

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2013 No. 109**

Issued by the authority of the Special Minister of State

*Parliamentary Entitlements Act 1990*

*Parliamentary Entitlements Amendment (Insurance Scheme) Regulation 2013*

The *Parliamentary Entitlements Act 1990* (the Act) provides members of each House of Parliament (members) with a range of benefits.

Section 12 of the Act provides, in part, that the Governor-General may make regulations for the purposes of paragraph 5(1)(b) of the Act. Paragraph 5(1)(b) of the Act provides that members are entitled to such additional benefits as are prescribed by the regulations.

The *Parliamentary Entitlements Regulations 1997* (Principal Regulations) set out a range of additional benefits, such as a printing and communications entitlement for members.

This Regulation amends the Principal Regulations to establish a new entitlement to insurance cover for members, and, in some cases, their spouse (including a de facto partner), which provides them with coverage for liabilities and losses arising from their respective roles and responsibilities.

The insurance cover will be obtained by the Commonwealth from a commercial insurer and is subject to the terms, conditions, limitations and exclusions specified in a policy or policies of insurance approved by the Minister in writing.

The insurance cover provides coverage for a member's (or, in some cases, a spouse's) liability or loss relating to:

- injury to members of the public, or damage to personal property of members of the public (public liability);
- professional activities and employment practices (management liability); and
- travel;

where the liability or loss arises from parliamentary, electorate, official or party business.

The proposed Regulation also amends the Principal Regulations to establish a new Prime Ministerial entitlement to the cost of insurance for personal effects at the official establishments.

A Statement of Compatibility with Human Rights is included in Attachment A. Details of the Regulation are included in Attachment B.

The Act does not impose any conditions that need to be satisfied before the power to make the Regulation may be exercised. The Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulation commences on 1 July 2013.

## **Consultation and Regulatory Impact**

Consultation on the new entitlement to insurance cover was undertaken with the Opposition.

The Office of Best Practice Regulation has determined that the preparation of a Regulation Impact Statement is not necessary as the amendments have a nil or low impact on business or the economy or individuals.

Authority: Section 12 of the  
*Parliamentary Entitlements Act 1990*

## **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### ***Parliamentary Entitlements Amendment (Insurance Scheme) Regulation 2013***

This Regulation is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the Legislative Instrument**

This Regulation amends the *Parliamentary Entitlements Regulations 1997* (Principal Regulations) to establish new entitlements to:

- insurance cover for members, and, in some cases, their spouse (including a de facto partner), to provide them with coverage for liabilities and losses arising from their respective roles and responsibilities. The insurance cover is obtained by the Commonwealth and includes coverage for injury to members of the public, or damage to personal property of members of the public; management activities, professional activities and employment practices; and travel; and
- the cost of insurance for the Prime Minister's personal effects at the official establishments.

#### **Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms.

#### **Conclusion**

This Regulation is compatible with human rights as it does not raise any human rights issues.

**Mark Dreyfus QC**  
**Special Minister of State**

**Details of the *Parliamentary Entitlements Amendment (Insurance Scheme) Regulation 2013***

**Section 1 – Name of Regulation**

This section provides that the title of the Regulation is the *Parliamentary Entitlements Amendment (Insurance Scheme) Regulation 2013*.

**Section 2 – Commencement**

This section provides for the Regulation to commence on 1 July 2013.

**Section 3 – Authority**

This section states that the Regulation is made under the *Parliamentary Entitlements Act 1990*.

**Section 4 – Schedule(s)**

This section provides that each instrument specified in a Schedule to the Regulation is amended or repealed as set out in the Schedule, and that any other item in a Schedule has effect according to its terms.

**Schedule 1 – Amendments**

**Item [1]** repeals paragraph 3B(3)(d) of the Principal Regulations, removing the entitlement to the cost of insurance for medical and hospital treatment for a member representing a Minister or the Government overseas. This entitlement is replaced by the new entitlement to insurance cover for travel in new regulation 3EB (see Item [5] below).

**Item [2]** makes a consequential amendment to paragraph 3B(3)(e) of the Principal Regulations, to reflect the repeal of paragraph 3B(3)(f) (see Item [3] below).

**Item [3]** repeals paragraph 3B(3)(f) of the Principal Regulations, removing the entitlement to the cost of baggage insurance for a member representing a Minister or the Government overseas. This entitlement is replaced by the new entitlement to insurance cover for travel in new regulation 3EB (see Item [5] below).

**Item [4]** repeals paragraphs 3C(2)(c) and (e) of the Principal Regulations, removing the entitlements to the cost of insurance for medical and hospital treatment, and baggage insurance, for a member representing Australia overseas. These entitlements are replaced by the new entitlement to insurance cover for travel in new regulation 3EB (see Item [5] below).

**Item [5]** inserts new regulations 3EB and 3EC into the Principal Regulations. New regulation 3EB establishes the new entitlement to insurance cover to be obtained by the Commonwealth, and new regulation 3EC establishes the new entitlement to the cost of insurance for the Prime Minister's personal effects at the official establishments.

*New regulation 3EB – insurance cover*

New subregulation 3EB(1) provides that an entitlement to insurance cover, which covers the persons, matters and activities specified in the new subregulation, and is obtained by the Commonwealth, is prescribed as an additional benefit for members.

The table in new subregulation 3EB(1) sets out the entitlement to insurance cover as follows:

- for members and the spouse of the Prime Minister: coverage for injury to members of the public, or damage to personal property of members of the public, arising from parliamentary, electorate, official and party business;
- for members: coverage for management activities, professional activities and employment practices, arising from parliamentary, electorate, official and party business; and
- for members, the spouse of a Minister (including the Prime Minister) and the spouse of a Presiding Officer: coverage for travel on parliamentary, electorate, official and party business.

New subregulation 3EB(2) provides that the Minister may approve in writing a policy or policies of insurance that provide the additional benefit of insurance cover. This allows the Minister to approve policies of insurance with commercial insurers which provide the insurance cover to members (and covered spouses) under the new entitlement. Under this arrangement, all matters relating to the insurance coverage are to be handled between the member (or covered spouse) and the commercial insurer.

New subregulation 3EB(3) prescribes certain matters relating to the entitlement to insurance cover.

New paragraph 3EB(3)(a) provides that the entitlement is subject to any terms, conditions, limitations or exclusions specified in the policy or policies of insurance approved by the Minister under new subregulation 3EB(2). This reflects that the insurance cover under the new entitlement is provided by a commercial insurer, and therefore the entitlement is limited to the terms of the policy of insurance obtained by the Commonwealth and approved by the Minister.

New paragraphs 3EB(3)(b) and (3)(c) provide for the policies of insurance approved by the Minister to include additional coverage in certain circumstances:

- New paragraph 3EB(3)(b) provides that a policy of insurance approved by the Minister may include additional insurance in respect of a matter (the additional matter), where:
  - the additional matter is related to a matter specified in the table in new subregulation 3EB(1) (being: injury to members of the public, or damage to personal property of members of the public; management activities, professional activities and employment practices; and travel); and
  - the additional insurance is included in a commercially available policy of insurance that covers the matter in the table.
- New paragraph 3EB(3)(c) provides that an insurance policy approved by the Minister may provide insurance for the spouse of a member, or a person assisting the member in undertaking activities referred to the table in subregulation 3EB(1) (parliamentary, electorate, official or party business) in respect of a matter for which insurance is provided to the member under the new entitlement to insurance cover.

These new paragraphs provide flexibility for the Minister, and allow for insurance cover to be obtained by the Commonwealth at competitive commercial rates, as they allow for standard policies from commercial insurers to be obtained by the Commonwealth for the purposes of providing the entitlement under new subregulation 3EB(1), including where the standard policies include coverage for additional related matters and persons.

New subregulation 3EB(4) provides that the written approval of a policy (or policies) of insurance by the Minister under new subregulation 3EB(2) is not a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

### *New regulation 3EC – insurance of personal effects*

New regulation 3EC provides that a new entitlement to the cost of insurance for the Prime Minister's personal effects at official establishments, is prescribed for the Prime Minister. The official establishments include The Lodge and Kirribilli House, and any other official residence of the Prime Minister. The new entitlement does not extend to an acting Prime Minister.

**Item [6]** repeals subparagraph 9(1)(d)(ii) of Part 1, Schedule 1 to the Act (via an amendment to item [109] of Part 1, Schedule 1 to the Principal Regulations), removing the entitlement for the cost of insurance for medical and hospital treatment for members of a Parliamentary Delegation. This entitlement is replaced by the new entitlement to insurance cover for travel in new regulation 3EB (see Item [5] above).

**Item [7]** repeals paragraph 9(1)(da) of Part 1, Schedule 1 to the Act (via an amendment to item [109] of Part 1, Schedule 1 to the Principal Regulations), removing the entitlement for the cost of baggage insurance for members of a Parliamentary Delegation. This entitlement is replaced by the new entitlement to insurance cover for travel in new regulation 3EB (see Item [5] above).

**Item [8]** repeals subparagraph 2(1)(e)(ii) of Part 2, Schedule 1 to the Act (via an amendment to item [206] of Part 2, Schedule 1 to the Principal Regulations), removing the entitlement to the cost of insurance for medical and hospital treatment for a Presiding Officer when travelling overseas on official business. This entitlement is replaced by the new entitlement to insurance cover for travel in new regulation 3EB (see Item [5] above).

**Item [9]** repeals paragraph 2(1)(f) of Part 2, Schedule 1 to the Act (via an amendment to item [206] of Part 2, Schedule 1 to the Principal Regulations), removing the entitlement to the cost of baggage insurance for a Presiding Officer when travelling overseas on official business. This entitlement is replaced by the new entitlement to insurance cover for travel in new regulation 3EB (see Item [5] above).

**Item [10]** repeals subparagraph 2A(6)(a)(ii) of Part 2, Schedule 1 to the Act (via an amendment to item [206] of Part 2, Schedule 1 to the Principal Regulations), removing the entitlement to the cost of insurance for medical and hospital treatment for the Leader of the Opposition or other member of the Opposition when travelling overseas on official business. This entitlement is replaced by the new entitlement to insurance cover for travel in new regulation 3EB (see Item [5] above).

**Item [11]** makes a consequential amendment to subparagraph 2A(6)(a)(iii) of Part 2, Schedule 1 to the Act (via an amendment to item [206] of Part 2, Schedule 1 to the Principal Regulations), to reflect the repeal of paragraph 2A(6)(b) (see Item [12] below).

**Item [12]** repeals paragraph 2A(6)(b) of Part 2, Schedule 1 to the Act (via an amendment to item [206] of Part 2, Schedule 1 to the Principal Regulations), removing the entitlement to the cost of baggage insurance for the Leader of the Opposition or other member of the Opposition when travelling overseas on official business. This entitlement is replaced by the new entitlement to insurance cover for travel in new regulation 3EB (see Item [5] above).

**Item [13]** repeals subparagraph 2B(6)(a)(ii) of Part 2, Schedule 1 to the Act (via an amendment to item [206] of Part 2, Schedule 1 to the Principal Regulations), removing the entitlement to the cost of insurance for medical and hospital treatment for the leader of a minority party or other member of the minority party when travelling overseas on official business. This entitlement is replaced by the new entitlement to insurance cover for travel in new regulation 3EB (see Item [5] above).

**Item [14]** makes a consequential amendment to subparagraph 2B(6)(a)(iii) of Part 2, Schedule 1 to the Act (via an amendment to item [206] of Part 2, Schedule 1 to the Principal Regulations), to reflect the repeal of paragraph 2B(6)(b) (see Item [15] below).

**Item [15]** repeals paragraph 2B(6)(b) of Part 2, Schedule 1 to the Act (via an amendment to item [206] of Part 2, Schedule 1 to the Principal Regulations), removing the entitlement to the cost of baggage insurance for the leader of a minority party or other member of the minority party when travelling overseas on official business. This entitlement is replaced by the new entitlement to insurance cover for travel in new regulation 3EB (see Item [5] above).