

EXPLANATORY STATEMENT

Issued by the authority of the Special Minister of State

Parliamentary Business Resources Act 2017

Parliamentary Business Resources (Parliamentary Business) Determination 2025

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. Parliamentarians are eligible to claim public resources under the framework in respect of their parliamentary business.

The *Parliamentary Business Resources (Parliamentary Business) Determination 2025* (the Determination) is made by the Minister responsible for the Act (the Special Minister of State) under section 6 of the Act. This instrument commences on the day after registration and repeals the previous *Parliamentary Business Resources (Parliamentary Business) Determination 2017* made on 14 December 2017 (F2017L01691).

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.

‘Parliamentary business’ has the meaning given by section 6 of the Act. Section 6 of the Act provides that parliamentary business means the ‘parliamentary duties’, ‘electorate duties’, ‘party political duties’ or ‘official duties’ of the member, where:

- the *parliamentary duties* of a member are activities of a member that:
 - (i) relate directly to a member’s role as a member, and
 - (ii) are determined by the Minister as the member’s parliamentary duties;
- the *electorate duties* of a member are activities of a member that:
 - (i) support or serve the member’s constituents, and
 - (ii) are determined by the Minister as the member’s electorate duties;
- the *party political duties* of a member are activities of a member that:
 - (i) are determined by the Minister as the member’s party political duties; and
- the *official duties* of a member are activities of a member that:
 - (i) relate to the member’s role as an office holder or Minister of State, and
 - (ii) are determined by the Minister as the member’s official duties.

As noted above, subsections 6(3) and (4) of the Act empower the Minister responsible for the Act (the Special Minister of State) to determine activities of a member that are ‘parliamentary duties’, ‘electorate duties’, ‘party political duties’ and ‘official duties’. This Determination determines the activities which fall within the four duty streams set out above. It does this by listing the activities in Schedules 1 to 4 of this Determination.

While paragraph 6(2)(b) of the Act also provides that the Minister may determine certain activities are not parliamentary business for the purposes of the Act, the Minister has not exercised this power at this time. The Act also provides that activities undertaken for the dominant purpose of both or either of the following are not parliamentary business:

- providing a personal benefit to the member or another person (section 6(2)(a)(i) of the Act), or
- pursuing commercial purposes of the member or another person (section 6(2)(a)(ii) of the Act).

‘Commercial purpose’ is defined in section 5 of the Act and means a purpose relating to the derivation of financial gain or reward.

Section 5 of the Act also defines both ‘public resources’ and ‘provides public resources’ where the Commonwealth provides those public resources under the Act.

Subsection 6(5) of the Act provides that the determination may determine a matter for:

- a particular member, office holder or Minister of State;
- a class of members, office holders or Ministers of State; or
- members, office holders or Ministers of State generally.

This Determination distinguishes between particular classes of members as specified in Schedules 1 to 4 in recognition of the different types of duties that are relevant for each role.

The Act does not impose any conditions that need to be satisfied before the power to make the Determination may be exercised. Details of the Determination are included in Attachment A.

Disallowance and Statement of Compatibility with Human Rights

This Determination is a legislative instrument for the purposes of the *Legislation Act 2003* (Legislation Act). However, subsection 6(6) of the Act provides that this Determination is not subject to disallowance under section 42 of the Legislation Act.

Subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* requires a Statement of Compatibility with Human Rights for all legislative instruments subject to disallowance under section 42 of the Legislation Act. As the Determination is exempt from disallowance, a Statement of Compatibility with Human Rights is not required.

Commencement

The Determination commences on the day after it is registered.

Repeal

The Determination repeals the *Parliamentary Business Resources (Parliamentary Business) Determination 2017* on the date this instrument commences.

Consultation and Regulatory Impact

In relation to section 17 of the Legislation Act, consultation was undertaken with the Department of the Prime Minister and Cabinet and the Attorney-General’s Department. Consultation was also undertaken with members of the Parliament.

Authority: Subsections 6(3) and 6(4) of the
*Parliamentary Business Resources
Act 2017*

Details of the *Parliamentary Business Resources (Parliamentary Business) Determination 2025*

Section 1 – Name

1. This section provides that the title of the Determination is the *Parliamentary Business Resources (Parliamentary Business) Determination 2025* (the Determination).

Section 2 – Commencement

2. This section provides that the Determination commences on the day after registration.

Section 3 – Authority

3. This section provides that the Determination is made under subsections 6(3) and 6(4) of the *Parliamentary Business Resources Act 2017* (the Act).

Section 4 – Repeal

4. This section repeals the *Parliamentary Business Resources (Parliamentary Business) Determination 2017* (F2017L01691) with effect from the date this instrument commences.

Section 5– Interpretation

5. This section provides a definition for the term ‘Act’ used in the Determination. ‘Act’ is defined to mean the *Parliamentary Business Resources Act 2017*.

6. The note under subsection 5(1) clarifies that the Determination uses a number of terms that are defined in the Act, including: constituent, member, office holder, and vice regal function.

7. This section also clarifies that an activity specified in a Schedule to the Determination is specified whether it takes place within Australia or overseas.

Section 6 – Parliamentary business of members

8. This section provides that the ‘parliamentary duties’, ‘electorate duties’, ‘party political duties’ and ‘official duties’ of a member are the activities specified in Schedules 1 to 4 respectively of the Determination, for that member.

9. Subsection 6(5) provides, for the avoidance of doubt, that a member may make a claim for and use public resources under Part 3 of the Act (work expenses, allowances and other public resources) for an activity which is undertaken for the dominant purpose of the member’s parliamentary business as defined by section 6 of the Act and as specified in a Schedule to this Determination (to the extent that subsections 26(1) and 26(3) of the Act apply) and which may occur in the context of a federal election. Subsection 26(2) of the Act relevantly limits the extent to which subsection 26(1) applies. Subsection 6(5) of this instrument clarifies that a member is not precluded from claiming or using public resources for activities undertaken in the context of a federal election, where undertaken for the dominant purpose of the member’s parliamentary business. That is, the claim and/or use of public resources must be for the dominant purpose of conducting at least one of the activities determined under the four parliamentary business duty streams, as determined in a Schedule to this instrument, and satisfy the requirements of the relevant duty stream, as defined under section 6 of the Act.

10. The first Note under subsection 6(5) clarifies that the ‘dominant purpose’ obligation is provided by section 26 of the Act. The second Note clarifies that the Act and related instruments set out other

limitations on the circumstances in which resources may be provided. This includes other obligations members must satisfy, as set out in Division 2, Part 3 of the Act.

Schedule 1 – Parliamentary duties

11. Column 1 of this Schedule prescribes the members who have parliamentary duties as (only) those members who are also senators or members of the House of Representatives. That is, in the unusual circumstances where a Minister of State, or a person who is taken to be a Presiding Officer under the *Parliamentary Presiding Officers Act 1965*, does not sit in either House of the Parliament, they will not perform parliamentary duties. This is because they do not sit in the Parliament.

12. Column 2 lists the activities that constitute parliamentary duties for the purposes of the Act. Many of these activities are self-evident; however, the following provides further clarification on some of these activities for the avoidance of doubt:

- proceedings of the Parliament covered by paragraph (a), includes parliamentary committee proceedings,
- a member's policy portfolio covered by paragraphs (c) and (e) includes a policy portfolio adopted by or allocated to a member in the course of their parliamentary activities more broadly, whether the member is a member of a party or independent – but does not include policy portfolio duties that are covered as part of an office holder's official duties (see Schedule 4), and
- activities that involve the representation of the Parliament covered by paragraph (g) include parliamentary delegation travel by a member under the Regulations.

Schedule 2 – Electorate duties

13. Column 1 of this Schedule prescribes the members who have electorate duties as (only) those members who are also senators or members of the House of Representatives. That is, in the unusual circumstances where a Minister of State, or a person who is taken to be a Presiding Officer under the *Parliamentary Presiding Officers Act 1965*, does not sit in either House of the Parliament, they will not perform electorate duties. This is because they do not represent an electorate.

14. Column 2 lists the activities that constitute electorate duties for the purposes of the Act.

Schedule 3 – Party political duties

15. Column 1 of this Schedule prescribes three classes of members who have party political duties, depending on the particular party political duty activities prescribed by Column 2. The first two classes of members who have party political duties are identical: only those members who are also senators or members of the House of Representatives. That is, in the unusual circumstances where a Minister of State, or a person who is taken to be a Presiding Officer under the *Parliamentary Presiding Officers Act 1965*, does not sit in either House of the Parliament, they will not perform party political duties.

16. Column 2 lists the activities that constitute party political duties for the purposes of the Act.

17. Item 1 prescribes, in relation to those members who are also senators and members of the House of Representatives, participation in a formal meeting or national, state or territory conference of a political party as a party political activity.

18. Item 2 clarifies that party political duties also includes an elected senator or member of the House of Representatives participating in the listed activities in Item 2(a) to (c) as a member of a political party or in collaboration with another group of members. This reflects the broad nature of the role of a parliamentarian, which covers a wide range of interactions and collaborative activities with other members and with structures that support the activities of members, both because they may be a member of a political party or otherwise as a part of a group of members. For example, in the context of an

election, the activities in Item 2(a) to (c) would extend to supporting the election of other members of the same political party or group.

19. Item 3 prescribes certain communication activities for members who are members of the House of Representatives only as party political duties in the circumstances of a redistribution of electoral boundaries. Redistributions do not impact members who are senators.

Schedule 4 – Official duties

20. Column 1 of this Schedule prescribes the members who have official duties as (only) office holders and Ministers of State. ‘Office holder’ is defined in section 5 of the Act, and covers the Presiding Officers, Deputy Presiding Officers, and any person who is an office holder because of a determination made by the Minister under section 7 of the Act.

21. Column 2 lists the activities that constitute official duties for the purposes of the Act.