



# **Parliamentary Entitlements Legislation Amendment Act 2017**

**No. 4, 2017**

**An Act to amend the law relating to benefits for  
members and former members of Parliament, and  
for certain other persons, 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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**An Act to amend the law relating to benefits for  
members and former members of Parliament, and  
for certain other persons, and for related purposes**

*[Assented to 22 February 2017]*

The Parliament of Australia enacts:

## **1 Short title**

This Act is the *Parliamentary Entitlements Legislation Amendment Act 2017*.

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## 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.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 4 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	22 February 2017
2. Schedule 1	14 May 2014.	14 May 2014
3. Schedule 2	The day after this Act receives the Royal Assent.	23 February 2017

Note: This table relates only to the provisions of this Act as originally enacted.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 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## 4 Compensation for acquisition of property

- (1) If the operation of this Act would result in an acquisition of property from a person otherwise than on just terms, the Commonwealth is liable to pay a reasonable amount of compensation to the person.

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(2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in the Federal Court of Australia for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.

(3) In this section:

***acquisition of property*** has the same meaning as in paragraph 51(xxxi) of the Constitution.

***just terms*** has the same meaning as in paragraph 51(xxxi) of the Constitution.

## Schedule 1—Amendments commencing on 14 May 2014

### Part 1—Main amendments

#### *Members of Parliament (Life Gold Pass) Act 2002*

##### 1 Title

Omit “**about Life Gold Passes**”, substitute “**about travel entitlements for retired members of the Parliament**”.

##### 2 Section 1

Omit “*Members of Parliament (Life Gold Pass) Act 2002*”, substitute “*Parliamentary Retirement Travel Act 2002*”.

Note 1: This item amends the short title of the Act. If another amendment of the Act is described by reference to the Act’s previous short title, that other amendment has effect after the commencement of this item as an amendment of the Act under its amended short title (see section 10 of the *Acts Interpretation Act 1901*).

Note 2: Schedule 2 contains further amendments of the Act under its new short title.

##### 3 Section 3

Repeal the section, substitute:

##### 3 Simplified outline of this Act

- On retirement from the Parliament a person may, if he or she has satisfied the relevant qualifying period, become the holder of a Parliamentary Retirement Travel Entitlement conferring travel entitlements under this Act.
- For former members who are not former Prime Ministers:
  - (a) there are limits on when a person must have entered Parliament, and when a person must have satisfied the qualifying period and retired from the Parliament, in order to become the holder of a Parliamentary Retirement Travel Entitlement; and
  - (b) a Parliamentary Retirement Travel Entitlement expires after a limited period.



- This Act also confers some travel entitlements on the spouse or de facto partner of a retired former Prime Minister.
- Travel entitlements are limited to return trips that are within Australia, and that comply with certain other requirements (including that the travel be for the public benefit). There are also limits on the number of trips to which a person is entitled.
- If a superannuation order is made under the *Crimes (Superannuation Benefits) Act 1989* in relation to a person convicted of a corruption offence, the person is disqualified from travel entitlements under this Act and from severance travel.
- No person other than a retired former Prime Minister or the spouse or de facto partner of a retired former Prime Minister will have a Parliamentary Retirement Travel Entitlement after the day section 1 of the *Parliamentary Entitlements Legislation Amendment Act 2017* commences.

#### **4 After section 3**

Insert:

##### **3A Change of name of entitlement to travel**

- (1) From the commencement of this section, the name for what was previously called a “Life Gold Pass” (the *old name*) is, by force of this section, changed to a “Parliamentary Retirement Travel Entitlement” (the *new name*).
- (2) A reference in this Act to the new name includes (if the reference relates to a time before the commencement of this section) a reference to the old name.

##### **5 Section 4 (definition of *domestic return trip*)**

Repeal the definition, substitute:

*domestic return trip* means a return trip that:

- (a) is wholly within Australia; and
- (b) satisfies the purpose test specified in section 4AA; and

- (c) is on a scheduled transport service or on a combination of scheduled transport services.

Note: See also sections 7 and 8.

## 6 Section 4

Insert:

*end* of a Parliament: a Parliament *ends* when the House of Representatives is dissolved or expires.

## 7 Section 4 (definition of *holder of a Life Gold Pass*)

Repeal the definition.

## 8 Section 4

Insert:

*holder of a Parliamentary Retirement Travel Entitlement* means a former member who, on retirement from the Parliament, was qualified to hold a Parliamentary Retirement Travel Entitlement, but does not include a former member who cannot be, or who has ceased to be, a holder of a Parliamentary Retirement Travel Entitlement because of section 4A, 4B or 4C.

Note: A person who has retired from Parliament may be qualified to hold a Parliamentary Retirement Travel Entitlement under a determination of the Remuneration Tribunal (see section 30).

*nominal expiry time* for a Parliamentary Retirement Travel Entitlement: see subsection 18(4).

*Parliamentary Retirement Travel Entitlement*: see section 3A.

*senior office holder* means:

- (a) a Minister, other than the Prime Minister or a Parliamentary Secretary; or
- (b) the President of the Senate or the Speaker of the House of Representatives; or
- (c) the Leader of the Opposition in the House of Representatives.

## 9 After section 4

Insert:

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#### **4AA The purpose test**

A return trip by a person satisfies the purpose test if the person undertakes the trip for a purpose that is for the public benefit, and does not undertake the trip for a commercial purpose or a private purpose.

#### **10 Section 4A (heading)**

Repeal the heading, substitute:

#### **4A Closing the Parliamentary Retirement Travel Entitlement scheme to new members, other than to members who become Prime Minister**

#### **11 Before subsection 4A(1)**

Insert:

- (1A) Nothing in this section prevents a former member who has been the Prime Minister from becoming a holder of a Parliamentary Retirement Travel Entitlement.

#### **12 After section 4A**

Insert:

#### **4B Other limitations on becoming a holder of a Parliamentary Retirement Travel Entitlement**

- (1) A person who did not satisfy the relevant qualifying period before 14 May 2014 cannot become a holder of a Parliamentary Retirement Travel Entitlement on retirement from the Parliament, unless the person is the Prime Minister, or a former Prime Minister, when he or she retires.
- (2) A person who satisfied the relevant qualifying period before 14 May 2014 cannot become a holder of a Parliamentary Retirement Travel Entitlement on retirement from the Parliament on or after the day section 1 of the *Parliamentary Entitlements Legislation Amendment Act 2017* commences, unless the person is the Prime Minister, or a former Prime Minister, when he or she retires.

#### **4C Expiry of Parliamentary Retirement Travel Entitlement (other than for former Prime Ministers)**

*Parliamentary Retirement Travel Entitlement (other than for former Prime Ministers) expires in accordance with this section*

- (1) If:
- (a) a person is a holder of a Parliamentary Retirement Travel Entitlement on 13 May 2014, or becomes a holder of a Parliamentary Retirement Travel Entitlement after that day; and
  - (b) the person is not a former Prime Minister;
- the person's Parliamentary Retirement Travel Entitlement expires in accordance with this section.

*Effects of expiry*

- (2) The effects of expiry of a person's Parliamentary Retirement Travel Entitlement are as follows:
- (a) the person ceases, on the expiry of the Entitlement, to be a holder of a Parliamentary Retirement Travel Entitlement;
  - (b) subject to subsection (3), the person can never again become entitled to, or be a holder of, a Parliamentary Retirement Travel Entitlement;
  - (c) the expiry of the Parliamentary Retirement Travel Entitlement does not affect an entitlement under this Act in respect of a return trip that a person has taken, or started to take, before the expiry of the Entitlement.
- (3) Paragraph (2)(b) does not apply to a person who later becomes the Prime Minister.

*Certain Parliamentary Retirement Travel Entitlements expire at the end of 13 May 2014*

- (4) If:
- (a) on retirement from the Parliament before 14 May 2008, a person became a holder of a Parliamentary Retirement Travel Entitlement; and
  - (b) the person is a former senior office holder but is not a former Prime Minister;

the person's Parliamentary Retirement Travel Entitlement expires at the end of 13 May 2014.

- (5) If:
- (a) on retirement from the Parliament before 14 May 2011, a person became a holder of a Parliamentary Retirement Travel Entitlement; and
  - (b) the person is not a former Prime Minister or a former senior office holder;
- the person's Parliamentary Retirement Travel Entitlement expires at the end of 13 May 2014.

*Expiry of other Parliamentary Retirement Travel Entitlements*

- (6) If:
- (a) on retirement from the Parliament on or after 14 May 2008, a person became or becomes a holder of a Parliamentary Retirement Travel Entitlement; and
  - (b) the person is a former senior office holder but is not a former Prime Minister;
- the person's Parliamentary Retirement Travel Entitlement expires (subject to subsection (8)) at the earliest of the following:
- (c) the end of 72 months starting on the date of the retirement;
  - (d) the second end of a Parliament to occur after:
    - (i) the date of the retirement (unless subparagraph (ii) applies); or
    - (ii) if the retirement occurs during a Parliament (the **current Parliament**)—the end of the current Parliament;
  - (e) the day section 1 of the *Parliamentary Entitlements Legislation Amendment Act 2017* commences.

- (7) If:
- (a) on retirement from the Parliament on or after 14 May 2011, a person became or becomes a holder of a Parliamentary Retirement Travel Entitlement; and
  - (b) the person is not a former Prime Minister or a former senior office holder;
- the person's Parliamentary Retirement Travel Entitlement expires (subject to subsection (8)) at the earliest of the following:
- (c) the end of 36 months starting on the date of the retirement;

- (d) the next end of a Parliament to occur after:
  - (i) the date of the retirement (unless subparagraph (ii) applies); or
  - (ii) if the retirement occurs during a Parliament (the *current Parliament*)—the end of the current Parliament;
- (e) the day section 1 of the *Parliamentary Entitlements Legislation Amendment Act 2017* commences.

(8) If, under subsection (6) or (7), a Parliamentary Retirement Travel Entitlement would (but for this subsection) expire at a time before the end of 13 May 2014, the Parliamentary Retirement Travel Entitlement is instead taken to expire under that subsection at the end of that day.

### **13 Subsections 9(2), (3) and (4)**

Omit “former member” (wherever occurring), substitute “former Prime Minister”.

### **14 At the end of subsections 9A(1) and 9B(1)**

Add:

Note: Spouse or de facto partner entitlements under this Act are limited to a spouse or de facto partner of a retired former Prime Minister.

### **15 Subsection 10(1) (table item 1, column headed “is entitled to...”)**

Omit “40”, substitute “30”.

### **16 Subsection 10(1) (table item 2, column headed “is entitled to...”)**

Omit “40”, substitute “20”.

### **17 Subsection 10(3)**

Omit “trip is not for the purpose of”, substitute “spouse or de facto partner is not”.

### **18 Subsection 11(2) (table items 1 to 5)**

Repeal the items, substitute:

1	a former member who is the holder of a Parliamentary Retirement Travel Entitlement and who is a former senior office holder	a maximum of 10 domestic return trips per year.
2	a former member who is the holder of a Parliamentary Retirement Travel Entitlement and who is not a former senior office holder	a maximum of 5 domestic return trips per year.

## 19 Part 4

Repeal the Part.

## 20 Section 13

Omit:

- (b) a pro-rata adjustment where a person becomes the spouse or de facto partner of a former member or member during a year;
- (c) a pro-rata adjustment where, during a year, a member satisfies the relevant qualifying period for the issue of a Life Gold Pass.

substitute:

- (b) a pro-rata adjustment where a person becomes the spouse or de facto partner of a retired former Prime Minister during a year;
- (c) a pro-rata adjustment where the maximum term of a Parliamentary Retirement Travel Entitlement under subsection 4C(6) or (7) will end during a year.

## 21 Before subsection 14(1)

Insert:

*Adjustments if member retires, or former Prime Minister nominates spouse or de facto partner, during a year*

## 22 Subsection 14(1) (table item 1, column headed “For the purposes of the application of...”)

Omit “item 1 of a table in Part 2 or 3”, substitute “item 1 of a table in Part 2 or item 1 or 2 of a table in Part 3”.

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**23 Subsection 14(1) (table item 2, column headed “For the purposes of the application of...”)**

Omit “Part 2 or 3”, substitute “Part 2”.

**24 Subsection 14(1) (table item 2)**

Omit “former member” (wherever occurring), substitute “former Prime Minister”.

**25 Subsection 14(1) (table item 3)**

Repeal the item.

**26 Subsection 14(2)**

Repeal the subsection, substitute:

*Pro-rating of entitlement*

- (2) The number of domestic return trips for the purposes of the table in subsection (1) is:
- (a) for table item 1—the number of trips worked out using the formula in subsection (2A); or
  - (b) for table item 2—the lower of the number of trips worked out using that formula, and the difference between:
    - (i) the maximum number of trips specified in the relevant item of the table in Part 2 for a spouse or de facto partner of the retired former Prime Minister; and
    - (ii) the number of trips (if any) already taken in the year by a spouse or de facto partner of the retired former Prime Minister previously nominated under section 9B.

**27 At the end of section 14**

Add:

*Adjustments if maximum term of Parliamentary Retirement Travel Entitlement under subsection 4C(6) or (7) will end during a year*

- (4) For the purposes of the application of item 1 or 2 of the table in section 11 to a former member to whom subsection 4C(6) or (7) applies, if the 72 or 36 months (the *maximum term*) specified in paragraph (c) of that subsection will end during a year, the item has
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effect for that year as if the number of domestic return trips specified in the item were the number worked out using the formula:

$$\text{Number of domestic return trips specified in the item} \times \frac{\text{Number of days in the eligible period}}{365}$$

where:

***eligible period*** means the period:

- (a) beginning at the start of that year; and
- (b) ending at the end of the maximum term.

Note: Under section 4C, a Parliamentary Retirement Travel Entitlement may expire before the end of the maximum term. This subsection is not to be taken to imply that there is an entitlement in respect of a return trip that is started after the expiry of the Entitlement.

- (5) A number worked out using the formula is to be rounded to the nearest whole number that is greater than zero (rounding up in the case exactly half-way between 2 whole numbers).

## **28 At the end of section 18**

Add:

*Interaction between items 1 and 2 of the table in subsection (2) and the rules in section 4C about expiry of Parliamentary Retirement Travel Entitlements*

- (3) If:
  - (a) item 2 of the table in subsection (2) applies (whether or not item 1 also applies); and
  - (b) the person is not a former Prime Minister;

then nothing in either of those items is to be taken to result in the person resuming being the holder of a Parliamentary Retirement Travel Entitlement, or in requiring a Parliamentary Retirement Travel Entitlement to be restored to the person, on the revocation of the order if the revocation takes effect after the nominal expiry time for the Parliamentary Retirement Travel Entitlement that the person held when the order was made.

*Meaning of nominal expiry time*

- (4) The *nominal expiry time* for a Parliamentary Retirement Travel Entitlement is the time specified in section 4C for the expiry of the Entitlement.

**29 Paragraph 21(a)**

Omit “of a former member,”, substitute “of a former Prime Minister”.

**30 Section 22 (heading)**

Repeal the heading, substitute:

**22 Stop-over by spouse or de facto partner of retired former Prime Minister**

**31 Paragraphs 22(f) and (g)**

Repeal the paragraphs, substitute:

- (f) if the return trip was accompanying or joining the former Prime Minister—accompanying or joining the former Prime Minister; and
- (g) if the return trip was not accompanying or joining the former Prime Minister—not accompanying or joining the former Prime Minister.

**32 Sections 23 and 24**

Repeal the sections.

**33 Subsection 28(2)**

Omit “former member”, substitute “retired former Prime Minister”.

**34 At the end of subsection 29(1)**

Add:

Note: Spouse or de facto partner entitlements under this Act are limited to a spouse or de facto partner of a retired former Prime Minister.

**35 Section 34**

Repeal the section.

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**36 Schedule 1**

Repeal the Schedule.

## **Part 2—Other amendments**

### ***Members of Parliament (Life Gold Pass) Act 2002***

#### **37 The whole of the Act (other than section 3A)**

Omit every occurrence of “Life Gold Pass”, substitute “Parliamentary Retirement Travel Entitlement”.

## Part 3—Other provisions relating to the amendments

### 38 Definitions

In this Part:

**amended Act** means the *Parliamentary Retirement Travel Act 2002* as in force after the commencement time.

**commencement time** means the start of 14 May 2014.

**instrument** means:

- (a) regulations or another instrument made under an Act (including a determination of the Remuneration Tribunal); or
- (b) an instrument made under the executive power of the Commonwealth.

**new travel entitlement name**: see the definition of **travel entitlement**.

**old Act** means the *Parliamentary Retirement Travel Act 2002* as in force before the commencement time.

Note: The short title of that Act, as so in force, was the *Members of Parliament (Life Gold Pass Act) 2002*.

**old travel entitlement name**: see the definition of **travel entitlement**.

**travel entitlement** means what was, before the commencement time, called a Life Gold Pass (the **old travel entitlement name**) and is, from the commencement time, called a Parliamentary Retirement Travel Entitlement (the **new travel entitlement name**).

### 39 Application of amendments

- (1) Subject to this item, the amendments made by this Schedule apply in relation to domestic return trips undertaken after the commencement time.
- (2) The amendments made by this Schedule do not affect entitlements in respect of return trips that a person has taken, or started to take, under the old Act before the commencement time. However, those return trips are to be counted towards any applicable limit in respect of a year under the amended Act.

Note: For example, if, in the period starting on 1 July 2013 and ending immediately before the commencement time, a person has already taken a number of return trips under the old Act that exceeds an applicable limit, under the amended Act, for the year starting on 1 July 2013, the person's entitlement to those trips is not affected, but the person is not entitled to any more trips in the remainder of that year.

- (3) If:
- (a) in the period starting on the commencement time and ending immediately before the day after this Act receives the Royal Assent, a person takes, or starts to take, a return trip; and
  - (b) the return trip would (if the amendments made by this Schedule had not been made) be in accordance with an entitlement under item 1 or 2 of the table in subsection 12(2) of the old Act;
- then that trip is taken, for the purpose of the amended Act, to be in accordance with an entitlement under the amended Act.
- (4) To avoid doubt, the amendments made by this Schedule apply according to their terms (and in accordance with this item), including in relation to a person who, before 14 May 2014:
- (a) was (or would, but for section 17 of the old Act, have been) a holder of a travel entitlement; or
  - (b) satisfied (or would, but for that section, have satisfied) the relevant qualifying period; or
  - (c) was the spouse or de facto partner, or the surviving spouse or de facto partner, of a person to whom paragraph (a) or (b) applies.

#### **40 Continuing the rule that transitional period entitlements cannot be carried over**

If a person had entitlements, under the old Act, in relation to the transitional period (within the meaning of Schedule 1 to that Act), an unused entitlement cannot be carried forward from the transitional period to a year.

#### **41 References in regulations and other instruments**

From the commencement time, a reference in an instrument to the old travel entitlement name is taken to be a reference to the new travel entitlement name.

## **Schedule 2—Amendments commencing on the day after Royal Assent**

### ***Parliamentary Entitlements Act 1990***

#### **1 Section 3**

Insert:

*claim* means a claim or request for a benefit that is made to the Commonwealth.

#### **2 Section 3 (subparagraph (b)(i) of the definition of *dependent child*)**

Omit “25”, substitute “18”.

#### **3 Application of amendment made by item 2**

The amendment made by item 2 applies to travel undertaken after the commencement of that item.

#### **4 Section 3**

Insert:

*prescribed travel benefit* means a benefit covered by a determination under section 10B.

*provides goods, services or facilities*: the Commonwealth *provides goods, services or facilities* if:

- (a) the Commonwealth itself provides the goods, services or facilities; or
- (b) the Commonwealth pays for the provision of the goods, services or facilities by another person (whether or not pursuant to an arrangement between the other person and the Commonwealth).

*Secretary* means the Secretary of the Department.

#### **5 Before section 4**

Insert:

## Part 2—Benefits

### Division 1—Provisions applying to benefits generally

#### 6 After section 7

Insert:

##### 7A Obligation not to make claims in excess of entitlement

- (1) A person must not make a claim for a benefit that is in excess of entitlement (whether wholly or partly).

Note: If a person contravenes this section in relation to a claim for a prescribed travel benefit, a penalty may apply: see section 10C.

- (2) In determining whether a claim is made in contravention of subsection (1), disregard section 10A.
- (3) A contravention of subsection (1) in relation to a claim does not of itself prevent the provision of a benefit pursuant to the claim.

Note: A benefit that is in accordance with entitlement may be provided pursuant to the claim. If a benefit in excess of entitlement is purportedly provided, an amount will be recoverable under section 10A.

#### 7 After section 10

Insert:

##### 10A Recoverable payments

*Purported benefits consisting of payments of amounts of money*

- (1) If, apart from this subsection and paragraph 11(b), the Commonwealth does not have power under this Act to make a payment of an amount purportedly by way of benefit to a person (the *recipient*), then:
  - (a) the Commonwealth has the power to make the payment; and
  - (b) for the purpose of section 11, the payment is taken to be a payment of benefits; and
  - (c) the amount of the payment:
    - (i) is a debt due to the Commonwealth by the recipient; and



- (ii) may be recovered by action in a court of competent jurisdiction.

Note: If the purported benefit is a prescribed travel benefit, a loading may also apply: see Division 2.

*Purported benefits consisting of goods, services or facilities*

- (2) If, apart from this subsection and paragraph 11(b), the Commonwealth does not have power under this Act to provide goods, services or facilities purportedly by way of benefit to a person (the *recipient*), then:
  - (a) the Commonwealth has the power to provide the goods, services or facilities; and
  - (b) for the purpose of section 11, a payment by the Commonwealth of the costs of providing the goods, services or facilities is taken to be a payment of costs of benefits; and
  - (c) the amount of such a payment:
    - (i) is a debt due to the Commonwealth by the recipient; and
    - (ii) may be recovered by action in a court of competent jurisdiction.

Note: If the purported benefit is a prescribed travel benefit, a loading may also apply: see Division 2.

- (3) The reference in subsection (2) to the Commonwealth not having power to provide goods, services or facilities purportedly by way of benefit includes a reference to the Commonwealth only having power to provide lower-cost goods, services or facilities. In this situation, paragraph (2)(c) applies to the amount by which the payment of costs exceeds what it would have been if the lower-cost goods, services or facilities had instead been provided.

*Alternative method of recovery: reduction of future benefits*

- (4) If:
  - (a) an amount is recoverable as a debt under paragraph (1)(c) or (2)(c) from the recipient; and
  - (b) an amount is payable to the recipient by way of benefit;then:
  - (c) the debt; or
  - (d) such part of the debt as the Secretary determines;

may, if the Secretary so directs, be recovered by deduction from the amount referred to in paragraph (b) of this subsection.

- (5) The Secretary is required to consult the recipient before directing that the debt, or part of the debt, be recovered as mentioned in subsection (4).

*How this section applies to entitlements that relate to activities of another person (otherwise than as a member of staff)*

- (6) For the purpose of this section, if:
- (a) a payment is made, or goods, services or facilities are provided, purportedly in respect of an entitlement of a person (the **first person**) to a benefit under this Act; and
  - (b) the purported benefit relates to activities of another person, other than activities as a member of staff of the first person;
- then the payment, or the provision of goods, services or facilities, constitutes a payment or provision that is purportedly by way of benefit to the first person (rather than the other person).

Note: For example, if a benefit relates to travel of the first person's spouse, any debt under this section in relation to the purported provision of such a benefit is recoverable from the first person (rather than the spouse).

## **Division 2—Provisions applying to prescribed travel benefits**

### **10B Prescribed travel benefits**

- (1) The Minister may, by legislative instrument, determine that a specified benefit in respect of travel is a prescribed travel benefit.
- (2) A benefit may be specified by reference to a determination of the Remuneration Tribunal as in force at a particular time, or as in force from time to time.

Note: This subsection is not intended to be an exhaustive statement of the ways in which a benefit could be specified.

## **10C Loading in respect of contraventions of section 7A**

### *When this section applies*

- (1) This section applies if:
  - (a) a person (the **recipient**) makes a claim for a prescribed travel benefit in contravention of section 7A; and
  - (b) the Commonwealth pays an amount, or provides goods, services or facilities, purportedly by way of prescribed travel benefit, pursuant to the claim; and
  - (c) either:
    - (i) the amount of the payment exceeds the amount (if any) to which the recipient was entitled; or
    - (ii) the Commonwealth's costs of providing the goods, services or facilities exceed what they would have been if the goods, services or facilities (if any) to which the recipient was entitled had instead been provided; and
  - (d) the excess was not attributable, to any extent, to administrative error within the Department.
- (2) In determining the amount of the payment, or the goods, services or facilities, to which the recipient was entitled, disregard section 10A.

### *Excess to be reduced by any repayment made to Commonwealth within 28 days of claim*

- (3) This section applies to the amount of the excess referred to in subparagraph (1)(c)(i) or (ii), reduced by any part of that excess that is repaid to the Commonwealth, by or on behalf of the recipient, before the end of 28 days after the day the claim was made.

Note: If the whole of the excess is repaid within the 28 day period, then there is no amount to which this section applies.

### *Loading payable as a penalty for the contravention of section 7A*

- (4) The recipient is liable to pay the Commonwealth, by way of penalty for the contravention of section 7A, an amount equal to 25% of the amount to which this section applies.
- (5) The amount of the penalty:

- (a) is a debt due to the Commonwealth by the recipient; and
- (b) may be recovered by action in a court of competent jurisdiction.

*Alternative method of recovery: reduction of future benefits*

- (6) If:
  - (a) an amount is recoverable as a debt under subsection (5) from the recipient; and
  - (b) an amount is payable to the recipient by way of benefit;then:
  - (c) the amount of the debt; or
  - (d) such part of the debt as the Secretary determines;may, if the Secretary so directs, be recovered by deduction from the amount referred to in paragraph (b) of this subsection.
- (7) The Secretary is required to consult the recipient before directing that the debt, or part of the debt, be recovered as mentioned in subsection (6).

## **10D Loading in respect of voluntary repayments**

*When this section applies*

- (1) This section applies if:
  - (a) the Commonwealth pays an amount, or provides goods, services or facilities, purportedly by way of prescribed travel benefit, to a person (the **recipient**) pursuant to a claim; and
  - (b) the recipient, or a person acting on behalf of the recipient, makes a repayment to the Commonwealth of some or all of the payment, or the cost of providing the goods, services or facilities; and
  - (c) the repayment is made more than 28 days after the day the claim was made; and
  - (d) the repayment is not of an amount attributable, to any extent, to administrative error within the Department; and
  - (e) section 10C does not apply.

*Reduction of future benefits*

- (2) If an amount is payable to the recipient by way of benefit, then:
-

- (a) an amount (the *loading amount*) equal to 25% of the repayment; or
  - (b) such part of the loading amount as the Secretary determines; may, if the Secretary so directs, be deducted from the amount that is so payable to the recipient.
- (3) The Secretary is required to consult the recipient before directing that the loading amount, or part of the loading amount, be deducted as mentioned in subsection (2).

*Effect of voluntary payment of loading amount*

- (4) If an amount is paid to the Commonwealth, by or on behalf of the recipient, in respect of the loading amount, the total amount that may be deducted under subsection (2) is reduced by the amount of the payment.

## **8 Section 11**

Repeal the section, substitute:

## **Part 3—Miscellaneous**

### **11 Appropriation**

The Consolidated Revenue Fund is appropriated for the purposes of:

- (a) making payments of benefits or of costs of benefits; and
- (b) making other payments in the course of the administration of this Act.

### **11A Delegation**

- (1) The Secretary may, by writing, delegate all or any of his or her powers under this Act to an SES employee, or an acting SES employee, in the Department.
- (2) In exercising powers under a delegation, the delegate must comply with any directions of the Secretary.

## ***Parliamentary Retirement Travel Act 2002***

### **9 Section 31**

Repeal the section, substitute:

#### **30A Recoverable payments**

- (1) If, apart from this subsection and paragraph 31(b), the Commonwealth does not have power under this Act to make a payment of an amount purportedly by way of an entitlement of a person (the *recipient*) to travel at Commonwealth expense, then:
  - (a) the Commonwealth has the power to make the payment; and
  - (b) for the purpose of section 31, the payment is taken to be a payment of costs of travel under this Act; and
  - (c) the amount of the payment:
    - (i) is a debt due to the Commonwealth by the recipient; and
    - (ii) may be recovered by action in a court of competent jurisdiction.
- (2) The reference in subsection (1) to the Commonwealth not having power to make a payment of an amount purportedly by way of an entitlement of a person to travel at Commonwealth expense includes a reference to the Commonwealth only having power to make a payment for lower-cost travel. In this situation, paragraph (1)(c) applies to the amount by which the payment of costs exceeds what it would have been if the lower-cost travel had instead been undertaken.

#### *Interaction with debt recovery regime in section 33*

- (3) If an amount is recovered under subsection 33(2), the amount cannot be recovered under paragraph (1)(c) of this section.
- (4) If an amount is recovered under paragraph (1)(c), the amount cannot be recovered under subsection 33(2).

### **31 Appropriation**

The Consolidated Revenue Fund is appropriated for the purposes of:

- (a) making payments of the costs of travel under this Act; and
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- (b) making other payments in the course of the administration 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]*

(9/17)

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