



REMUNERATION TRIBUNAL

Replacement Explanatory Statement: Remuneration Tribunal (Members of Parliament) Amendment Determination (No. 1) 2021

This Explanatory Statement replaces the Explanatory Statement registered on 19 October 2021 for *Remuneration Tribunal (Members of Parliament) Amendment Determination (No.1) 2021*. Paragraphs 7 and 8 clarify the instrument's exemption from disallowance.

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

Consultation

Internet and telephone services at private residences

4. Mr Andrew Wilkie MP, Member for Clark, wrote to the Tribunal on 25 March 2021 requesting the Tribunal modernise the provision of internet and telephone services in its Members of Parliament Determination.
5. The Tribunal wrote to the Hon Simon Birmingham MP, Minister for Finance on 10 August 2021, seeking his views on proposed amendments to its Members of Parliament Determination. Minister Birmingham responded to the Tribunal on 26 September 2021, in support of the proposed amendments.

Retrospectivity

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

Exemption from disallowance

7. Subsection 47(7) of the PBR Act provides that this determination is a legislative instrument, but section 42 (disallowance) of the *Legislation Act 2003* does not apply to it.

8. Exemption from disallowance is appropriate in the context of this instrument, as it amends the entitlements of Senators and Members of the House of Representatives.

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

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

Details of the determination are as follows:

10. Section 1 specifies the name of the instrument.
11. Section 2 specifies when the instrument commences.
12. Section 3 specifies the authority for the instrument.
13. Section 4 outlines the effect of the instrument specified in a Schedule to the instrument.

SCHEDULE 1 – AMENDMENTS

14. Item 1 removes the reference to ‘telephone’ in section 3.15(a).
15. Item 2 removes the reference to ‘fixed internet and telephone’ in section 3.15(b).
16. Item 3 removes various references to ‘telephone’ in section 3.15(c).
17. Item 4 repeals section 3.17 in its entirety and replaces it with a new definition of ‘service’.

Authority: Section 45
Parliamentary Business Resources Act 2017