



REMUNERATION TRIBUNAL

Explanatory Statement: Determination 2017/13

Members of Parliament – Entitlements

1. The *Remuneration Tribunal Act 1973* (the Act) establishes the Remuneration Tribunal (the Tribunal) as an independent statutory authority responsible for reporting on and determining the remuneration, allowances and expenses of key Commonwealth office holders. These include members of parliament, Judges of Federal Courts, most full-time and part-time holders of public offices including Specified Statutory Offices and and Principal Executive Offices.

Consultation

2. Section 11 of the Act advises that in the performance of its functions the Tribunal:
 - may inform itself in such manner as it thinks fit;
 - may receive written or oral statements;
 - is not required to conduct any proceeding in a formal manner; and
 - is not bound by the rules of evidence.
3. The Tribunal normally receives submissions on remuneration from a portfolio minister, or a secretary, program manager or employing body (in respect of a Principal Executive Office) with responsibility for the relevant office(s). The Tribunal will normally seek the views of the relevant Portfolio Minister prior to determining remuneration for an office.
4. The Tribunal may reach a decision based on the information provided in the submission and other publicly available information such as portfolio budget statements, annual reports, corporate plans, legislation and media releases. On occasion it may wish to meet with relevant parties or seek further information from the relevant minister or person making the submission.
5. Amongst other relevant matters in deliberating on appropriate remuneration for an office the Tribunal informs itself on:
 - the main functions, responsibilities and accountabilities of the office;
 - the organisational structure, budget and workforce;
 - the requisite characteristics, skills or qualifications required of the office holder(s); and
 - the remuneration of similar, comparator, offices within its jurisdiction.

Implementing the recommendations of the An Independent Parliamentary Entitlements System Review

6. In May 2017 the Tribunal announced its intention to formalise its decision on a number of recommendations of the report: *An Independent Parliamentary Entitlements System Review* (the Report), subject to the passage of the Parliamentary Business Resource Bill 2017 (PBR Bill). The PBR Bill passed through both houses of Parliament in May 2017.

7. This Determination implements those decisions, which:
- Provide greater discretion for parliamentarians in large electorates in respect of driver hire, vehicle type and additional passengers and substitute the term 'Charter' with 'Transport in Large Electorates';
 - Reduce the annual budget for parliamentarians for Canberra and intrastate family reunion travel by using economy rather than business class fares for dependents;
 - Provide a definition of dependent child which is consistent with relevant Government legislation;
 - Extend limited eligible travel to a spouse, nominee or designated person accompanying a parliamentarian who is caring for a dependent child up to 12 months of age; and
 - Reduce post-retirement travel for former parliamentarians, excluding former Prime Ministers, to three economy fare return trips to Canberra or their former electorate within three months of their retirement.
8. Significant consultation occurred as part of the Review, full details are contained in the Review Report available on the Department of Prime Minister and Cabinet website. All recommendations of the Review were accepted in principle by Government, and the only additional consultation was with members of the seven largest electorates.

Provision of Vehicle

9. The requirement that private plated vehicles provided for parliamentarians be Australian made has been removed.
10. The value of standard private plated vehicles available to parliamentarians has been limited to the Australian Taxation Office's (ATO) luxury car tax threshold for non-fuel efficient vehicles.
11. The Government requested these changes and no further consultation was undertaken.

Life Gold Pass

12. Part 8 of the Determination has been re-titled 'Parliamentary Retirement Travel', and the provisions have been revised to align with the *Parliamentary Retirement Travel Act 2002*, as amended by the *Parliamentary Entitlements Legislation Amendment Act 2017* (PELA Act).
13. References to the *Members of Parliament (Life Gold Pass) Act 2002* have been removed, and replaced with the *Parliamentary Retirement Travel Act 2002*.
14. References to the 'Life Gold Pass' have been removed and replaced with 'Parliamentary Retirement Travel'.
15. The qualifying periods applying to Ministers, President of the Senate, Speaker of the House of Representatives, Leader of the Opposition, Parliamentary Secretaries and senators and members have been removed. The entitlement to 'Parliamentary Retirement Travel' for all persons other than a former Prime Minister expired at the commencement of the PELA Act.
16. The changes resulting from the PELA Act reflect a Government decision, and no further consultation was required.

Retrospectivity

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

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

18. 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:

PART 1 – GENERAL

19. Clauses 1.1 to 1.2 specify the authority and the commencement date of the Principal Determination.
20. Clause 1.3 provides that the Determination supersedes and revokes the previous Principal Determination 2012/04 (Compilation 9, as amended) and a number of Determinations that amended 2012/04.
21. Clause 1.4 contains definitions of certain words, phrases and references used in the Determination. The definition of 'Dependent Child' was amended to align with the definition of 'Dependent Child' in the *Parliamentary Business Resources Act 2017*. No other changes were made to this part.

PART 2 – ELECTORATE ALLOWANCE

22. Part 2 specifies the rates of electorate allowance payable to senators and members.
23. The provisions in Part 2 remain unchanged from the previous Determination.

PART 3 – TRAVEL ENTITLEMENTS

24. Part 3 sets out entitlements relating to travel by scheduled commercial transport and travel for the purposes of family reunion.
25. Clause 3.4 deletes and replaces the reference to 'charter entitlement' with 'transport in large electorates'.
26. Clause 3.13 (b) deletes the reference to '3 business class return trips to Canberra', and replaces it with '3 economy class return trips to Canberra'.
27. Clause 3.13 (d) deletes the reference to '3 business class return trips between Canberra and Sydney', and replaces it with '3 economy class return trips between Canberra and Sydney'.
28. Clause 3.17A deletes and replaces the reference to 'a breastfeeding senator or member' with 'a senator or member who is the mother of a dependent child up to 12 months of age'; and deletes and replaces the reference to 'provide support while she continues to breastfeed' to 'provide support in relation to that child'.

PARTS 4 – 5

29. Part 4 sets out provisions for the use of car transport by senators and members at government expense.

30. Part 5 sets out provisions relating to the payment of private vehicle allowance for travel to and from Canberra.
31. The provisions in Parts 4 and 5 remain unchanged from the previous Determination.

PART 6 – PROVISION OF VEHICLE

32. Part 6 sets out provisions relating to the provision of private plated vehicles to senators and members.
33. Part 6 has been restructured to simplify and clarify existing provisions.
34. Clause 6.1(a) is amended to include reference to a 'member representing an electorate of less than 300,00km²'; remove reference to 'Australian made' and include a reference to the value of standard private plated vehicles being limited to the Australian Taxation Office's (ATO) luxury car tax threshold for non-fuel efficient vehicles.
35. Clause 6.1(b) is amended by deleting the previous clause and including provisions previously included in Clauses 6.2 and 6.5.
36. Clause 6.1(c) is amended to include a reference to the value of standard private plated vehicles being limited to the Australian Taxation Office's (ATO) luxury car tax threshold for non-fuel efficient vehicles.
37. Clause 6.1(d) is a new clause including provisions previously contained in Clauses 6.4 and 6.6.
38. Clause 6.2 includes provisions previously contained in Clause 6.3.
39. Clause 6.3 includes provisions previously contained in Clause 6.7.
40. Clause 6.4 includes provisions previously contained in Clause 6.8.
41. Clause 6.5 includes provisions previously contained in Clause 6.9 and updates clause references.
42. Clause 6.6 includes provisions previously contained in Clause 6.10 and updates a clause reference.
43. Clause 6.7 includes provisions previously contained in Clause 6.11 and updates a clause reference.

PART 7 – CHARTER AIRCRAFT/DRIVE YOURSELF VEHICLES

44. Part 7 sets out provisions relating to the use of transport by eligible senators and members within and for the service of their electorate.
45. Part 7 has been retitled 'Transport in Large Electorates'.
46. Clause 7.1 is amended by deleting reference to 'charter'.
47. Clause 7.2(a) is amended by deleting reference to 'the cost of charter' and includes a reference to 'Table 1'.
48. Clause 7.2(b) is amended to include a reference to Table 1; title the table 'Transport in Large Electorates'; and rename Column 3 of the table 'Yearly Limit'.
49. Clause 7.3 deletes all reference to charter.
50. Clause 7.4 deletes the reference 'charter allowance for the first year' and replaces by 'the yearly limit'.
51. Clause 7.5 deletes reference to charter transport and includes at Clause 7.5(d) 'his or her dependent child or children'.
52. Clause 7.6 deletes reference to 'charter'.
53. Clause 7.7 replaces the previous provisions of Clause 7.7 that are obsolete; and removes the restriction in previous Clause 7.8 that a senator or member can only be accompanied by another person or other persons provided that a more expensive charter aircraft/vehicle would not be required.

54. Clause 7.8 includes provisions previously contained in Clause 7.9; updates a clause reference; and deletes reference to (d) 'to enable a senator or member to be accompanied by a dependent child or dependent children under 25'.
55. Clause 7.9 includes provisions previously contained in Clause 7.10 and deletes a reference to a clause.
56. Clause 7.10 includes provisions previously contained in Clause 7.12; updates the reference to the relevant Minister; and updates clause references. The previous provisions of Clause 7.11 are deleted as they are obsolete.

PART 8 – LIFE GOLD PASS

57. Part 8 sets out provisions relating to access to Parliamentary Retirement Travel for former Prime Ministers.
58. Part 8 has been retitled 'Parliamentary Retirement Travel'.
59. Clause 8.1 is amended by replacing references to the '*Members of Parliament (Life Gold Pass) Act 2002*' with the '*Parliamentary Retirement Travel Act 2002*'; including reference to a retired former Prime Minister, deleting reference to a senator or member; replacing reference to 'Life Gold Pass' with 'Parliamentary Retirement Travel'.
60. Clause 8.2 is amended by replacing references to the '*Members of Parliament (Life Gold Pass) Act 2002*' with the '*Parliamentary Retirement Travel Act 2002*';
- deleting the table at Clause 8.2(a) and replacing it with (a) 'the qualifying period for a person who has served as Prime Minister is one year';
 - deleting the reference at Clauses 8.2(b) to a 'Minister, presiding officer or Leader of the Opposition who has held office for less than six years' and replacing the reference to 'Life Gold Pass' with 'Parliamentary Retirement Travel'; and
 - deleting Clause 8.2(d).
61. Clause 8.3 deletes the reference to a Life Gold Pass not being issued to a senator or member until he or she retires from parliament and includes provisions previously contained in Clause 8.4; replaces references to the '*Members of Parliament (Life Gold Pass) Act 2002*' with the '*Parliamentary Retirement Travel Act 2002*'; and replaces reference to 'Life Gold Pass' with 'Parliamentary Retirement Travel'.
62. Clause 8.4 includes provisions previously contained in Clause 8.5 and replaces references to *Members of Parliament (Life Gold Pass) Act 2002*' with the '*Parliamentary Retirement Travel Act 2002*'.

PART 9 – SEVERANCE BENEFITS

63. Part 9 sets out provisions relating to severance benefits provided to former senators and members.
64. Part 9 has been restructured to simplify and clarify existing provisions.
65. Clause 9.1 deletes a reference to Clause 9.5; replaces reference to 'Life Gold Pass' with 'Parliamentary Retirement Travel'; and inserts 'who retired on or before 30 June 2017'.
66. Clause 9.2 is a new provision for senators and members who retire on or after 1 July 2017.
67. Clause 9.3 includes provisions previously contained in Clause 9.2 and updates a clause reference.
68. Clause 9.4 includes provisions previously contained in Clause 9.3.
69. Clause 9.5 is a new provision specifying the class of travel for Clause 9.2. The previous provisions of Clause 9.5 are deleted as they are obsolete.
70. Clause 9.6 includes provisions previously contained in Clause 9.4 and updates clause references.

71. The remainder of the clauses have been renumbered and clause references updated.

PARTS 10 – 11

72. Part 10 sets out provisions relating to home office facilities and provides that other associated entitlements shall be provided at the discretion of the Special Minister of State.

73. Part 11 sets out provisions regarding the use of frequent flyer points by persons travelling in accordance with the Determination.

74. The provisions in Parts 11 and 12 have been renumbered to Parts 10 and 11. The provisions otherwise remain unchanged from the previous Determination 2012/04 (Compilation 9. as amended).

Authority: Sub-sections 7(1), 7(2) and 7(4)
of the *Remuneration Tribunal Act 1973*