

EXPLANATORY STATEMENT

Select Legislative Instrument 2012 No. 104

Issued by the Authority of the Minister for Finance and Deregulation

Parliamentary Entitlements Act 1990

Parliamentary Entitlements Amendment Regulation 2012 (No. 1)

The *Parliamentary Entitlements Act 1990* (the Act) provides members of each House of Parliament (members) with a range of benefits, including those set out in Schedule 1 to the Act.

Section 12 of the Act provides, in part, that the Governor-General may make regulations for the purposes of section 9 of the Act. Subsection 9(2) of the Act provides that a benefit set out in Schedule 1 to the Act may be varied or omitted by the regulations.

On 15 December 2011, in its initial report on the *Review of the Remuneration of Members of Parliament*, the Remuneration Tribunal recommended that ‘the overseas travel provisions for the Leader and Deputy Leader of the Opposition and Leaders of minority parties be enhanced’. The Regulation establishes a new pooled entitlement for overseas travel on official business by the Leader of the Opposition in the House of Representatives (Leader of the Opposition) and other Opposition members at the discretion of the Leader of the Opposition, which replaces the previous entitlement that provided a lower, fixed amount, for the cost of fares for travel by the Leader and Deputy Leader of the Opposition only, under item 2, Part 2, Schedule 1 to the Act.

The Regulation also creates a new entitlement for overseas travel on official business by the leader of a minority party and other members of the minority party at the discretion of the leader.

The new entitlements consist of:

- A capped budget, equivalent to the value of four scheduled first class around-the-world airfares per financial year, calculated at 1 July each year, for use by the Leader of the Opposition, and other members of the Opposition as determined by the Leader of the Opposition; and
- A capped budget, equivalent to the value of one scheduled first class around-the-world airfare per financial year, calculated at 1 July each year, for each leader of a minority party, and other members of the minority party as determined by the party leader.

All costs related to the overseas travel are deducted from the capped budget, with the exception of the cost of travel of one person employed under the *Members of Parliament (Staff) Act 1984* (staff member) accompanying the Leader or Deputy Leader of the Opposition, or the leader of a minority party, and costs relating to medical and hospital services and baggage insurance, which are met from outside the capped budget.

The Leader and Deputy Leader of the Opposition, and the leader of a minority party, are entitled to be accompanied by up to two staff members where the cost of the leader’s fares are being met from the capped budget, with the cost of travel of the first staff member met outside of the capped budget, and the cost of travel of the second staff member deducted from the capped budget.

Other members of the Opposition or minority party are also entitled to be accompanied by up to two staff members, at the discretion of the relevant party leader, with the cost of travel of all accompanying staff

members deducted from the capped budget. Consistent with the entitlement for the Leader and Deputy Leader of the Opposition and leader of a minority party, the member is entitled to be accompanied by staff members where the cost of the member's fares are being met from the capped budget.

The overseas travel of accompanying staff members must be at business class or lower to be paid under the entitlement.

The entitlement does not provide for a member to be accompanied by his or her spouse under the entitlement. Accordingly, the existing entitlement for an Opposition Office Holder (as a Senior Officer under section 3 of the Act) to be accompanied by their spouse when travelling overseas on official business has been removed.

The entitlement is only available for use in the relevant financial year, with no provision to roll over unused amounts to a future financial year, nor an ability to call forward amounts from a future financial year.

Details of the Regulation are included in the Attachment.

The Act does not impose any conditions that need to be satisfied before the power to make the Regulation may be exercised. The Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulation commences on 1 July 2012.

Consultation and Regulatory Impact

The Remuneration Tribunal, the Leader of the Opposition and the former leader of the Australian Greens have been consulted in relation to these amendments. The provisions do not have a direct or significant indirect impact on business and do not restrict competition.

The Office of Best Practice Regulation has confirmed that the preparation of a Regulation Impact Statement is not necessary, as the amendments have a nil or low impact on business or the economy or individuals.

Statement of Compatibility with Human Rights

The Regulation is compatible with the human rights and freedoms recognised or declared by the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*, as it does not engage any of those rights or freedoms.

Details of the *Parliamentary Entitlements Amendment Regulation 2012 (No. 1)*

Section 1 – Name of Regulation

This section provides that the title of the Regulation is the *Parliamentary Entitlements Amendment Regulation 2012 (No. 1)*.

Section 2 – Commencement

This section provides for the Regulation to commence on 1 July 2012.

Section 3 – Amendment of the *Parliamentary Entitlements Regulations 1997* (Principal Regulations)

This section provides that the Principal Regulations are amended as set out in Schedule 1.

Schedule 1 – Amendments

Item [1] repeals paragraph 9(1)(f) of Part 1, Schedule 1 to the *Parliamentary Entitlements Act 1990* (PE Act) (via an amendment to item [110] of the Principal Regulations), which previously provided for the leader of a minority party to be accompanied by a staff member on travel overseas as a member of a Parliamentary Delegation. This entitlement is replaced by the new entitlement for overseas travel by the leader of a minority party, which includes an entitlement to be accompanied by staff (see Item [2] below).

Item [2] substitutes new item 2 and subitem 3(1), and adds new items 2A and 2B into Part 2, Schedule 1 to the PE Act, via an amendment to items [206] to [208A] of Part 2, Schedule 1 to the Principal Regulations.

New item 2

This item continues the existing entitlement to overseas travel on official business for the President of the Senate and the Speaker of the House of Representatives (Presiding Officers), with the previous entitlement to travel by the Leader and Deputy Leader of the Opposition, which provided for a fixed amount of \$8,889 and \$5,818 (respectively) for the cost of fares for travel by the Leader and Deputy Leader only, repealed from this item.

The previous entitlement for the Leader and Deputy Leader of the Opposition is replaced with the new entitlement for overseas travel on official business by the Leader of the Opposition in the House of Representatives (Leader of the Opposition), or other members of the Opposition at the discretion of the Leader of the Opposition, as provided in new item 2A. This item also provides that ‘staff member’ means a person employed under the *Members of Parliament (Staff) Act 1984* (MOP(S) Act).

New item 2A

This item establishes a new entitlement for overseas travel, at Commonwealth expense, on official business by the Leader of the Opposition, and other members of the Opposition, as determined by the Leader.

New subitem (1) provides that the value of the entitlement is equal to the cost of four scheduled first class around-the-world airfares per financial year (capped budget). The capped budget is calculated on the basis of the route specified in the subitem (Sydney to London to Sydney via Eastern hemisphere route and

Atlantic-Pacific route) and is calculated at 1 July each year, based on the current value of the airfare on that date.

New subitem (2) details the arrangements in the instance where a person becomes the Leader of the Opposition part way through a financial year, because their party becomes the Opposition party or joins one or more parties to become the Opposition (for example, as a result of a change in Government at an election). Under these circumstances, the capped budget is reduced based on the number of days remaining in the financial year from (and including) the day the party becomes the Opposition party, or joins one or more parties to become the Opposition, calculated using the formula in the subitem.

New subitem (3) details the arrangements where a person becomes the Leader of the Opposition part way through a financial year, in circumstances where subitem (2) does not apply (for example, change of leader in the incumbent Opposition party). In those circumstances, the entitlement available is the amount remaining in the capped budget immediately before the person became the Leader.

New subitem (4) specifies the purposes for which the capped budget can be used. The costs that are to be deducted are:

- (a) the cost of travel (as defined in section 3 of the PE Act) of the Leader of the Opposition or other Opposition member;
- (b) where the Leader or Deputy Leader of the Opposition in the House of Representatives is accompanied by a staff member in accordance with new subitem (5), the cost of travel of a second staff member (travelling at business class or a lower class) accompanying the Leader or Deputy Leader. The Leader or Deputy Leader is only entitled to be accompanied by the staff member under the entitlement where (at a minimum) the cost of the Leader's or Deputy Leader's fares is being met from the capped budget;
- (c) the cost of travel for up to two staff members (travelling at business class or a lower class) accompanying any other Opposition member, as approved by the Leader of the Opposition. The member is only entitled to be accompanied by the staff members under the entitlement where (at a minimum) the cost of the member's fares is being met from the capped budget; and
- (d) for the Leader of the Opposition or other Opposition member, equipment and clothing allowances, to the specified standard.

New subitem (5) provides that the Leader and Deputy Leader of the Opposition in the House of Representatives are entitled to be accompanied by one staff member. The cost of travel of the staff member (travelling at business class or a lower class) is not deducted from the capped budget. This provides the Leader and Deputy Leader with the ability to be accompanied by a staff member at Commonwealth expense without any reduction in the amount available in the capped budget for the use of the Leader or Deputy Leader. The Leader or Deputy Leader are only entitled to be accompanied by the staff member under the entitlement where (at a minimum) the cost of the Leader's or Deputy Leader's fares is being met from the capped budget.

New subitem (6) provides that, in addition to the payment of certain costs from the capped budget, the Leader of the Opposition or other Opposition member are entitled to the payment of the specified costs relating to medical and hospital services (vaccinations and medical supplies; insurance for medical and hospital treatment; medical and hospital services not covered by insurance) received by them, and baggage insurance. These costs are not deducted from the capped budget.

New subitem (7) provides that, under new item 2A, ‘staff member’ means a person employed under the MOP(S) Act.

New item 2B

This item establishes a new entitlement for overseas travel, at Commonwealth expense, on official business by the leader of a minority party, and other members of the minority party, as determined by its leader.

New subitem (1) provides that the value of the entitlement is equal to the cost of one scheduled first class around-the-world airfare per financial year (capped budget). The capped budget is calculated on the basis of the route specified in the subitem (Sydney to London to Sydney via Eastern hemisphere route and Atlantic-Pacific route) and is calculated at 1 July each year, based on the current value of the airfare on that date.

New subitem (2) details the arrangements in the instance where a person becomes the leader of a minority party due to their party becoming recognised as a non-government party of at least five members during a financial year (for example, following an election where the person’s party has five or more members elected, where the party had less than 5 members in the Parliament prior to the election). Under these circumstances, the capped budget is reduced based on the number of days remaining in the financial year from (and including) the day the party becomes recognised as a non-government party of at least five members, calculated using the formula in the subitem.

New subitem (3) details the arrangements where a person becomes the leader of a minority party part way through a financial year, in circumstances where subitem (2) does not apply (for example, a change in the leader of an existing non-government party of at least 5 members). In those circumstances, the entitlement available is the amount remaining in the capped budget immediately before the person became the leader.

New subitem (4) specifies the purposes for which the capped budget can be used. The costs that are to be deducted are:

- (a) the cost of travel (as defined in section 3 of the PE Act) of the leader or other member of the minority party;
- (b) where the leader is accompanied by a staff member in accordance with new subitem (5), the cost of travel of a second staff member (travelling at business class or a lower class) accompanying the leader. The leader is only entitled to be accompanied by the staff member under the entitlement where (at a minimum) the cost of the leader’s fares is being met from the capped budget;
- (c) the cost of travel for up to two staff members (travelling at business class or a lower class) accompanying any other member of the minority party, as approved by the leader of the minority party. The member is only entitled to be accompanied by the staff members under the entitlement where (at a minimum) the cost of the member’s fares is being met from the capped budget; and
- (d) equipment and clothing allowances for the leader or other member of the minority party, to the specified standard.

New subitem (5) provides that the leader is entitled to be accompanied by one staff member, with the cost of travel of the staff member (travelling at business class or a lower class) not deducted from the capped budget. This provides the leader with the ability to be accompanied by a staff member at Commonwealth

expense, without any reduction in the amount available in the capped budget for the use of the leader. The leader is only entitled to be accompanied by the staff member under the entitlement where (at a minimum) the cost of the leader's fares is being met from the capped budget.

New subitem (6) provides that, in addition to the payment of certain costs from the capped budget, a leader or other member of the minority party is entitled to the payment of the specified costs relating to medical and hospital services (vaccinations and medical supplies; insurance for medical and hospital treatment; medical and hospital services not covered by insurance) received by them, and baggage insurance. Such costs are not deducted from the capped budget.

New subitem (7) provides that, under new item 2B, 'staff member' means a person employed under the MOP(S) Act.

New subitem 3(1)

This subitem substitutes the existing subitem 3(1) to remove the entitlement for the Leader and Deputy Leader of the Opposition (as Senior Officers under section 3 of the PE Act), to be accompanied by their spouse when travelling overseas on official business.