



REMUNERATION TRIBUNAL

Replacement Explanatory Statement: Remuneration Tribunal (Members of Parliament) Determination 2022

1. The determination is made under the *Parliamentary Business Resources Act 2017* (the PBR Act). Sections 45 and 46 of the PBR Act require the Tribunal to make determinations in relation to various matters for members, and former members, of the Parliament at least once each year.
2. The Tribunal must determine the remuneration to be paid to members, the rates of travel allowances for domestic travel, and the allowances and expenses to be paid to former members. The Tribunal must publish its reasons for making a determination.
3. The Tribunal also has functions under section 35 of the PBR Act relating to travel expenses, travel and motor vehicle allowances and other public resources. The Tribunal must inquire annually into travel expenses and travel allowances for domestic travel (except rates of travel allowances for domestic travel which it determines), and may be asked by the Special Minister of State to inquire into other matters. Regulations must be made or amended in accordance with the Tribunal's recommendations.

Consultation

Review of Remuneration for Holders of Public Office

4. The Tribunal's obligations, under sections 14 and 45 of the PBR Act are to make determinations in respect of remuneration for members of Parliament at least once each year. To meet these obligations under the PBR Act and the *Remuneration Tribunal Act 1973*, the Tribunal issued determinations on 15 June 2021 and at that time determined no adjustment to remuneration for all offices in its jurisdiction (including members of Parliament).
5. In complying with its obligations to make new determinations the Tribunal takes the opportunity to consider whether any general increase to remuneration for offices might be warranted. In conducting this review the Tribunal takes account of economic conditions in Australia, past and projected movements in remuneration in the public and private sectors (including the Australian Public Service), as well as the outcomes of reviews of public offices completed by the Tribunal. In order to inform its conclusions the Tribunal draws upon authoritative external sources such as the published material available from the Government, the Reserve Bank of Australia and the Australian Bureau of Statistics as well as trends in public and private sector remuneration. The Tribunal is also obliged by the Act to consider the Annual Wage Reviews of the Fair Work Commission. The Commission's 2021 decision was taken into account, as its 2022 decision was not available at the time the Tribunal concluded its deliberations.
6. The Tribunal received one submission on this matter. It was from a private citizen.
7. On 13 June 2022 the Tribunal decided to increase remuneration by 2.75 per cent for public offices in its jurisdiction with effect from 1 July 2022. A statement

setting out the Tribunal's reasons for decision is available at www.remtribunal.gov.au.

8. The base salary to be paid to a member of Parliament has been increased by 2.75 per cent (rounded). The Tribunal has decided to make a corresponding change to the portion of base salary that is not parliamentary allowance for the purposes of the *Parliamentary Contributory Superannuation Act 1948*, by increasing it by 2.75 per cent (rounded). There was no consultation on this amendment as it has the effect of maintaining the portion originally decided by the Tribunal in 2012.
9. *Remuneration Tribunal (Members of Parliament) Determination 2022* formalises the Tribunal's decision for members of Parliament.
10. Consultation on this outcome was considered unnecessary given the matters considered by the Tribunal in making its decision.

Inquiry into Parliamentary Remuneration and Expenses

11. On 13 June 2022, the Tribunal completed its inquiries in relation to the remaining remuneration provisions (including electorate allowance) for current members of Parliament, as well as its annual obligation under section 46 of the PBR Act to inquire into and determine the allowances and expenses payable to former members of Parliament. The Tribunal concluded that no changes to these provisions were necessary at this time.
12. There was no consultation on these matters given there were no changes to the provisions contained in *Remuneration Tribunal (Members of Parliament) Determination 2021*.
13. *Remuneration Tribunal (Members of Parliament) Determination 2022* makes no changes to the provisions in the 2021 Determination (as amended). The Tribunal's Reasons for Determination are available at www.remtribunal.gov.au.
14. The determination succeeds and revokes in full *Remuneration Tribunal (Members of Parliament) Determination 2021*.

Retrospectivity

15. 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.

Exemption from disallowance

16. Subsection 47(7) of the PBR Act provides that this determination is a legislative instrument, but section 42 (disallowance) of the *Legislation Act 2003* does not apply to it.
17. Exemption from disallowance is appropriate in the context of this instrument, as it amends the entitlements of Senators and Members of the House of Representatives.

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:

19. The determination deals with the remuneration of members of Parliament, the rates of travel allowance payable to such members, and the allowances and expenses to be paid to former members. The remuneration, allowances and expenses are to be paid out of the public money of the Commonwealth.

PART 1 – LEGAL MATTERS AND EXPLANATION OF TERMS

20. Part 1 specifies the authority for and the commencement date of the determination and specifies that the determination supersedes *Remuneration Tribunal (Members of Parliament) Determination 2021*.

21. Part 1 also contains definitions of certain words and terms used in the determination, including the definition of a 'Luxury car', the value of which exceeds the luxury car tax threshold (for fuel efficient cars) mentioned in subsection 25-1 (3A) of the *A New Tax System (Luxury Car Tax) Act 1999*. This Act is available online at <https://www.legislation.gov.au/Details/C2017C00069>

PART 2 – REMUNERATION OF MEMBERS: SALARIES AND ELECTORATE ALLOWANCE

22. Part 2 implements the decision outlined in paragraph 7 of this document and sets out the base salary for senators and members of the House of Representatives, the additional salaries to be paid to parliamentary office holders and Ministers, the portion of base salary and additional salary that is not to be taken into account in defining the parliamentary allowance and salary for the purposes of the *Parliamentary Contributory Superannuation Act 1948*, and the electorate allowances applying from 1 July 2022.

23. The provisions of this Part otherwise remain unchanged from those contained in the previous determination.

PART 3 – REMUNERATION OF MEMBERS: OTHER REMUNERATION

24. Part 3 sets out other remuneration for senators and members of the House of Representatives under paragraphs 14(4)(a), (b) and (c) of the PBR Act. The remuneration is in the form of one or more private plated vehicles, or an allowance in lieu, and reimbursement of the costs of internet and telephone services at private residences.

25. The provisions of this Part remain unchanged from those contained in the previous determination.

PARTS 4 – ALLOWANCES AND EXPENSES OF FORMER MEMBERS

26. Part 4 provides post retirement travel expenses and resettlement allowance for former members (within the meaning of the PBR Act) under section 15 of that Act.

27. The provisions of this Part remain unchanged from those contained in the previous determination.

PARTS 5 – RATES OF AUSTRALIAN TRAVEL ALLOWANCE FOR TRAVEL WITHIN AUSTRALIA

28. Part 5 specifies rates of travel allowance for travel within Australia, for the purposes of section 10 of the PBR Regulations and subsection 31(2) of the PBR Act. These rates apply to any member (see definition in the PBR Act, quoted in the note to clause 1.3). This term includes persons who in certain circumstances hold, or are taken to hold an office, but are not senators or members of the House of Representatives.

29. The provisions of this Part remain unchanged from those contained in the previous determination.

PARTS 6 – PRIVATE VEHICLE ALLOWANCE

30. Part 6 specifies the rate of private vehicle allowances for the purposes of sections 12, 27 and 28 of the PBR Regulations and subsection 31(2) of the PBR Act.
31. The provisions of this Part remain unchanged from those contained in the previous determination.

PART 7 – TRANSITIONAL PROVISIONS

32. Part 7 maintains the transitional provisions for private plated vehicles contained in the 2021 Determination.

SCHEDULES

33. Schedule A provisions remain unchanged from those contained in Schedule A of the previous determination.
34. Schedule B provisions remain unchanged from those contained in Schedule B of the previous determination.

Authority: Sections 45 and 46
Parliamentary Business Resources Act 2017