursuant to Remuneration Tribunal Determinations.*

Senators and members are entitled to financial assistance for travel outside the Commonwealth of Australia after completing three years service in the Australian Parliament to undertake studies and investigations of matters related to his or her duties and responsibilities as a member of the Parliament. The initial entitlement to overseas study travel accrues on completion of three years service in the Parliament. Such service is deemed to have commenced from the date on which a senator or member is first entitled to receive salary and allowances. Periods of broken service may be counted towards qualification for the entitlement provided that the re-election occurs within six years of leaving the Parliament. A further entitlement accrues to a Senator or Member once in the life of each subsequent Parliament.

Each entitlement is equivalent to the value of a scheduled commercial round the world first class airfare (home base London – home base via Eastern Hemisphere Route and Atlantic– Pacific Route), and may be used for more than one overseas study journey.

The value of the entitlement is calculated as the cost of the above airfare on 1 July of the year that the entitlement is first used.

In order to access the overseas study travel entitlement, prior to departure on the overseas journey, the senator or member must send a statement in writing to the Special Minister of State specifying:

- the purpose or purposes of the journey,
- the period of the visit and a detailed proposed itinerary, and
- whether or not the Senator or Member will be accompanied or joined by their spouse or nominee.

Senators and members are required, within 30 days of returning from the overseas journey, to report in writing to the Special Minister of State on the overseas study travel, including:

- confirmation of the purpose or purposes of the journey and the itinerary, including any changes to the purpose or purposes of the journey and the itinerary;
- key meetings and the main findings or outcomes; and
- conclusions drawn relating to the relevance of the tour to the Senator or Member's Parliamentary responsibilities.

### Staff Travel ●

Source of Entitlement: *Parliamentary Allowances Act 1952; Parliamentary Entitlements Act 1990; Parliamentary Entitlements Regulations 1997; Member of Parliament (Staff) Act 1984; Commonwealth Members of Parliament Staff Enterprise Agreement 2010-2012; Determinations 2011/10, 2011/12 and 2011/16 pursuant to the MOP(S) Act 1984.*

An annual electorate staff travel budget is allocated to cover travel costs (including fares, travelling allowance, motor vehicle allowance, taxis and self-drive hire cars) for official travel undertaken at the senator or member's direction.

The electorate staff travel budget varies between electorates because, with the exception of certain senators and members whose electorate staff travel budget is a flat rate, it is calculated on the basis of:

- 20 return economy airfares between the primary electorate office and Canberra;
- taxi fares and/or motor vehicle allowance to and from the relevant airports for those 20 flights;
- 110 nights of travelling allowance at the rate applicable to Canberra; and
- a component based on the size of the members' electorate, or a flat amount for senators.



## Family Reunion Travel ■

Source of Entitlement: *Parliamentary Allowances Act 1952; Remuneration Tribunal Act 1973; Remuneration Tribunal Determination 2006/18.*

In limited circumstances, a senator or member is entitled to 'family reunion travel' to enable his or her spouse or nominee, dependent child(ren) and designated person(s) to accompany or join the senator or member on travel within Australia, at Commonwealth expense, on parliamentary, electorate or official business. The family reunion travel entitlement is provided to allow senators and members to balance their work and family responsibilities and to reconcile the need for them to be away from home for long periods with their family obligations. The entitlement is not intended to provide a general travel entitlement for a senator or member's spouse or nominee, dependent children or designated persons.

The entitlement has two components:

- an entitlement to Canberra and intra-state family travel within a budget; and
- an entitlement to a total of 3 business class return interstate trips each year, by a combination of family members nominated by the senator or member. Interstate trips may be converted to intra-state trips, or trips to Canberra, on a trip-for-trip basis.

Family reunion travel entitlement is limited to travel for non-commercial purposes by:

- 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
- special purpose (Defence) aircraft the use of which has been approved by the Minister for Defence before the particular travel.

## Australian Flags and printed items related to national symbols (Constituent's Request Program) ●

Source of Entitlement: *Parliamentary Allowances Act 1952; Parliamentary Entitlement Act 1990; Parliamentary Entitlements Regulations 1997.*

Senators and members, on request, may be provided with the following items for distribution to their constituents:

- booklets on the flags of Australia.
- national symbols kits, including information pamphlets on Australia's National Anthem, Australia's Coat of Arms, the Australian National Flag, Australia's National Colours and Australia's National Floral Emblem.
- booklets on Australia's national symbols.
- compact disc and DVD recordings of the National Anthem.
- printed words and sheet music arrangements of the National Anthem.
- A4 prints of the Australian Coat of Arms; and
- portraits of Her Majesty The Queen and Her Majesty The Queen and His Royal Highness, The Duke of Edinburgh.

Senators and members also have an entitlement to distribute certain large flags to eligible recipients and 50 large flags per financial year for presentation to private individuals.

Additionally, senators and members have an entitlement to distribute desktop and hand-waver flags to schools, local councils, churches and other non-profit or benevolent community organisations, associations and groups which have occasion to display the flag, and to private individuals, up to a combined value of \$900 per financial year (exclusive of GST).

## Car transport ■

Source of Entitlement: *Parliamentary Allowances Act 1952; Parliamentary Entitlements Act 1990; Remuneration Tribunal Act 1973; Parliamentary Entitlements Regulations 1997; Remuneration and Allowances Regulations 2005; Remuneration Tribunal Determinations 2006/18 and 2011/16; Procedural Rules 1998/1 and 2005/5 pursuant to Remuneration Tribunal Determinations and Guidelines PPV12/3/2009 and NSV12/3/2009 pursuant to Remuneration Tribunal Determinations.*

Senators and members are provided with car transport at Australian Government expense, within certain limits, when travelling for:

- parliamentary business;
- meetings of a parliamentary political party;
- meetings of the executive or committees of a parliamentary political party;
- the national conference of the political party to which the senator or member belongs;
- properly constituted meetings of a Government advisory committee or task force (provided that the senator or member is a member of the committee or task force);
- functions representing a Minister or a Presiding Officer on official business as a Minister or Presiding Officer, provided that the Minister or Presiding Officer nominates the function in advance in a written request to the senator or member to represent him or her; or
- visits in the course of Parliamentary Committee business.

## Private Plated Vehicle ■ ▲

Source of Entitlement: *Parliamentary Allowances Act 1952; Parliamentary Entitlement Act 1990; Remuneration Tribunal Determination 2006/18, Guidelines PPV12/3/2009 NPV12/3/2009 pursuant to Remuneration Tribunal Determinations.*

A senator or member is entitled, at his or her request, to a private-plated, Commonwealth leased vehicle for Parliamentary, electorate or official business, family travel and private purposes, but not for commercial purposes.

Vehicles are leased through a whole-of-government fleet provider and serviced, maintained and fuelled at Australian Government expense.

## Private Vehicle Allowance ■

Source of Entitlement: *Parliamentary Allowances Act 1952; Parliamentary Entitlement Act 1990; Remuneration Tribunal Determination 2006/18.*

A senator or member who uses his or her privately owned vehicle is entitled to claim private vehicle allowance for travel on parliamentary business:

- between home and Canberra; and
- part of the way between home and Canberra.

Private vehicle allowance is paid at current Australian Public Service rates, or the cost of a business class air fare, whichever is the lesser, for the shortest practicable route. Where a business class air fare is not available, the cost of an economy class air fare applies. Where there is no convenient scheduled air service to connect with a scheduled flight to Canberra, private vehicle allowance is paid at current Australian Public Service rates for the shortest practicable route between their home and the nearest airport practicable to connect with a Canberra flight.

## Charter Transport ■

**Source of Entitlement:** *Parliamentary Allowances Act 1952; Parliamentary Entitlements Act 1990; Remuneration Tribunal Act 1973; Parliamentary Entitlements Regulations 1997; Remuneration and Allowances Regulations 2005; Remuneration Tribunal Determinations 2006/18 and 2011/16.*

Senators (except senators from the Australian Capital Territory) are entitled to use charter transport at Australian Government expense within and for the service of their state or territory. Members representing electorates of 10,000 km<sup>2</sup> or more are entitled to use charter transport within and for the service of their electorate. The maximum annual limits for the electorate charter entitlement in Table 4 apply:

**Table 4: Electorate Charter Annual Limits**

<b>Parliamentary Role</b>	<b>State or Territory/Electorate Size</b>	<b>Maximum Annual Reimbursement</b>
Senators	Northern Territory	\$59,675
	Queensland, or Western Australia	\$24,035
	New South Wales, Victoria, South Australia or Tasmania	\$13,475
Members	300,000 km <sup>2</sup> or more	\$79,475
	100,000 km <sup>2</sup> to 299,999 km <sup>2</sup>	\$34,650
	25000 km <sup>2</sup> to 99,999 km <sup>2</sup>	\$19,200
	10,000 km <sup>2</sup> to 24,999 km <sup>2</sup>	\$9,450

## Printing and Communications ●

**Source of Entitlement:** *Parliamentary Allowances Act 1952; Parliamentary Entitlements Act 1990; Parliamentary Entitlements Regulations 1997.*

Senators and members are provided with the costs of commercial services for printing and the communication and distribution of information in hard copy and electronic format (including the establishment and maintenance of websites). Senators are entitled to a printing and communications entitlement of \$40,000 for each financial year whilst members are entitled to an entitlement for each financial year which is the sum of:

- the standard rate of postage (\$0.60 as at 28 June 2010) multiplied by the number of enrolled voters (within the electoral boundaries of the member's electorate as in place at the last general election), as at the last working day in the March before the financial year (or, if an electorate comes into existence after the last working day in March of a calendar year, the number of enrolled voters, within the boundaries of the member's electorate, as at the close of the electoral roll for the last general election); and
- \$75,000.

## Photographic services ●

**Source of Entitlement:** *Parliamentary Allowances Act 1952; Parliamentary Entitlements Act 1990; Parliamentary Entitlements Regulations 1997.*

Senators and members have an entitlement to two photographic sessions at Parliament House each year.

### Travel by special purpose aircraft ■

Source of Entitlement: *Parliamentary Allowances Act 1952; Parliamentary Entitlements Act 1990; Remuneration Tribunal Act 1973; Parliamentary Entitlements Regulations 1997; Remuneration and Allowances Regulations 2005; Remuneration Tribunal Determinations 2006/18 and 2011/16.*

Senators and members are entitled to the use of special purpose aircraft, as approved by the Minister for Defence, for travel in Australia for purposes related to Parliamentary or electorate business. The Minister for Defence has issued the *Guidelines for the use of Special Purpose Aircraft* (the Guidelines). Under the Guidelines, the Minister for Defence will only approve travel where he or she is satisfied that travel by special purpose aircraft is warranted by special circumstances such as there is a need for the senator or member to travel and no suitable alternative means of transport is available. Senators and members may also be approved to travel on special purpose aircraft where an aircraft has already been approved for a particular journey for a Minister or Opposition office holder.

Following travel on special purpose aircraft, the Department of Defence sends the list of all passengers to Ministerial and Parliamentary Services who then identify travel that would otherwise be met from a capped entitlement and debits the appropriate budget accordingly. The Department of Defence recovers costs for travel beyond the limits of capped budgets or for travel that is otherwise outside entitlement.

The Department of Defence tables the *Schedule of Special Purpose Flights* in Parliament each June and December.

The role of Special Purpose Aircraft is to enable entitled persons to meet commitments associated with their official, Parliamentary or political responsibilities, including electorate business. In accordance with the *Parliamentary Entitlements Act 1990*, the use of special purpose aircraft is generally restricted to use by parliamentary office holders. Additionally the following senators and members may access this form of travel with approval:

- some members of parliamentary committees and delegations; and
- other members of the parliament, when the approving authority is satisfied that travel by Special Purpose Aircraft is warranted by special circumstances such as there is a need for the member to travel and no suitable alternative means of transport is available.

### Supplement of capped entitlements ● ■

Source of Entitlement: *Parliamentary Allowances Act 1952; Parliamentary Entitlements Act 1990; Remuneration Tribunal Act 1973; Parliamentary Entitlements Regulations 1997; Remuneration and Allowances Regulations 2005; Remuneration Tribunal Determinations 2006/18 and 2011/16; Determination 2011(No 2) pursuant to the Parliamentary Entitlements Regulations 1997; Determination 2011/1 pursuant to the MOP(S) Act 1984..*

Senators and members:

- whose state/territory or electorate has been affected by a disaster, as defined by the *Parliamentary Entitlements Regulations 1997*; and
- who have expended a substantial part of one of their capped entitlements in the financial year that the disaster occurred,

may be entitled to supplement their capped entitlements to enable them to conduct their parliamentary and electorate business. Applications for the supplement of capped entitlements following a disaster are determined by the Special Minister of State.

## Life Gold Pass ■ ▲

**Source of Entitlement:** *Parliamentary Allowances Act 1952; Parliamentary Entitlement Act 1990; Parliamentary Entitlements Regulations 1997; Members of Parliament (Life Gold Pass) Act 2002.*

Following a senator or member's retirement from the Parliament, he or she is able to travel within Australia, excluding the external territories, at Australian Government expense for non-commercial purposes. Entitlements depend on their length of service in the Parliament.

The Life Gold Pass Act provides that a former member who is the holder of a Life Gold Pass (a Life Gold Pass Holder) (who does not, and has not, held office as Prime Minister) is entitled to a maximum of 25 domestic return trips per year.

The spouse or de facto partner of a Life Gold Pass Holder is entitled to a maximum of 25 domestic return trips per year, so long as each trip is for the purpose of accompanying or joining the former member. The spouse or de facto partner of a sitting senator or member (who has satisfied the relevant qualifying period for the issue of a Life Gold Pass) is entitled to a maximum of 25 domestic return trips to Canberra per year, so long as each trip is for the purpose of accompanying or joining the senator or member.

A 'domestic return trip' means a return trip that is:

- wholly within Australia; and
- not for a commercial purpose; and
- on a scheduled transport service or on a combination of scheduled transport services.

Travel under the Life Gold Pass Act is restricted to domestic travel 'wholly within Australia'. It does not include travel to an external territory.

To be eligible for a Life Gold Pass, a senator or member must meet the eligibility requirements detailed in Table 5:

Table 5 – Life Gold Pass eligibility

Role	Qualifying Period
Prime Minister	1 year
Ministers President of the Senate Speaker of the House of Representatives Leader of the Opposition	6 years
Parliamentary Secretaries, Senators and Members	20 years or the life of 7 Parliaments

In calculating the qualifying period it should be noted that the life of six Parliaments plus a further period of three years' service, none of which is part of the life of those six Parliaments, is treated as the equivalent of the 'life of seven Parliaments'. Periods of broken service (including all periods against which severance travel has been used) may be accumulated to qualify for a Life Gold Pass; and a person who has served as Prime Minister for less than one year, or a Minister, Presiding Officer or Leader of the Opposition who has held office for less than six years, will have that period trebled in determining eligibility for a Life Gold Pass by way of 20 years service as a senator or member.

## Severance Travel ■ ▲

**Source of Entitlement:** *Parliamentary Allowances Act 1952; Remuneration Tribunal Act 1973; Parliamentary Entitlement Act 1990; Parliamentary Entitlements Regulations 1997;*

*Remuneration and Allowances Regulations 2005; Remuneration Tribunal Determination 2006/18.*

From the date of their retirement from the Parliament, a senator or member who does not qualify for a Life Gold Pass is eligible to travel at Australian Government expense for non-commercial purposes for the period shown in Table 6. Depending on the senator's or member's length of service in the Parliament the entitlement has the following limitations:

- in the case of the periods specified in Table 6, 12 return trips; and
- in the case of any other specified period, 25 return trips per annum.

Severance travel entitlements are not transferable. Where tickets are issued for travel, credits are not to be obtained and used for any other purpose. The entitlement does not extend to the spouse or nominee of a retired Senator or Member.

Table 6 – Qualifying Periods of Severance Travel

Qualifying Period	Periods of Allowable Severance Travel
Service in 1 Parliament	6 months
Service in 2 Parliaments	1 year
Service in 3 Parliaments	2 years
Service in 4 Parliaments	3 years
Service in 5 Parliaments	4 years
Service in 6 Parliaments	5 years

### Resettlement Allowance

Source of Entitlement: *Parliamentary Allowances Act 1952; Remuneration Tribunal Act 1973; Parliamentary Entitlement Act 1990; Parliamentary Entitlements Regulations 1997; Remuneration and Allowances Regulations 2005; Remuneration Tribunal Determination 2006/18 as amended by Remuneration Tribunal Determination 2011/20.*

The resettlement allowance was recently amended by *Remuneration Tribunal Determination 2011/20* issued on 15 September 2011. A base resettlement allowance is provided, under limited conditions, to certain senators and members who retire involuntarily from Parliament.

'Retire involuntarily' is defined as:

- electing not to stand for re-election following loss of party endorsement, for reasons other than misconduct; or
- defeat at an election (including an election where the senator or member has campaigned to be elected to represent a different electoral division, or to the other house of the Parliament).

Senators and members eligible for a Resettlement Allowance are those:

- first elected before 9 October 2004, whose retiring allowance under the *Parliamentary Contributory Superannuation Act 1948* is subject to deferral under that Act when he or she ceases to be a member of the parliament; or
- first elected on or after 9 October 2004, who declare in writing to the Clerk of the relevant house of Parliament the intention to seek employment after leaving Parliament.



A retiring senator or member who meets these conditions is entitled to resettlement allowance only after he or she ceases to be a senator or member; and is paid equal to three months of the base parliamentary salary that is current on the date the Parliament is prorogued prior to the election.

An additional resettlement allowance of a further three months of the base parliamentary salary will be paid to a senator or member if he or she is:

- a senator for a state who has served more than three full years in the Parliament, or
- a senator for a territory or a member who has served more than one full term in the Parliament.

## Management of Entitlements and Reporting

Responsibility for ensuring that the accessing of allowances and benefits is within entitlement rests with the individual senator or member.

The entitlements of senators and members, including Ministers, attract close media attention and, from time to time, criticism that they are overly generous and open to abuse. Entitlements use is frequently the subject of applications under the *Freedom of Information Act 1982* received by Finance.

The following extract from the Australian National Audit Office 1997 *Report of Performance Audit of Ministerial Travel Claims* is relevant:

*It is recognised that government, parliamentary, party and electorate duties place a heavy demand on ministers' time. Nevertheless, given that ministers approve their own travel arrangements, the requirement that ministers certify their travelling allowance claims is a key control mechanism to ensure that Commonwealth funds are only spent for the intended purpose. The onus is therefore clearly on ministers to ensure the basis and accuracy of such certifications are sound and verifiable.*

In addition to the certification required for entitlements accessed as a senator or member, certification is required in relation to expenditure on:

- payment of Travelling Allowance; and
- costs associated with overseas travel.

Each month through a monthly management report, senators and members receive details of their entitlement usage. In addition, each six months senators and members are provided with a report of their own entitlement expenditure that is proposed to be tabled in the Parliament. Prior to tabling, senators and members are requested to confirm that the details in the report are correct and certify that their use of entitlements has been in accordance with the relevant legislation, determinations, directions, procedural rules and guidelines.

From the period 1 July to 31 December 2009 onwards, the report on entitlements expenditure, including supporting data, is also published on the website of the Department of Finance and Deregulation at <http://www.finance.gov.au>.