



Remuneration Tribunal

Explanatory Statement: Remuneration Tribunal (Members of Parliament) Determination (No.2) 2023

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 Travel and Motor Vehicle Allowances

4. There was no consultation on this matter as it is the Tribunal's practice to review each year the travel and motor vehicle allowances applicable to office holders for which it determines remuneration.
5. The Tribunal did not receive any submissions on this matter.
6. In conducting this review, making this determination and adjusting travel allowance rates for parliamentarians the Tribunal has relied on *Taxation Determination TD 2023/3: Income tax: what are the reasonable travel and overtime meal allowance expense amounts for the 2023-24 income year?* (TD 2023/3).
7. Amongst other things, the Australian Taxation Office (ATO) determination sets out the amounts that the Commissioner of Taxation considers are reasonable for the substantiation exception in Subdivision 900-B of the Income Tax Assessment Act 1997 for the 2023-24 income year in relation to claims made by employees for domestic travel expenses and overseas travel expenses.
8. TD 2023/3 (excluding appendixes) is a public ruling for the purposes of the Taxation Administration Act 1953 and is available online at <https://www.ato.gov.au/law/view/pdf/pbr/td2023-003.pdf>.
9. The travel allowance rates for parliamentarians include the Canberra rate that is set at a lower rate than that available to other office holders in the Tribunal's jurisdiction, the Prime Minister's travel allowance rate, and the meals and incidentals rate for Ministers provided with accommodation.
10. Consistent with the methodology applied for other office holders in its jurisdiction, the Tribunal adjusted the existing rates for the Canberra travel

allowance and the Prime Minister's travel allowance by the average percentage increase in the relevant ATO rates from the year of the last increase to the current year.

11. The Tribunal aligns the private vehicle allowance for parliamentarians with the rate for the cents per kilometre method of calculating income tax deductions for work-related car expenses which is determined by the Commissioner of Taxation in accordance with subsection 28-25(4) of the *Income Tax Assessment Act 1997*. The current instrument is *Income Tax Assessment Act 1997 – Cents per Kilometre Deduction Rate for Car Expenses Determination 2023* (MVE 2023) which is available online at <https://www.legislation.gov.au/Details/F2023L00767>
12. In conducting this review, the Tribunal noted that the ATO had adjusted its cents per kilometre rate for 2023. The Tribunal has, accordingly, increased the motor vehicle allowance to align with MVE 2023.
13. The Tribunal's Reasons for Determination are available at www.remtribunal.gov.au.

Retrospectivity

14. 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

15. 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.
16. 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

17. 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:

18. 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

19. 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 (No.1) 2023*.
20. 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

21. Part 2 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.
22. The provisions of this Part otherwise remain unchanged from those contained in the previous determination.

PART 3 – REMUNERATION OF MEMBERS: OTHER REMUNERATION

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

PARTS 4 – ALLOWANCES AND EXPENSES OF FORMER MEMBERS

25. 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.
26. 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

27. 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.
28. The rate of travel allowance for the Prime Minister for each night in commercial accommodation in clause 5.3 has been amended by omitting "\$598" and substituting it with "\$612".
29. The rate of travel for a Minister where the Commonwealth pays for the accommodation in clause 5.5(a) has been amended by omitting "\$199" and substituting it with "\$204".
30. The rate of private vehicle allowance prescribed in sections 12, 27 and 28 of the PBR Regulations in clause 6.1 has been amended by omitting "78 cents" and substituting it with "85 cents".
31. The provisions of this Part otherwise remain unchanged from those contained in the previous determination.

PARTS 6 – PRIVATE VEHICLE ALLOWANCE

32. 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.
33. The provisions of this Part remain unchanged from those contained in the previous determination.

PART 7 – TRANSITIONAL PROVISIONS

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

SCHEDULES

35. Schedule A provisions remain unchanged from those contained in Schedule A of the previous determination.
36. Schedule B of *Remuneration Tribunal (Members of Parliament) Determination (No. 1) 2023* which sets out Travel Allowance Rates has been substituted with a new Schedule B setting out revised Travel Allowance Rates.

Authority: Sections 45 and 46
Parliamentary Business Resources Act 2017