



# **Independent Parliamentary Expenses Authority Act 2017**

**No. 2, 2017**

**An Act to establish the Independent Parliamentary  
Expenses Authority, and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation  
(<https://www.legislation.gov.au/>)



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# **Independent Parliamentary Expenses Authority Act 2017**

**No. 2, 2017**

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**An Act to establish the Independent Parliamentary  
Expenses Authority, and for related purposes**

*[Assented to 22 February 2017]*

The Parliament of Australia enacts:

## Part 1—Preliminary

### 1 Short title

This Act is the *Independent Parliamentary Expenses Authority Act 2017*.

### 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	22 February 2017
2. Sections 3 to 64	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 12 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	1 July 2017 (F2017N00036)

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.



### 3 Simplified outline of this Act

- This Act establishes the Independent Parliamentary Expenses Authority.
- The Authority has functions relating to:
  - (a) the work expenses, travel expenses and travel allowances of members of parliament; and
  - (b) certain travel expenses of former members of parliament; and
  - (c) the travel expenses and travel allowances of persons employed under Part III or IV of the *Members of Parliament (Staff) Act 1984*.
- Those functions include:
  - (a) giving advice about travel expenses and travel allowances; and
  - (b) monitoring travel expenses and travel allowances; and
  - (c) preparing regular reports relating to work expenses, travel expenses and travel allowances; and
  - (d) audits relating to work expenses, travel expenses and travel allowances; and
  - (e) processing claims relating to travel expenses and travel allowances.
- The Authority has a CEO who is responsible for its administration and for assisting it to perform its functions.

### 4 Definitions

In this Act:

***appointed member of the Authority*** means a member of the Authority who is not the President of the Remuneration Tribunal.

***Authority*** means the Independent Parliamentary Expenses Authority.

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**CEO** means the Chief Executive Officer of the Authority.

**claim** includes request.

**Commonwealth judicial officer** means:

- (a) a Justice of the High Court; or
- (b) a judge or justice of a court created by the Parliament.

**designated parliamentary benefit** means:

- (a) a benefit (within the meaning of the *Parliamentary Entitlements Act 1990*) that is not a benefit under the parliamentary injury compensation scheme; or
- (b) a benefit (however described) that:
  - (i) is determined by the Remuneration Tribunal under subsection 7(1) or (2) of the *Remuneration Tribunal Act 1973*; and
  - (ii) is not salary; or
- (c) a benefit (however described) that:
  - (i) is determined by the Remuneration Tribunal under subsection 7(4) of the *Remuneration Tribunal Act 1973* so far as that subsection relates to subsection 7(1) or (2) of that Act; and
  - (ii) is not salary; or
- (d) a benefit (however described) that:
  - (i) is in connection with travel by a Minister; and
  - (ii) is authorised by the executive power of the Commonwealth; or
- (e) a benefit (however described) that:
  - (i) is in connection with travel by a former member of parliament; and
  - (ii) is authorised by or under a law of the Commonwealth (other than this Act); and
  - (iii) is not provided in accordance with the Act known as the *Members of Parliament (Life Gold Pass) Act 2002* or the *Parliamentary Retirement Travel Act 2002*.

Note: This definition relates to the parliamentary expenses framework that was in existence in February 2017.

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***designated parliamentary travel benefit*** means:

- (a) a designated parliamentary benefit (other than an MP travel allowance) that is in connection with travel by a member of parliament; or
- (b) a designated parliamentary benefit that is in connection with travel by:
  - (i) the spouse of a member of parliament; or
  - (ii) another person;for the purpose of accompanying a member of parliament when the member is travelling; or
- (c) a designated parliamentary benefit that is in connection with travel by:
  - (i) the spouse of a member of parliament; or
  - (ii) another person;for the purpose of joining a member of parliament; or
- (d) a designated parliamentary benefit that is in connection with travel by:
  - (i) the spouse of a member of parliament; or
  - (ii) a person nominated by a member of parliament;for the purpose of representing the member of parliament at a funeral or function; or
- (e) a designated parliamentary benefit that is in connection with travel by:
  - (i) the spouse of a member of parliament; or
  - (ii) a person nominated by a member of parliament;for the purpose of attending an official government, parliamentary or vice-regal function as an invitee; or
- (f) a designated parliamentary benefit that:
  - (i) is in connection with travel by a Minister; and
  - (ii) is authorised by the executive power of the Commonwealth; or
- (g) a designated parliamentary benefit that:
  - (i) is in connection with travel by a former member of parliament; and
  - (ii) is authorised by or under a law of the Commonwealth (other than this Act); and

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- (iii) is not provided in accordance with the Act known as the *Members of Parliament (Life Gold Pass) Act 2002* or the *Parliamentary Retirement Travel Act 2002*.

Note: This definition relates to the parliamentary expenses framework that was in existence in February 2017.

***engage in conduct*** means:

- (a) do an act; or
- (b) omit to perform an act.

***harm*** has the same meaning as in the Dictionary to the *Criminal Code*.

***incidentals*** includes the cost of transport.

***legislative rules*** means rules made under section 64.

***member of parliament*** means:

- (a) a senator; or
- (b) a member of the House of Representatives.

***member of the Authority*** includes the Chair of the Authority.

***MOPS staff member*** means a person employed under Part III or IV of the *Members of Parliament (Staff) Act 1984*.

***MOPS travel allowance*** means an allowance payable to a MOPS staff member in connection with travel for official business.

***MOPS travel expenditure matter*** means:

- (a) a matter relating to a MOPS travel expense; or
- (b) a matter relating to a claim for a MOPS travel expense; or
- (c) a matter relating to a MOPS travel allowance; or
- (d) a matter relating to a claim for a MOPS travel allowance.

***MOPS travel expense*** means an expense incurred in connection with travel by a MOPS staff member for official business.

***MP travel allowance*** means an allowance payable to a member of parliament in connection with one or more overnight stays by the member.

***MP travel expenditure matter*** means:

- (a) a matter relating to an MP travel expense; or
- (b) a matter relating to a claim for an MP travel expense; or
- (c) a matter relating to a designated parliamentary travel benefit;  
or
- (d) a matter relating to a claim for a designated parliamentary travel benefit; or
- (e) a matter relating to an MP travel allowance; or
- (f) a matter relating to a claim for an MP travel allowance.

***MP travel expense*** means:

- (a) an expense incurred, after the transition time, in connection with travel by a member of parliament, so long as:
  - (i) that expense is authorised by or under a law of the Commonwealth (other than this Act); and
  - (ii) the travel meets the requirements prescribed by or under that law; or
- (b) an expense incurred, after the transition time, in connection with travel by:
  - (i) the spouse of a member of parliament; or
  - (ii) another person;for the purpose of accompanying a member of parliament when the member is travelling, so long as that expense is authorised by or under a law of the Commonwealth (other than this Act); or
- (c) an expense incurred, after the transition time, in connection with travel by:
  - (i) the spouse of a member of parliament; or
  - (ii) another person;for the purpose of joining a member of parliament, so long as that expense is authorised by or under a law of the Commonwealth (other than this Act); or
- (d) an expense incurred, after the transition time, in connection with travel by:
  - (i) the spouse of a member of parliament; or
  - (ii) a person nominated by a member of parliament;

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- for the purpose of representing the member of parliament at a funeral or function, so long as that expense is authorised by or under a law of the Commonwealth (other than this Act); or
- (e) an expense incurred, after the transition time, in connection with travel by:
- (i) the spouse of a member of parliament; or
  - (ii) a person nominated by a member of parliament;
- for the purpose of attending an official government, parliamentary or vice-regal function as an invitee, so long as that expense is authorised by or under a law of the Commonwealth (other than this Act); or
- (f) an expense incurred, after the transition time, in connection with travel by a former member of parliament, so long as that expense is authorised by or under a law of the Commonwealth, other than:
- (i) this Act; or
  - (ii) the Act known as the *Members of Parliament (Life Gold Pass) Act 2002* or the *Parliamentary Retirement Travel Act 2002*.

Note: This definition relates to the new parliamentary expenses framework.

**MP travel expenses law** means an MP work expenses law, to the extent to which it relates to:

- (a) MP travel expenses; or
- (b) designated parliamentary travel benefits; or
- (c) MP travel allowances.

**MP work expense** means:

- (a) an MP travel expense; or
- (b) an expense (other than an MP travel expense) incurred, after the transition time, to enable a member of parliament to conduct the business of the member, so long as:
  - (i) that expense is authorised by or under a law of the Commonwealth (other than this Act); and
  - (ii) that business is of a kind prescribed by or under that law.

Note: This definition relates to the new parliamentary expenses framework.

**MP work expense matter** means:

- (a) a matter relating to an MP work expense; or
- (b) a matter relating to a claim for an MP work expense; or
- (c) a matter relating to a designated parliamentary benefit (other than an MP travel allowance); or
- (d) a matter relating to a claim for a designated parliamentary benefit (other than an MP travel allowance); or
- (e) a matter relating to an MP travel allowance; or
- (f) a matter relating to a claim for an MP travel allowance.

**MP work expenses law** means:

- (a) a law of the Commonwealth, to the extent that it relates to:
  - (i) MP work expenses; or
  - (ii) MP travel allowances;
- (b) the *Parliamentary Entitlements Act 1990*, or a legislative instrument under that Act; or
- (c) a determination of the Remuneration Tribunal under subsection 7(1) or (2) of the *Remuneration Tribunal Act 1973*, to the extent to which the determination relates to a benefit (however described) that is not salary; or
- (d) a determination of the Remuneration Tribunal under subsection 7(4) of the *Remuneration Tribunal Act 1973* so far as that subsection relates to subsection 7(1) or (2) of that Act, to the extent to which the determination relates to a benefit (however described) that is not salary; or
- (e) the *Remuneration Tribunal Act 1973*, to the extent to which that Act relates to a determination covered by paragraph (c) or (d) of this definition.

**paid work** means work for financial gain or reward (whether as an employee, a self-employed person or otherwise).

**Secretary** means the Secretary of the Department.

**spouse** includes de facto partner (within the meaning of the *Acts Interpretation Act 1901*).

**staff of the Authority** means the staff described in section 49.

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**transition time** means the time declared by an Act (other than this Act) to be the transition time for the purposes of this Act. That time must not be earlier than the commencement of this section.

**vacancy**, in relation to the office of a member of the Authority, has a meaning affected by section 6.

### 5 Benefits or expenses in connection with travel

- (1) For the purposes of this Act, the following are examples of benefits or expenses in connection with travel:
  - (a) the cost of fares;
  - (b) the cost of the provision of charter services;
  - (c) the cost of accommodation;
  - (d) the cost of meals;
  - (e) the cost of incidentals.
- (2) The following are examples of benefits or expenses in connection with travel overseas:
  - (a) the cost of vaccinations and medical supplies essential for travel overseas;
  - (b) the cost of medical services (including emergency dental services) and hospital services received in the period covered by the official itinerary if the cost is not covered by insurance.

### 6 Vacancy in the office of a member of the Authority

For the purposes of a reference in:

- (a) this Act to a **vacancy** in the office of a member of the Authority; or
- (b) the *Acts Interpretation Act 1901* to a **vacancy** in the membership of a body;

there are taken to be 4 offices of members of the Authority in addition to the Chair of the Authority.

### 7 Crown to be bound

This Act binds the Crown in right of the Commonwealth.

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**8 Extension to external Territories**

This Act extends to every external Territory.

**9 Extra-territorial operation**

This Act extends to acts, omissions, matters and things outside Australia, whether or not in a foreign country.

## Part 2—Independent Parliamentary Expenses Authority

### Division 1—Introduction

#### 10 Simplified outline of this Part

- This Part establishes the Independent Parliamentary Expenses Authority.
- The Authority has functions relating to:
  - (a) the work expenses, travel expenses and travel allowances of members of parliament; and
  - (b) certain travel expenses of former members of parliament; and
  - (c) the travel expenses and travel allowances of persons employed under Part III or IV of the *Members of Parliament (Staff) Act 1984*.
- Those functions include:
  - (a) giving advice about travel expenses and travel allowances; and
  - (b) monitoring travel expenses and travel allowances; and
  - (c) preparing regular reports relating to work expenses, travel expenses and travel allowances; and
  - (d) audits relating to work expenses, travel expenses and travel allowances; and
  - (e) processing claims relating to travel expenses and travel allowances.
- The Authority consists of the following members:
  - (a) a Chair;
  - (b) the President of the Remuneration Tribunal;
  - (c) at least 2, and not more than 3, other members.

- The members of the Authority (other than the President of the Remuneration Tribunal) are to be appointed by the Governor-General.
- The Authority is to hold meetings.
- The Authority may delegate its functions and powers.
- The Authority and the Secretary must share relevant information.

## **Division 2—Authority's establishment, functions, powers and liabilities**

### **11 Independent Parliamentary Expenses Authority**

- (1) The Independent Parliamentary Expenses Authority is established by this section.

Note 1: The Authority does not have a legal identity separate from the Commonwealth.

Note 2: In this Act, *Authority* means the Independent Parliamentary Expenses Authority—see section 4.

- (2) For the purposes of the finance law (within the meaning of the *Public Governance, Performance and Accountability Act 2013*):
- (a) the Authority is a listed entity; and
  - (b) the CEO is the accountable authority of the Authority; and
  - (c) the following persons are officials of the Authority:
    - (i) the Chair of the Authority;
    - (ii) the other members of the Authority;
    - (iii) the CEO;
    - (iv) the staff of the Authority referred to in section 49;
    - (v) persons whose services are made available to the Authority under section 50;
    - (vi) consultants engaged under section 51; and
  - (d) the purposes of the Authority include:
    - (i) the functions of the Authority referred to in section 12; and
    - (ii) the functions of the CEO referred to in section 37.

### **12 Functions of the Authority**

- (1) The Authority has the following functions:
- (a) to give personal advice to:
    - (i) members of parliament; and
    - (ii) former members of parliament;about MP travel expenditure matters;

- (b) to:
  - (i) issue general advisory documents relating to MP travel expenditure matters; and
  - (ii) if the Authority considers that a particular general advisory document should be published—publish that general advisory document on the Authority's website;
- (c) to monitor MP travel expenditure matters;
- (d) to:
  - (i) prepare regular reports about MP work expense matters; and
  - (ii) publish those reports on the Authority's website;
- (e) to:
  - (i) prepare other such reports about MP work expense matters as the Authority considers appropriate; and
  - (ii) if the Authority considers that a particular report should be published—publish that report on the Authority's website;
- (f) to conduct, or arrange for the conduct of, such audits relating to MP work expense matters as the Authority considers appropriate;
- (g) on behalf of the Commonwealth, to process claims for:
  - (i) MP travel expenses; and
  - (ii) designated parliamentary travel benefits; and
  - (iii) MP travel allowances;
- (h) on behalf of the Commonwealth, to incur an MP travel expense that is authorised by or under a law of the Commonwealth (other than this Act);
- (i) on behalf of the Commonwealth, to pay an MP travel expense that is authorised by or under a law of the Commonwealth (other than this Act);
- (j) on behalf of the Commonwealth, to pay an MP travel allowance that is authorised by or under a law of the Commonwealth (other than this Act);
- (k) on behalf of the Commonwealth, to provide, or arrange for the provision of, goods, services or facilities by way of a designated parliamentary travel benefit;

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- (l) on behalf of the Commonwealth, to make a payment by way of a designated parliamentary travel benefit;
- (m) if an MP travel expenses law authorises the Authority to give rulings—to give rulings under that MP travel expenses law;
- (n) on behalf of the Commonwealth, to recover (whether by way of set-off or otherwise):
  - (i) overpayments; and
  - (ii) repayments; and
  - (iii) cost recovery payments;in relation to MP travel expenditure matters;
- (o) on behalf of the Commonwealth, to recover (whether by way of set-off or otherwise) amounts payable to the Commonwealth under the *Parliamentary Entitlements Act 1990* in relation to:
  - (i) designated parliamentary travel benefits; or
  - (ii) claims for designated parliamentary travel benefits;
- (p) to give personal advice to MOPS staff members about MOPS travel expenditure matters;
- (q) to:
  - (i) issue general advisory documents relating to MOPS travel expenditure matters; and
  - (ii) if the Authority considers that a particular general advisory document should be published—publish that general advisory document on the Authority's website;
- (r) to monitor MOPS travel expenditure matters;
- (s) to:
  - (i) prepare regular reports about MOPS travel expenditure matters; and
  - (ii) publish those reports on the Authority's website;
- (t) to:
  - (i) prepare other such reports about MOPS travel expenditure matters as the Authority considers appropriate; and
  - (ii) if the Authority considers that a particular report should be published—publish that report on the Authority's website;

- (u) to conduct, or arrange for the conduct of, such audits relating to MOPS travel expenditure matters as the Authority considers appropriate;
- (v) on behalf of the Commonwealth, to process claims for:
  - (i) MOPS travel expenses; and
  - (ii) MOPS travel allowances;
- (w) on behalf of the Commonwealth, to incur a MOPS travel expense that is authorised:
  - (i) by or under a law of the Commonwealth (other than this Act); or
  - (ii) by an agreement made under a law of the Commonwealth (other than this Act); or
  - (iii) by the executive power of the Commonwealth;
- (x) on behalf of the Commonwealth, to pay a MOPS travel expense that is authorised:
  - (i) by or under a law of the Commonwealth (other than this Act); or
  - (ii) by an agreement made under a law of the Commonwealth (other than this Act); or
  - (iii) by the executive power of the Commonwealth;
- (y) on behalf of the Commonwealth, to pay a MOPS travel allowance that is authorised:
  - (i) by or under a law of the Commonwealth (other than this Act); or
  - (ii) by an agreement made under a law of the Commonwealth (other than this Act);
- (z) if a law of the Commonwealth authorises the Authority to give rulings relating to MOPS travel expenditure matters—to give those rulings;
- (za) on behalf of the Commonwealth, to recover (whether by way of set-off or otherwise):
  - (i) overpayments; and
  - (ii) repayments; and
  - (iii) cost recovery payments;in relation to MOPS travel expenditure matters;

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- (zb) such functions (if any) as are conferred on the Authority by an MP work expenses law;
- (zc) such functions (if any) as are conferred on the Authority by any other law of the Commonwealth;
- (zd) such other functions (if any) as are prescribed by the legislative rules;
- (ze) to do anything incidental to or conducive to the performance of any of the above functions.

Note: For transitional provisions, see section 63.

*Reports may include personal information*

- (2) A report under paragraph (1)(d), (e), (s) or (t) may include personal information (within the meaning of the *Privacy Act 1988*).

Note: Each of those paragraphs constitutes an authorisation for the purposes of the *Privacy Act 1988* and other laws.

*Certain agency functions are not exclusive*

- (3) Paragraph (1)(h) does not, by implication, prevent an agent of the Commonwealth (other than the Authority) from having the authority to incur an MP travel expense on behalf of the Commonwealth.
- (4) Paragraph (1)(k) does not, by implication, prevent an agent of the Commonwealth (other than the Authority) from having the authority to incur an expense, by way of the provision of a designated parliamentary travel benefit, on behalf of the Commonwealth.
- (5) Paragraph (1)(w) does not, by implication, prevent an agent of the Commonwealth (other than the Authority) from having the authority to incur an MOPS travel expense on behalf of the Commonwealth.

**13 Powers of the Authority**

The Authority has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.



#### **14 Authority has privileges and immunities of the Crown**

The Authority has the privileges and immunities of the Crown in right of the Commonwealth.

## Division 3—Membership of the Authority

### 15 Membership of the Authority

The Authority consists of the following members:

- (a) a Chair;
- (b) the President of the Remuneration Tribunal;
- (c) at least 2, and not more than 3, other members.

### 16 Appointment of members of the Authority

- (1) Each member of the Authority (other than a member who is the President of the Remuneration Tribunal) is to be appointed by the Governor-General by written instrument.

Note: A member of the Authority may be reappointed: see section 33AA of the *Acts Interpretation Act 1901*.

- (2) One appointed member of the Authority must be:
  - (a) a former Commonwealth judicial officer; or
  - (b) a former judge of the Supreme Court of a State or Territory.
- (3) One appointed member of the Authority must be a former member of parliament.
- (4) One appointed member of the Authority must be a person who the Minister is satisfied has:
  - (a) substantial experience or knowledge; and
  - (b) significant standing;in the field of auditing.
- (5) If the Authority consists of 5 members, one appointed member of the Authority must be a person who the Minister is satisfied has:
  - (a) substantial experience or knowledge; and
  - (b) significant standing;in at least one of the following fields:
  - (c) public administration;
  - (d) corporate governance.

- (6) A member of the Authority holds office on a part-time basis.
- (7) The performance of the functions, or the exercise of the powers, of the Authority is not affected merely because its membership is not as required by subsection (2), (3) or (4) unless a continuous period of 3 months has elapsed since its membership ceased to be as so required.
- (8) An office of member of the Authority that is held by the President of the Remuneration Tribunal is taken not to be a public office for the purposes of paragraph 4(4)(c) of the *Remuneration Tribunal Act 1973*.

### **17 Period of appointment for members of the Authority**

An appointed member of the Authority holds office for the period specified in the instrument of appointment. The period must not exceed 5 years.

### **18 Acting members of the Authority**

#### *Acting Chair of the Authority*

- (1) The Minister may, by written instrument, appoint a person to act as the Chair of the Authority:
  - (a) during a vacancy in the office of the Chair of the Authority (whether or not an appointment has previously been made to the office); or
  - (b) during any period, or during all periods, when the Chair of the Authority:
    - (i) is absent from duty or Australia; or
    - (ii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

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*Acting member of the Authority (other than the Chair of the Authority)*

- (2) The Minister may, by written instrument, appoint a person to act as a member of the Authority (other than the Chair of the Authority):
- (a) during a vacancy in the office of a member of the Authority (other than the Chair of the Authority), whether or not an appointment has previously been made to the office; or
  - (b) during any period, or during all periods, when a member of the Authority (other than the Chair of the Authority):
    - (i) is absent from duty or Australia; or
    - (ii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

## **Division 4—Terms and conditions for members of the Authority**

### **19 Remuneration**

- (1) An appointed member of the Authority is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, an appointed member of the Authority is to be paid the remuneration that is prescribed by the legislative rules.
- (2) An appointed member of the Authority is to be paid the allowances that are prescribed by the legislative rules.
- (3) Subsections (1) and (2) have effect subject to the *Remuneration Tribunal Act 1973*.
- (4) A member of the Authority who is the President of the Remuneration Tribunal is to be paid the fees and allowances that are prescribed by the legislative rules.

### **20 Disclosure of interests**

- (1) A disclosure by a member of the Authority under section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests) must be made to the Minister.
- (2) Subsection (1) applies in addition to any rules made for the purposes of section 29 of the *Public Governance, Performance and Accountability Act 2013*.
- (3) For the purposes of this Act and the *Public Governance, Performance and Accountability Act 2013*, a member of the Authority is taken not to have complied with section 29 of that Act if the member does not comply with subsection (1) of this section.

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**21 Paid work**

A member of the Authority must not engage in any paid work that conflicts or may conflict with the proper performance of his or her duties.

**22 Leave of absence**

- (1) The Minister may grant leave of absence to the Chair of the Authority on the terms and conditions as to remuneration or otherwise that the Minister determines.
- (2) The Chair of the Authority may grant leave of absence to a member of the Authority on the terms and conditions that the Chair determines.

**23 Resignation**

- (1) A member of the Authority may resign his or her appointment by giving the Governor-General a written resignation.
- (2) The resignation takes effect on the day it is received by the Governor-General or, if a later day is specified in the resignation, on that later day.

**24 Termination of appointment**

- (1) The Governor-General may terminate the appointment of an appointed member of the Authority:
  - (a) for misbehaviour; or
  - (b) if the member is unable to perform the duties of his or her office because of physical or mental incapacity.
- (2) The Governor-General may terminate the appointment of an appointed member of the Authority if:
  - (a) the member:
    - (i) becomes bankrupt; or
    - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
    - (iii) compounds with his or her creditors; or

- (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
- (b) the member engages in paid work that conflicts or may conflict with the proper performance of his or her duties (see section 21); or
- (c) the member fails, without reasonable excuse, to comply with section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests) or rules made for the purposes of that section; or
- (d) the member is absent, except on leave of absence, from 3 consecutive meetings of the Authority.

## **25 Other terms and conditions**

A member of the Authority holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Governor-General.

## **Division 5—Decision-making by the Authority**

### **26 Holding of meetings**

- (1) The Authority is to hold such meetings as are necessary for the efficient performance of its functions.
- (2) The Chair of the Authority may convene a meeting at any time.

### **27 Presiding at meetings**

- (1) The Chair of the Authority presides at all meetings at which he or she is present.
- (2) If the Chair of the Authority is not present at a meeting, the members of the Authority present must appoint one of themselves to preside.

### **28 Quorum**

At a meeting of the Authority, 2 members of the Authority constitute a quorum.

### **29 Voting at meetings etc.**

- (1) A question arising at a meeting of the Authority is to be determined by a majority of the votes of the members of the Authority present and voting.
- (2) The person presiding at a meeting of the Authority has a deliberative vote and, if the votes are equal, a casting vote.

### **30 Conduct of meetings**

The Authority may, subject to this Division, regulate proceedings at its meetings as it considers appropriate.

Note: Section 33B of the *Acts Interpretation Act 1901* provides for participation in meetings by telephone etc.



**31 Minutes**

The Authority must keep minutes of its meetings.

## Division 6—Delegation

### 32 Delegation by the Authority

- (1) The Authority may, in writing, delegate any or all of its functions and powers to:
  - (a) a member of the Authority; or
  - (b) the CEO; or
  - (c) a member of the staff of the Authority; or
  - (d) a person assisting the Authority under section 50.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

- (2) In performing a delegated function or exercising a delegated power, the delegate must comply with any written directions of the Authority.
- (3) The delegation continues in force despite a change in the membership of the Authority.
- (4) The delegation may be varied or revoked by the Authority (whether or not there has been a change in the membership of the Authority).

## **Division 7—Other matters**

### **33 Authority must give information to the Secretary**

- (1) The Authority must give the Secretary such information or documents in relation to the Authority's functions as the Secretary reasonably requires for the performance of the Secretary's functions in relation to:
  - (a) MP work expense matters; or
  - (b) MOPS travel expenditure matters.
- (2) The information mentioned in subsection (1) may include personal information (within the meaning of the *Privacy Act 1988*).
- (3) A document mentioned in subsection (1) may contain personal information (within the meaning of the *Privacy Act 1988*).

Note: This section constitutes an authorisation for the purposes of the *Privacy Act 1988* and other laws.

### **34 Secretary must give information to the Authority**

- (1) The Secretary must give the Authority such information and documents as the Authority reasonably requires for the performance of the Authority's functions.
- (2) The information mentioned in subsection (1) may include personal information (within the meaning of the *Privacy Act 1988*).
- (3) A document mentioned in subsection (1) may contain personal information (within the meaning of the *Privacy Act 1988*).

Note: This section constitutes an authorisation for the purposes of the *Privacy Act 1988* and other laws.

## Part 3—CEO of the Authority

### Division 1—Introduction

#### 35 Simplified outline of this Part

- There is to be a Chief Executive Officer of the Authority.
- The CEO's functions are to manage the Authority's administration and assist it in the performance of its functions.
- The CEO must comply with certain directions given by the Authority.
- The CEO is to be appointed by the Minister.

#### 36 CEO

There is to be a Chief Executive Officer of the Independent Parliamentary Expenses Authority.

Note: In this Act, **CEO** means the Chief Executive Officer of the Authority—see section 4.

#### 37 Functions of the CEO

The CEO's functions are:

- (a) to manage the administration of the Authority; and
- (b) to assist the Authority in the performance of its functions.

#### 38 Powers of the CEO

The CEO has power to do all things necessary or convenient to be done for or in connection with the performance of his or her functions.

### **39 Directions by the Authority**

- (1) The Authority may give written directions to the CEO about the performance of the CEO's function under paragraph 37(b) (assisting the Authority).

*Compliance with a direction*

- (2) The CEO must comply with a direction under subsection (1).

*When the CEO is not required to comply with a direction*

- (3) Subsection (2) does not apply to the extent that:
- (a) the direction deals with the allocation of resources for the performance of the Authority's functions; or
  - (b) compliance with the direction would be inconsistent with the CEO's performance of functions or exercise of powers under the *Public Governance, Performance and Accountability Act 2013* in relation to the Authority; or
  - (c) the direction relates to the CEO's performance of functions or exercise of powers under the *Public Service Act 1999* in relation to the Authority.

*Direction is not a legislative instrument*

- (4) A direction under subsection (1) is not a legislative instrument.

## Division 2—Appointments

### 40 Appointment of CEO

- (1) The CEO is to be appointed by the Minister by written instrument.

Note: The CEO may be reappointed: see section 33AA of the *Acts Interpretation Act 1901*.

- (2) A person must not be appointed as the CEO unless the Minister is satisfied that the person has appropriate qualifications, knowledge or experience.
- (3) The CEO holds office on a full-time basis.
- (4) The CEO holds office for the period specified in the instrument of appointment. The period must not exceed 5 years.

### 41 Appointment of acting CEO

- (1) The Minister may, by written instrument, appoint a person to act as the CEO:
- (a) during a vacancy in the office of the CEO (whether or not an appointment has previously been made to the office); or
  - (b) during any period, or during all periods, when the CEO:
    - (i) is absent from duty or Australia; or
    - (ii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

- (2) A person must not be appointed to act as the CEO unless the Minister is satisfied that the person has appropriate qualifications, knowledge or experience.

## **Division 3—Terms and conditions for the CEO**

### **42 Remuneration of the CEO**

- (1) The CEO is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the CEO is to be paid the remuneration that is prescribed by the legislative rules.
- (2) The CEO is to be paid the allowances that are prescribed by the legislative rules.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

### **43 Leave of absence of the CEO**

- (1) The CEO has the recreation leave entitlements that are determined by the Remuneration Tribunal.
- (2) The Minister may grant the CEO leave of absence, other than recreation leave, on the terms and conditions as to remuneration or otherwise that the Minister determines.

### **44 Other employment of the CEO**

The CEO must not engage in paid work outside the duties of his or her office without the Minister's approval.

### **45 Resignation of the CEO**

- (1) The CEO may resign his or her appointment by giving the Minister a written resignation.
- (2) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

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**46 Termination of appointment of the CEO**

*Misbehaviour or incapacity*

- (1) The Minister may terminate the appointment of the CEO:
- (a) for misbehaviour; or
  - (b) if the CEO is unable to perform the duties of his or her office because of physical or mental incapacity.

*Bankruptcy etc.*

- (2) The Minister may terminate the appointment of the CEO if:
- (a) the CEO:
    - (i) becomes bankrupt; or
    - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
    - (iii) compounds with his or her creditors; or
    - (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
  - (b) the CEO is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or
  - (c) the CEO engages, except with the Minister's approval, in paid work outside the duties of his or her office (see section 44); or
  - (d) the CEO fails, without reasonable excuse, to comply with section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests) or rules made for the purposes of that section.

**47 Other terms and conditions of the CEO**

The CEO holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Minister.



## **Part 4—Staff of the Authority etc.**

### **48 Simplified outline of this Part**

- The staff of the Authority are to be persons engaged under the *Public Service Act 1999*.
- The Authority may also be assisted by certain officers and employees.
- The CEO may engage consultants.

### **49 Staff**

- (1) The staff of the Authority are to be persons engaged under the *Public Service Act 1999*.
- (2) For the purposes of the *Public Service Act 1999*:
  - (a) the CEO and the staff of the Authority together constitute a Statutory Agency; and
  - (b) the CEO is the Head of that Statutory Agency.

### **50 Persons assisting the Authority**

The Authority may also be assisted:

- (a) by officers and employees of Agencies (within the meaning of the *Public Service Act 1999*); or
- (b) by officers and employees of authorities of the Commonwealth; or
- (c) by officers and employees of a State or Territory; or
- (d) by officers and employees of authorities of a State or Territory;

whose services are made available to the Authority in connection with the performance of any of its functions.

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**51 Consultants**

The CEO may, on behalf of the Commonwealth, engage consultants to assist in the performance of the Authority's functions.

## **Part 5—Information-gathering powers**

### **52 Simplified outline of this Part**

- The Authority may require a person to give the Authority information, or produce to the Authority a document, that is relevant to the performance of the Authority's reporting or auditing functions.

### **53 Authority may obtain information and documents**

#### *Scope*

- (1) This section applies to a person if the Authority has reason to believe that the person has information or a document that is relevant to the performance of a function conferred on the Authority by paragraph 12(1)(d), (e), (f), (s), (t) or (u).

#### *Requirement*

- (2) The Authority may, by written notice given to the person, require the person:
    - (a) to give to the Authority, within the period and in the manner and form specified in the notice, any such information; or
    - (b) to produce to the Authority, within the period and in the manner specified in the notice, any such documents; or
    - (c) to make copies of any such documents and to produce to the Authority, within the period and in the manner specified in the notice, those copies.
  - (3) A period specified under subsection (2) must not be shorter than 14 days after the notice is given.
  - (4) A person commits an offence if:
    - (a) the Authority has given a notice to the person under subsection (2); and
    - (b) the person engages in conduct; and
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(c) the person's conduct contravenes a requirement in the notice.

Penalty: 30 penalty units.

- (5) A notice under subsection (2) must set out the effect of:
- (a) subsection (4); and
  - (b) sections 137.1 and 137.2 of the *Criminal Code*.

**54 Copying documents—reasonable compensation**

A person is entitled to be paid by the Authority, on behalf of the Commonwealth, reasonable compensation for complying with a requirement covered by paragraph 53(2)(c).

**55 Self-incrimination**

A person is excused from giving information or producing a document or a copy of a document under this Part if the information or the production of the document or copy might tend to incriminate the person or expose the person to a penalty.

**56 Copies of documents**

- (1) The Authority may inspect a document or copy produced under this Part and may make and retain copies of, or take and retain extracts from, such a document.
- (2) The Authority may retain possession of a copy of a document produced in accordance with a requirement covered by paragraph 53(2)(c).

**57 Authority may retain documents**

- (1) The Authority may take, and retain for as long as is necessary, possession of a document produced under this Part.
- (2) The person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the Authority to be a true copy.

- (3) The certified copy must be received in all courts and tribunals as evidence as if it were the original.
- (4) Until a certified copy is supplied, the Authority must, at such times and places as the Authority thinks appropriate, permit the person otherwise entitled to possession of the document, or a person authorised by that person, to inspect and make copies of, or take extracts from, the document.

### **58 Relationship of information-gathering powers to other laws**

- (1) The operation of this Part is limited by laws of the Commonwealth relating to the powers, privileges and immunities of:
  - (a) each House of the Parliament; and
  - (b) the members of each House of the Parliament; and
  - (c) the committees of each House of the Parliament and joint committees of both Houses of the Parliament.
- (2) This Part does not affect the law relating to legal professional privilege.

## Part 6—Miscellaneous

### 59 Simplified outline of this Part

- This Part deals with miscellaneous matters, such as the making of legislative rules.

### 60 Sensitive information not to be included in public reports

- (1) The Authority must not include particular information in a public report if:
  - (a) the Authority is of the opinion that disclosure of the information would be contrary to the public interest because the disclosure would prejudice the security, defence or international relations of the Commonwealth; or
  - (b) the Attorney-General has issued a certificate to the Authority stating that, in the opinion of the Attorney-General, disclosure of the information would be contrary to the public interest because the disclosure would prejudice the security, defence or international relations of the Commonwealth; or
  - (c) the Authority is of the opinion that disclosure of the information would be likely to result in serious harm to the individual, or any of the individuals, to whom the information relates.
- (2) The Authority cannot be required, and is not permitted, to disclose to:
  - (a) a House of the Parliament; or
  - (b) a member of a House of the Parliament; or
  - (c) a committee of a House of the Parliament or a joint committee of both Houses of the Parliament;information that subsection (1) prohibits being included in a public report.
- (3) If the Authority omits particular information from a public report because the Attorney-General has issued a certificate under

paragraph (1)(b) in relation to the information, the Authority must state in the report:

- (a) that information (which does not have to be identified) has been omitted from the report; and
  - (b) that the Attorney-General issued the certificate because the Attorney-General was of the opinion that disclosure of the information would be contrary to the public interest because the disclosure would prejudice the security, defence or international relations of the Commonwealth.
- (4) If, because of subsection (1), the Authority:
- (a) decides not to prepare a public report; or
  - (b) omits particular information from a public report;
- the Authority may prepare a report under this subsection that includes the information concerned. The Authority must give a copy of each report under this subsection to:
- (c) the Prime Minister; and
  - (d) the Minister.
- (5) For the purposes of this section, **public report** means a report that is to be published on the Authority's website.

## **61 Proceedings in the name of the Authority**

- (1) Proceedings brought by the Commonwealth in relation to the functions or powers of the Authority may be brought in the name of the Authority.
- (2) Proceedings brought against the Commonwealth in relation to the functions or powers of the Authority may be brought against the Commonwealth in the name of the Authority.

## **62 Independent review**

- (1) The Minister must cause an independent review to be conducted of the operation of this Act and the legislative rules.
- (2) The review must be conducted as soon as practicable after the end of 3 years after this section commences.

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- (3) The persons who conduct the review must give the Minister a written report of the review.
- (4) The Minister must cause copies of the report to be tabled in each House of the Parliament within 15 sitting days of that House after the report is given to the Minister.

**63 Transitional provisions**

*Functions of the Authority*

- (1) For the purposes of paragraphs 12(1)(a) and (p), it is immaterial whether a matter occurred before, at or after the commencement of this section.
- (2) For the purposes of paragraphs 12(1)(g) and (v), it is immaterial whether:
  - (a) a claim relates to a matter that occurred before, at or after the commencement of this section; or
  - (b) a claim was made before, at or after the commencement of this section.
- (3) For the purposes of paragraphs 12(1)(d), (e), (s) and (t), it is immaterial whether a matter occurred before, at or after the commencement of this section.
- (4) For the purposes of paragraph 12(1)(x), it is immaterial whether an expense was incurred before, at or after the commencement of this section.
- (5) For the purposes of paragraphs 12(1)(n) and (za), it is immaterial whether a recovery relates a matter that occurred before, at or after the commencement of this section.
- (6) For the purposes of paragraphs 12(1)(j) and (y), it is immaterial whether an allowance became payable before, at or after the commencement of this section.
- (7) For the purposes of paragraphs 12(1)(f) and (u), it is immaterial whether an audit relates to a matter that occurred before, at or after the commencement of this section.



*Abolition of Executive Agency*

- (8) The legislative rules may prescribe matters of a transitional nature relating to the abolition of the body known as the Independent Parliamentary Expenses Authority that was established as an Executive Agency under section 65 of the *Public Service Act 1999*.

**64 Legislative rules**

- (1) The Minister may, by legislative instrument, make rules (**legislative rules**) prescribing matters:
- (a) required or permitted by this Act to be prescribed by the legislative rules; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) To avoid doubt, the legislative rules may not do the following:
- (a) create an offence or civil penalty;
  - (b) provide powers of:
    - (i) arrest or detention; or
    - (ii) entry, search or seizure;
  - (c) impose a tax;
  - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
  - (e) directly amend the text of this Act.

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[Minister's second reading speech made in—  
House of Representatives on 9 February 2017  
Senate on 15 February 2017]

(15/17)

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