



## REMUNERATION TRIBUNAL

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### **Explanatory Statement: Remuneration Tribunal (Members of Parliament) Amendment Determination (No. 1) 2022**

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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**

##### *Post-retirement travel*

4. On 18 February 2022, the Hon Kevin Andrews MP, Member for Menzies, wrote to the Tribunal seeking consideration of an amendment to the post-retirement travel provisions in its Members of Parliament Determination, to allow the use of a private vehicle instead of scheduled commercial transport for the three return trips referenced in the post-retirement travel expenses section of the determination.
5. The Tribunal wrote to the Special Minister of State, the Hon Ben Morton MP on 28 February 2022, seeking his views on this proposal. Minister Morton responded on 24 March 2022, supporting the proposed amendments.
6. On 22 March 2022, Minister Morton referred to the Tribunal a request from Senator the Hon Don Farrell, Shadow Special Minister of State, regarding post-retirement travel expenses for the Hon Warren Snowdon MP, Member for Lingiari. Senator Farrell noted the current determination provides for expenses for up to three return trips on scheduled commercial transport. As the size of Mr Snowdon's electorate entitles him to three Commonwealth-funded electorate offices in addition to his Parliament House office, Senator Farrell sought Minister Morton's support for additional post-retirement travel for Mr Snowdon.
7. Minister Morton was supportive of the Tribunal amending its determination to enable former parliamentarians with three Commonwealth-funded electorate offices to access up to four post-retirement trips.

## **Retrospectivity**

8. 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.
9. With respect to the provision allowing the use of a private vehicle instead of scheduled commercial transport, the retrospective application does not disadvantage any person as it provides additional flexibility regarding existing provisions.
10. With respect to the provision allowing up to four return trips for former members with three Commonwealth-funded electorate offices, the retrospective application does not disadvantage any person as it provides an enhanced benefit.

## **Exemption from disallowance**

11. 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.
12. 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**

13. 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:**

14. Section 1 specifies the name of the instrument.
15. Section 2 specifies when the instrument commences.
16. Section 3 specifies the authority for the instrument.
17. Section 4 outlines the effect of the instrument specified in a Schedule to the instrument.

## **SCHEDULE 1 – AMENDMENTS**

18. Item 1 removes the reference to clause 4.2 in clause 4.1 and replaces it with a reference to clauses 4.2 and 4.2A.
19. Item 2 repeals clause 4.2 in its entirety and replaces it with new provisions that mirror the previous provisions (that is, enabling a former member to receive expenses for up to three return trips on scheduled commercial transport), and adds the option to use a private vehicle and receive private vehicle allowance instead of expenses for return trips on scheduled commercial transport.
20. Item 3 inserts a new provision enabling a former member who had three or more Commonwealth-funded electorate offices immediately prior to becoming a former member to receive expenses for up to four return trips on scheduled commercial transport. The new provision includes the option to receive private vehicle allowance instead of expenses for return trips on scheduled commercial transport.
21. Item 4 removes the reference to clause 4.2 in clause 4.6 and replaces it with a reference to clauses 4.2 and 4.2A.