

Parliamentary Entitlements Amendment Regulations 2003 (No. 1)

2003 No. 149

EXPLANATORY STATEMENT

Statutory Rules 2003 No. 149

Issued by the authority of the Special Minister of State

Parliamentary Entitlements Act 1990

Parliamentary Entitlements Amendment Regulations 2003 (No. 1)

The *Parliamentary Entitlements Act 1990* (the Act) provides benefits to members of each House of the Parliament (members), to Parliamentary office-holders and to Ministers.

Subsection 4(1) of the Act provides that members are entitled to the benefits set out in Part 1 Schedule 1 to the Act.

Subsection 4(2) of the Act provides that Parliamentary office-holders and Ministers are entitled to the benefits set out in Part 2 Schedule 1 to the Act.

Paragraph 5(1)(b) of the Act provides that members, Parliamentary office-holders and Ministers are entitled to such additional benefits as are prescribed by regulations.

Subsection 9(2) of the Act provides that a benefit set out in a schedule to the Act may be varied or omitted by the regulations.

Section 12 of the Act provides that the Governor-General may make regulations for the purposes of paragraph 5(1)(b) and section 9 of the Act.

The attachment sets out more details in respect of each of the amendments to the Parliamentary Entitlements Regulations. The main changes are as follows:

- increase in the printing entitlement for Members of the House of Representatives from \$125,000 to \$150,000 per annum and introduction of a carry-forward (45%) mechanism;
- provide a less cumbersome mechanism for approval by the Prime Minister of overseas travel by non-Government members;
- introduce purpose provisions for the electorate office entitlement and the entitlement whereby members of Parliamentary Delegations may extend overseas travel;
- limit the uncapped entitlement of certain Parliamentary office-holders so as to prohibit mass mail-outs;
- remove certain entitlements which technically flowed to Parliamentary Secretaries when they became Ministers for the purpose of section 64 of the Constitution;
- provide the mechanism for providing additional mobile telephones for personal staff of non-Government parties and independent members and additional personal computers in electorate offices; and
- a range of minor changes in respect of the administrative arrangements associated with overseas travel by Parliamentary delegations.

The attachment also explains how the regulations align the presentation of benefits in the principal regulations with the presentation of benefits in the schedule to the Act.

The regulations refer to three different Schedule 1's. These are as follows:

Schedule 1 to the *Parliamentary Entitlements Act 1990*:

- this is the primary schedule of benefits; it is in two Parts (1 and 2) and sets out the benefits provided under section 4 of the Act.

Schedule 1 - Amendments of Parliamentary Entitlements Regulations 1997:

- this Schedule has been inserted by amendment regulation 3. The schedule encompasses all the substantive changes made by the amending regulations.

Schedule 1 - Variation or omission of scheduled benefits in Schedule 1 to the *Parliamentary Entitlements Act 1990*:

- inserts a schedule to the Parliamentary Entitlements Regulations. This schedule is in two parts (paralleling the two parts to Schedule 1 to the Act) and omits and varies benefits provided in the schedule to the Act.

The regulations commence on 1 July 2003.

Authority: Section 12 of the *Parliamentary Entitlements Act 1990*

ATTACHMENT

Alignment of the Act and Principal Regulations

The *Parliamentary Entitlements Regulations 1997* (the principal regulations) are currently in three parts. Part 1 deals with preliminary matters. Part 2 provides additional benefits to members (regulation 3 provides printing entitlements for Members of the House of Representatives, regulation 3A provides printing entitlements for Senators and regulation 3B provides entitlements for members travelling overseas representing the Government or a Minister) and Part 3 (made up of regulations 5-18) sets out the arrangements for providing additional benefits, in the form of financial assistance for legal representation, to Ministers.

The *Parliamentary Entitlements Amendment Regulations 2003* are designed to align the presentation of the benefits in the schedule to the Act and the presentation of the benefits provided in the regulations. The resulting structure of the principal regulations would be as follows:

Additional benefits prescribed in paragraph 5(1)(b) of the Act

Part 2 - Additional benefits to members

(regulations 3, 3B, 3C, 3D, 3E)

Part 2A - Additional benefits for Parliamentary office-holders

(regulations 3F, 3G)

Part 3 - Legal assistance to Ministers

(regulations 5-18)

Variation or omission of benefits, prescribed under subsection 9(2) of the Act

Schedule 1, Part 1 - Variations or omissions for Schedule 1, Part 1 to the Act

(i.e. benefits for members)

Schedule 1, Part 2 - Variations or omissions for Schedule 1, Part 2 to the Act

(i.e. benefits for Parliamentary office-holders and Ministers)

Notes on the Regulations

Amending Regulation No.

1 : Name of the Regulations: *Parliamentary Entitlements Amendment Regulations 2003*
(No. 1)

2 : Date of Commencement: 1 July 2003

3 : Provides that Schedule 1 amends the *Parliamentary Entitlements Regulations 1997*

Schedule 1: Amendments of *Parliamentary Entitlements Regulations 1997*

Amendments

[1] This amendment inserts regulation 2A. The purpose of regulation 2A is to draw on subsection 9(2) of the Act to vary or omit benefits provided in Schedule 1 to the Act. Regulation 2A does this by inserting Schedule 1 (variation or omission of scheduled benefits in Schedule 1 to the *Parliamentary Entitlements Act 1990*).

[2] This amendment amends the heading of Part 2 of the regulations. Part 2 deals with additional benefits of members and Part 2A (see amendment [7] below) deals with additional benefits of Parliamentary office-holders.

[3] This amendment substitutes subregulations 3(2) and 3(3). The existing subregulation 3(2) is a spent provision dealing with the period 1 January to 30 June 2002. The existing subregulation 3(3) set a limit of \$125,000 per annum for printing (as set out in regulation 3(1)) for a Member of the House of Representatives.

The new subregulation 3(2) increases the annual limit for printing to \$150,000. Until 1 January 2002 the printing entitlement was unlimited and the capping of that expenditure was desirable and effective. Experience has shown that a slight relaxation in the arrangement is appropriate by an increase in the limit.

Subregulation 3(3) provides the flexibility of allowing Members of the House of Representatives to carry-forward up to 45 per cent of the printing entitlement (if not fully utilised) from one year to the next. This provision will apply to the benefit (\$150,000 per annum) provided on or after 1 July 2003, i.e. on 1 July 2004 a Member of the House of Representatives may carry forward up to \$67,500.

There are a number of precedents for providing a carry-forward mechanism for capped entitlements, e.g. under item 2(2) of Part 2 of Schedule 1 to the Act the Leader and Deputy Leader of the Opposition may carry-forward 100 per cent of the overseas travel entitlement; under clause 6.4 of Determination 26 of 1998 the Remuneration Tribunal has provided a 20 per cent carry-forward mechanism for charter travel; and under clause 10.5 of that Determination a member may carry-forward 100 per cent of the Communications Allowance from one year to the next.

The figure of 45 per cent as a carry-over limit for printing is considered appropriate recognising that higher percentage carry-forwards have been used for some entitlements but a lower percentage when the sums involved are larger.

[4] This amendment varies the heading of regulation 3B to "Additional benefits for members representing a Minister or the Government - Overseas Travel". It is desirable to amend this heading so that the benefit may be distinguished from that to be provided by the new regulation 3C (see amendment [7] below).

[5] This amendment adjusts punctuation - it substitutes a semi-colon for a full stop at the end of the paragraph so that the additional paragraphs covered in amendment [6] below could be inserted.

[6] This amendment is part of a set of arrangements (see amendments [7], [109] and [208]) to ensure members are not out of pocket through illness, accident or loss of baggage whilst travelling overseas at Government expense.

Item 9(1)(d) of Part 1 of Schedule 1 to the Act provides the cost of medical and hospital services received by a member during overseas travel at Commonwealth expense. The regulations introduce a standardised set of arrangements associated with that provision and applying to members when travelling as part of a Parliamentary Delegation, when representing the Government or a Minister, when representing Australia or when travelling on official business, to provide:

Paragraph 3B(3)(c) - the cost of vaccination and medical supplies essential for travel overseas.

Paragraph 3B(3)(d) - the cost of insurance for medical and hospital treatment for overseas travel.

Paragraph 3B(3)(e) - the cost of medical services (including emergency dental services) and hospital services received overseas.

A further paragraph 3B(3)(f) provides the cost of baggage (and contents) insurance at the standard applying to an employee in the Senior Executive Service in the Department of Foreign Affairs and Trade - this is considered to be the appropriate reference point. The salary of members has traditionally fallen in the Senior Executive Service ranges of the Australian Public Service and in the absence of an Australian Public Service wide standard the Department of Foreign Affairs and Trade standard is appropriate.

[7] This amendment inserts four new regulations (regulations 3C, 3D, 3E and 3F) and provides a new Part (Part 2A) as follows:

Regulation 3C - Additional benefits for members representing Australia - Overseas

Regulation 3D - Additional benefits for members - special purpose aircraft

Regulation 3E - Additional benefits for members - mobile telephone services for personal staff

Part 2A - Additional benefits for Parliamentary office-holders

Regulation 3F - Additional benefit for Leader of the Opposition

Regulation 3G - Additional benefit for Leader of the Opposition and Leader of a minority party

Regulation 3C provides a new benefit whereby a member may travel overseas to represent Australia with the approval of the Prime Minister. The provision will mainly apply to members of non-Government parties and independent members, (i.e. for whom it is not appropriate that they represent the Government or a Minister).

An example of the type of case to which this provision applies is when a Shadow Minister travels overseas with a Minister.

This benefit includes the standardised arrangements outlined in amendment [6] above in respect of medical and hospital services and baggage insurance.

Regulation 3D provides a mechanism for the Prime Minister to be able to approve the travel of members by special purpose aircraft overseas. The desirability for such a mechanism arises from time to time in relation to travel to Norfolk Island and Australia's near neighbours. Paragraph 4(4)(b) of the Act recognises such a power in relation to Ministers; there are a limited number of other occasions, including in relation to the Leader of the Opposition when the need arises.

Regulation 3E places a discretion with the Special Minister of State to provide mobile telephone services to independent members for use of personal staff. Regulation 3G below is a parallel provision in respect of personal staff of the Opposition and minority parties. For the purposes of this regulation members of parties with fewer than five members in the Parliament are independent members.

Part 2A - Additional benefits for Parliamentary office-holders: In parallel to the Schedule 1 to the Act the additional benefits provided by the regulations are in separate parts, i.e. Part 2 deals with benefits of members, Part 2A deals with benefits of Parliamentary office-holders.

Regulation 3F: This regulation provides a clear head of power for photographic services provided to the Leader of the Opposition. There is a provision (item 6 of Part 1 of Schedule 1 to the Act) for photographic services for members. This on some occasions, particularly at election time, has been too restrictive in relation to the Leader of the Opposition. A separate benefit as a Parliamentary office-holder was consequently desirable.

Regulation 3G: This regulation places a discretion with the Special Minister of State to be able to provide mobile telephone services to the Leader of the Opposition and Leader of a minority party for the use of personal staff. It is envisaged that an allocation of mobile telephone services will be provided to the Leader of the Opposition, who will decide how they will be dispersed amongst the personal staff of Shadow Ministers. A parallel arrangement will apply to the case of the Leader of a minority party.

[8] Regulation 4 omits item 4 of Schedule 1 to the Act, which now becomes part of the schedule dealing with all variations and omissions to Schedule 1 of the Act.

[9] This amendment inserts a Schedule 1 - (Variation or omission of scheduled benefits in Schedule 1 to the *Parliamentary Entitlements Act 1990*) into the principal regulations.

Amendments [101] and following provide variations and omissions to Part 1 of Schedule 1 to the Act.

[101] This amendment omits item 4 (personalised letterhead stationery). Please see the note on amendment [8] above.

[102] This amendment to item 5 reflects the Government's decision to close the Government Bookshop Network. The entitlement of members to receive Government publications will remain unchanged.

[103] This amendment to item 6 recognises that members, in accessing the photographic services, sometimes choose settings outside the Parliament House building, while nevertheless in the precincts of the Parliament.

[104] This amendment to item 7 recognises that electorate offices may be used by personal staff allocated to assist members because of their duties as Shadow Ministers or spokespersons or because of their Parliamentary duties. It provides a clear head of power enabling the Special Minister of State to approve additional facilities, notably a personal computer, for use by personal staff, based in electorate offices.

[105] This amendment to item 8 (paragraph 8(b)) recognises that COMCAR (official cars) no longer provides a comprehensive service and that the entitlement of members to transport is met by a variety of car-with-driver services.

[106] This amendment to item 9 (paragraph 9(1)(a)) puts beyond doubt that when necessary or more economic a Parliamentary Delegation on an overseas visit may use charter travel.

[107] This amendment to item 9 (paragraph 9(1)(b)) recognises that following the enactment of the *Public Service Act 1999* there is no longer necessarily a single reference standard for equipment and clothing allowance. The most satisfactory reference standard is to an employee in the Senior Executive Service in the Department of Foreign Affairs and Trade.

[108] This amendment to item 9 (paragraph 9(1)(c)) inserts a new paragraph 9(1)(ca) which provides a power to cover the cost of facilities and services (e.g. interpreter services) necessary for meetings of a Parliamentary Delegation.

[109] This amendment to item 9 (paragraph 9(1)(d)) provides a comprehensive and contemporary set of arrangements around the basic entitlement, provided by item 9(1)(d) in the Act, to the cost of medical and hospital services received by the member in the course of overseas travel at Commonwealth expense. There is an explicit entitlement to:

- cost of vaccinations and medical supplies essential for overseas travel; and
- cost of insurance for medical and hospital treatment for the period covered by the official visit.

The amendment puts beyond doubt that emergency dental services are covered by the basic entitlement to medical services. It also provides for baggage insurance at the standard applying to an employee of the Senior Executive Service in the Department of Foreign Affairs and Trade.

[110] This amendment to paragraph 9(1)(f), which deals with travel by the Leader of a minority party, specifies business class travel as the standard for travel by an accompanying staff member, if approved by the Prime Minister. There is no longer necessarily a single Australian Public Service standard.

[111] This amendment to subitem 9(2) makes explicit that any additional travel undertaken at Commonwealth expense (by downgrading the standard of travel) must be for purposes related to Parliamentary or electorate business.

Amendments [201] and following provide variations and omissions to Part 2 of Schedule 1 to the Act.

[201/202] These amendments to item 1 (paragraph 1(1)(b) and 1(1)(c)) make clear that the entitlement to an official car-with-driver, in Canberra or in the home state/territory capital city, is limited to the Leader of the Opposition.

[203] This amendment to item 1 (paragraph 1(1)(d)) recognises that the entitlement of Parliamentary office-holders to transport is met by a variety of car-with-driver services.

[204] This amendment to item 1 (paragraph 1(1)(e)) provides that an Opposition Office Holder or Presiding Officer may be accompanied on charter transport by his or her spouse and one staff member.

[205] This amendment to item 1 (paragraph 1(1)(f)) increases the limit to \$15,000 per annum for charter transport undertaken by the Leader of a minority party. It also provides that the Leader may be accompanied by his or her spouse and one staff member.

[206] This amendment to item 2 (paragraph 2(1)(d)) specifies business class travel for staff of the Leader and Deputy Leader of the Opposition and Presiding Officer when travelling overseas. This reflects practice and is a more appropriate formulation since there is no longer necessarily a single Australian Public Service standard.

[207] This amendment to item 2 (paragraph 2(1)(e)) parallels amendment [206] and applies to a second staff member who travels with a Leader or Deputy Leader of the Opposition or Presiding Officer when the spouse does not use the entitlement.

[208] This amendment to item 2 (paragraph 2(1)(f)) has the effect of applying to the Leader and Deputy Leader of the Opposition and Presiding Officers the standardised arrangements, to

apply to members travelling on Parliamentary Delegations, in respect of vaccinations, medical supplies, medical and hospital insurance, cost of medical (including emergency dental services) and hospital services, baggage insurance, and equipment and clothing allowances.

[209] In 2000 the status of Parliamentary Secretaries was changed when they were appointed as Ministers for the purposes of section 64 of the Constitution. This meant that entitlements provided to Ministers would automatically apply to Parliamentary Secretaries, unless formally excluded.

This amendment excludes the spouse of a Parliamentary Secretary from automatic entitlement to overseas travel to accompany the Parliamentary Secretary.

[210] This amendment was made for the same reason as amendment [209]. It excludes Parliamentary Secretaries from access to the dependent child travel entitlement for the children of Ministers, Opposition Office Holders and Presiding Officers.

[211] This amends:

item 6(1) - the entitlement to telephone services provided to Ministers, Opposition Office Holders and Presiding Officers so that in future they may chose to have a dedicated data line associated with one home telephone service; and

item 6(2) - the entitlement to the telephone service provided to the Leader of a minority party so that in future the full cost of a home telephone service in Canberra will be met and the Leader may chose to have a dedicated data line associated with the service.

[212] This amendment incorporates the long-standing convention that the official postage entitlement of Ministers (including Parliamentary Secretaries), Opposition Office Holders, Presiding Officers, the Leader of a minority party and Government and Opposition Whips should not be used for mass mail-outs.