

EXPLANATORY STATEMENT

Issued by the authority of the Prime Minister

Parliamentary Business Resources Act 2017

Parliamentary Business Resources (Former Prime Minister) Determination 2017

The *Parliamentary Business Resources Act 2017* (the Act) and the *Parliamentary Business Resources Regulations 2017* (the Regulations) establish a framework for providing resources to parliamentarians in respect of their parliamentary business. The framework replaces the existing parliamentary work expenses framework established under the *Parliamentary Entitlements Act 1990* and supporting Acts and instruments. Certain provisions of the Act and Regulations apply to the provision of resources to former Prime Ministers.

Section 16 of the Act provides that the current Prime Minister may determine, in writing, that former Prime Ministers are to be provided with any goods, services, premises, equipment or any other facility from time to time. The Prime Minister may impose one or more limits or other conditions on the resources provided to a particular former Prime Minister, a class or former Prime Ministers generally.

This Determination determines, for the purposes of the Act, the resources that are to be provided to each former Prime Minister as prescribed under the relevant Schedule. The resources provided under this Determination are in addition to the entitlements and resources provided to the former Prime Minister under another enactment, such as the *Parliamentary Contributory Superannuation Act 1948* or the *Parliamentary Superannuation Act 2004*.

Details of the Determination are set out in [Attachment A](#).

The Act specifies no conditions that need to be satisfied before the power to make the Determination may be exercised.

The Determination is a legislative instrument for the purposes of the *Legislation Act 2003* (Legislation Act). However, subsection 16(3) of the Act provides that this Determination is not subject to disallowance under section 42 of the Legislation Act.

This Determination commences at the same time as the Act. The whole of the Act commences by Proclamation on 1 January 2018.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Parliamentary Business Resources (Former Prime Ministers) Determination 2017

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instruments

This Legislative Instrument determines, for the purposes of the *Parliamentary Business Resources Act 2017*(Act), the resources provided to former Prime Ministers from time to time. Resources under the Legislative Instrument are provided to former Prime Ministers, as specified, both after Parliament and while remaining in Parliament.

Where a former Prime Minister is also a member under the Act they may be eligible to access public resources to conduct their parliamentary business. The Legislative Instrument provides for resources to be provided to a former Prime Minister in Parliament when on official business as a former Prime Minister.

Human rights implications

This Legislative Instrument engages the right to the enjoyment of just and favourable conditions of work, which includes a right to equal remuneration, in Article 7 of the *International Covenant on Economic, Social and Cultural Rights*. The Legislative Instrument maintains the principle of fair, and current, remuneration for work performed by ensuring the former Prime Ministers are provided with the resources appropriate to fulfil their role of former Prime Minister.

Conclusion

This Disallowable Legislative Instrument is compatible with human rights because it does not raise any human rights issues.

Parliamentary Business Resources (Former Prime Minister) Determination 2017

Section 1 – Name

This section provides that the name of the Determination is the *Parliamentary Business Resources (Former Prime Ministers) Determination 2017*.

Section 2 – Commencement

This section provides that the Determination commences at the same time as the *Parliamentary Business Resources Act 2017* (the Act). The whole of the Act commences by Proclamation on 1 January 2018.

Section 3 – Authority

This section provides that the Determination is made under section 16 of the Act.

Section 4 – Definitions

This section determines that in this Determination, ‘*Act*’ means the *Parliamentary Business Resources Act 2017* and notes that ‘commercial purpose’, ‘member’, ‘resources provider’, ‘spouse’, among others, have the meaning as defined in section 5 of the Act.

A definition for ‘*in Parliament*’ provides for former Prime Ministers who are also a member under the Act.

The definition for ‘*official business*’ has the meaning given by section 6 of the Determination.

A definition for ‘*Parliamentary Retirement Travel Entitlement holder*’ means the travel entitlements provided to a former Prime Minister under the *Parliamentary Retirement Travel Act 2002*.

Section 5 – Resources for former Prime Ministers

This section provides that each former Prime Minister that is specified in a Schedule to the Determination is provided the resources, subject to any condition, as specified in the Schedule concerned, and any other item in a Schedule to the Regulations has effect according to its terms.

Subsections 5(2) and (3) enable the former Prime Minister to decide not to be provided with a specified resource, and that if they have made such a decision it can be reversed at any time by notifying the resources provider in writing.

Subsection 5(4) clarifies that resources provided to a former Prime Minister in a Schedule to the Determination are in addition to entitlements and resources provided to the former Prime Minister under another enactment, such as the Act, *Parliamentary Contributory Superannuation Act 1948* or the *Parliamentary Superannuation Act 2004*.

Subsection 5(5) provides that for a former Prime Minister in Parliament, resources provided for official business relates to the activities of the member where the dominant purpose is in the official capacity of a former Prime Minister and is not otherwise covered under the Act.

Section 6 – Meaning of *official business*

This section provides that ‘*official business*’ mean business undertaken by the person in the capacity of former Prime Minister and provides that official business may include, but is not limited to, particular activities that a former Prime Minister may undertake. The section also clarifies that official business does not include activities related to a commercial or private purpose.

Section 7 – Miscellaneous

Subsection 7(1) clarifies that when a former Prime Minister is also a member under the Act or other legislation and is eligible to claim a resource under this Determination when they are also able to claim the resource for the same activity under the Act, then the former Prime Minister may only claim the resource once.

Subsection 7(2) provides that, whenever possible, the former Prime Minister seeks to comply with the principle of value for money as applies under section 5 of the Act when accessing the resources provided to them under the relevant Schedule.

Schedule—The Hon Robert (Bob) J L Hawke AC

This Schedule provides the resources, subject to any condition, provided to the Hon Robert (Bob) J L Hawke AC.

Schedule—The Hon Paul John Keating

This Schedule provides the resources, subject to any condition, provided to the Hon Paul John Keating.

Schedule—The Hon John Winston Howard OM AC

This Schedule provides the resources, subject to any condition, provided to the Hon John Winston Howard OM AC.

Schedule—The Hon Kevin Michael Rudd

This Schedule provides the resources, subject to any condition, provided to the Hon Kevin Michael Rudd.

Schedule—The Hon Julia Eileen Gillard AC

This Schedule provides the resources, subject to any condition, provided to the Hon Julia Eileen Gillard AC.

Schedule—The Hon Anthony (Tony) John Abbott MP

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