

EXPLANATORY STATEMENT

Select Legislative Instrument No. 113, 2014

Issued by the authority of the Minister for Social Services for the Special Minister of State

Parliamentary Entitlements Act 1990

Parliamentary Entitlements Amendment Regulation 2014 (No. 1)

The *Parliamentary Entitlements Act 1990* (the Act) provides members of each House of Parliament (members) with a range of benefits. Some of those benefits are set out in Schedule 1 to the Act.

Subsection 9(2) of the Act provides that a benefit set out in Schedule 1 (a scheduled benefit) may be varied or omitted by the regulations. Section 12 of the Act provides, in part, that the Governor-General may make regulations for the purposes of section 9 of the Act.

This Regulation amends some of the overseas travel benefits set out in Schedule 1 to the Act, via an amendment to Schedule 1 to the *Parliamentary Entitlements Regulations 1997*.

Overseas Delegation Travel of Members

This Regulation amends the entitlement of members to overseas delegation travel, set out in subitem 9.(1), Part 1, Schedule 1 to the Act. The effect of these amendments is that:

- members are entitled to the cost of fares at no higher than business class (rather than the cost of fares at the highest available class); and
- the entitlement to accommodation for members is limited to the cost of accommodation at an appropriate standard.

Overseas Travel of Presiding Officers

This Regulation amends the overseas travel benefit for Presiding Officers (defined in section 3 of the Act to mean the President of the Senate or the Speaker of the House of Representatives) in subitem 2.(1)(a), Part 2, Schedule 1 to the Act so that Presiding Officers are entitled to the cost of business class fares (rather than the cost of first class fares).

Overseas Travel for the Opposition and Minority Parties

This Regulation also amends the following entitlements so that travel may only be undertaken at a class no higher than business class:

- the overseas travel benefit for the Leader of the Opposition in the House of Representatives (or other members of the Opposition as approved by the Leader of the Opposition) in subitem 2A(4)(a), Part 2, Schedule 1 to the Act; and
- the overseas travel benefit for a leader of a minority party (or other members of the minority party as approved by the leader of the minority party) in subitem 2B(4)(a), Part 2, Schedule 1 to the Act.

Overseas Travel for Spouses of Ministers and Presiding Officers

This Regulation also amends the overseas travel entitlement for spouses of Ministers and Presiding Officers. The cost of fares of an accompanying spouse of a Minister or Presiding Officer is limited to the cost of fares at the same class as the Minister or Presiding Officer.

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*.

This Regulation commences on the day after it is registered on the Federal Register of Legislative Instruments.

Consultation and Regulatory Impact

In relation to section 17 of the Legislative Instruments Act, consultation was not undertaken within the Australian Government in relation to this Regulation as it is of a minor or machinery nature and does not substantially alter existing arrangements. The provisions do not have a direct, or substantial indirect, effect on business and do not restrict competition.

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 Regulation 2014 (No. 1)

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 some of the overseas travel benefits for parliamentary office-holders, Ministers and members (and, in some cases, their spouses) provided under Schedule 1 to the *Parliamentary Entitlements Act 1990* (the Act) (members are defined in section 3 of the Act as meaning a member of either House of the Parliament).

Human rights implications

The Regulation is compatible with the human rights and freedoms recognised or declared by the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*, as it does not engage any of the relevant rights or freedoms.

Conclusion

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

Kevin Andrews
Minister for Social Services
for the Special Minister of State

Details of the *Parliamentary Entitlements Amendment Regulation 2014 (No. 1)*

Section 1- Name of Regulation

This section provides that the title of the Regulation is the *Parliamentary Entitlements Amendment Regulation 2014 (No. 1)*.

Section 2 – Commencement

This section provides for the Regulation to commence on the day after it is registered.

Section 3 – Authority

This section states that this 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 concerned, and that any other item in a Schedule has effect according to its terms.

Schedule 1 – Amendments

Entitlement of Members to Overseas Delegation Travel

Item [1] repeals paragraph 9.(1)(a) in Part 1 of Schedule 1 to the *Parliamentary Entitlements Act 1990* (the Act, via an amendment to item [106] of the *Parliamentary Entitlements Regulations 1997* (Principal Regulations)). Previously, under the repealed subitem 9.(1)(a), members were entitled to the cost of travel (defined as the cost of fares, accommodation, meals and incidentals) at the highest available class, including charter travel for the delegation, in accordance with the official itinerary.

This is now replaced by the new paragraph 9.(1)(a). The substituted paragraph 9.(1)(a) reduces the standard of travel so that, provided it is for travel in accordance with the official itinerary, members of a parliamentary delegation are entitled to the cost of:

- (i) fares at no higher than business class;
- (ii) charter travel for the delegation;
- (iii) accommodation of an appropriate standard; and
- (iv) meals and incidentals (some or all of which may be paid by way of an allowance equivalent to the standard applying to an SES employee in the Department of Foreign Affairs and Trade).

For clarity, the new subitem also provides that the entitlement to meals and incidentals while travelling on an official itinerary may be paid by way of an allowance, which reflects current administrative practice.

The entitlement covers the cost of meals that are in accordance with the official itinerary, even if those meals are not included in the official program for the delegation (for example, the entitlement would cover a meal at a stop on the official itinerary, even though the meal is not a meal listed in the program, such as an official dinner).

Entitlement of Presiding Officers to Certain Overseas Travel

Item [2] amends paragraph 2.(1)(a) in Part 2 of Schedule 1 to the Act (via an amendment to item [206] of the Principal Regulations) by omitting “first-class” and substituting “business class”. This amends the entitlement of Presiding Officers (the President of the Senate and the Speaker of the House of Representatives) to travel overseas on official business on an itinerary approved by the Prime Minister.

For such travel, the amended paragraph 2.(1)(a) reduces the entitlement from the cost of first-class fares to the cost of business class fares.

Entitlement of the Leader of the Opposition (and other members of the Opposition) to Overseas Travel

Item [3] amends paragraph 2A.(4)(a) in Part 2 of Schedule 1 to the Act (via an amendment to item [206] of the Principal Regulations). The insertion of the words “travelling overseas at no higher than business class” specifies that the amount of the benefit mentioned in subitem 2A.(1) is to be used for the cost of travel at a class no higher than business class by the Leader of the Opposition in the House of Representatives and other members of the Opposition.

Entitlement of the Leader of a Minority Party (and other members of the Minority Party) to Overseas Travel

Item [4] amends paragraph 2B.(4)(a) in Part 2 of Schedule 1 to the Act (via an amendment to item [206] of the Principal Regulations). The insertion of the words “travelling overseas at no higher than business class” specifies that the amount of the benefit mentioned in subitem 2B.(1) is to be used for the cost of travel at a class no higher than business class by the leader of a minority party and other members of the minority party.

Entitlement of spouses of a Minister or Presiding Officer to overseas travel

Item [5] amends subitem 3.(1) of Part 2 of Schedule 1 to the Act (via an amendment to item [208A] of the Principal Regulations). Previously, subitem 3.(1) provided for the cost of travel (defined as the cost of fares, accommodation, meals and incidentals) overseas, and the cost of emergency medical and hospital treatment overseas (if required), by a spouse when accompanying a Minister or Presiding Officer travelling on official business. It did not specify a class of travel for the spouse of a Minister or Presiding Officer who travels overseas to accompany a Minister or Presiding Officer on official business.

The new subitem provides for travel overseas by the spouse of a Minister or Presiding Officer when accompanying the Minister or Presiding Officer travelling on official business:

- (a) the cost of fares at the same class as the Minister or Presiding Officer; and
- (b) the cost of accommodation; and
- (c) the cost of meals and incidentals (some or all of which may be paid by way of an allowance equivalent to the standard applying to an SES employee in the Department of Foreign Affairs and Trade); and
- (d) the cost of emergency medical and hospital treatment overseas (if required).

The new subitem will limit the class of air travel of an accompanying spouse of a Minister or Presiding Officer to the same class of fares as the Minister or Presiding Officer. This ensures that the reduction in the class of fares to which Presiding Officers are entitled to (see item [2] of the Regulation), will also apply to the accompanying spouse of a Presiding Officer.

For clarity, the new subitem also provides that the entitlement to meals and incidentals while travelling on an official itinerary may be paid by way of an allowance.