

EXPLANATORY STATEMENT

Select Legislative Instrument No. 107, 2015

Issued by the authority of the Special Minister of State

Parliamentary Entitlements Act 1990

Parliamentary Entitlements Amendment (Office Budget) Regulation 2015

The *Parliamentary Entitlements Act 1990* (the Act) provides members of each House of Parliament (members) with a range of benefits. These benefits are set out in Schedule 1 to the Act (section 4), and additional benefits may be prescribed by regulations made by the Governor-General (paragraph 5(1)(b)).

Section 12 of the Act provides that the Governor-General may make regulations for the purposes of paragraph 5(1)(b) and section 9 of the Act. Subsection 9(2) of the Act provides that benefits set out in Schedule 1 to the Act may be varied or omitted by the regulations.

The *Parliamentary Entitlements Regulations 1997* (the Principal Regulations) currently prescribe a range of additional benefits (Parts 1 to 3), and vary or omit benefits in Schedule 1 to the Act (Schedule 1 to the Principal Regulations).

This Regulation makes changes to members' entitlements through:

- an amendment to the Regulations pursuant to subsection 5(1)(b) of the Act; and
- variation of Schedule 1 to the Act, via an amendment to the Principal Regulations, pursuant to subsection 9(2) of the Act.

Members have various entitlements to office resources under Division 1 of the Principal Regulations and Schedule 1 to the Act. This Regulation amends the Principal Regulations to simplify the existing arrangements by establishing an office budget, which includes the following entitlements:

- publications;
- office requisites and stationery;
- flags for presentation to constituents;
- printing and communications; and
- software.

The office budget is the equivalent of the combined value of the publications, office requisites and stationery, printing and communications, and software entitlements, plus an amount of \$10,000 per financial year for the cost of Australian flags. Part of the office budget would be indexed in accordance with current legislative and administrative arrangements, with the portion for the printing and communications budget for Senators now included in the indexation provisions

This Regulation also makes consequential amendments to the supplement of capped entitlements in exceptional circumstances in regulation 3EA of the Principal Regulations, to reflect the amendments made in relation to the entitlements included in the office budget, and separate changes to be made in relation to determinations under the *Members of Parliament (Staff) Act 1984*.

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. This Regulation commences on 1 July 2015 and is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Consultation and Regulatory Impact

In relation to section 17 of the *Legislative Instruments Act 2003*, the Government discussed the provisions in the Regulation with the Opposition ahead of the 2015-16 Budget announcement. Bipartisan support for the entitlement changes was reached during those discussions. In addition, a presentation for all Senators and Members detailing the entitlement changes was held at Parliament House on 26 May 2015 and was subsequently published on the Ministerial and Parliamentary Services website for those who could not attend. Further consultation was considered unnecessary as the amendments are machinery in nature and do not substantially alter existing arrangements, in accordance with section 18 of the *Legislative Instruments Act 2003*.

The Office of Best Practice Regulation (OBPR) has been consulted and agrees that this proposal will have no regulatory impact on businesses, individuals or organisations and therefore the regulatory costs are nil. OBPR ID Number: 16832.

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 (Office Budget) Regulation 2015

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 Legislative Instrument amends some the entitlements for parliamentarians under Schedule 1 to the *Parliamentary Entitlements Act 1990* (the Act) and the *Parliamentary Entitlements Regulations 1997*, to create an office budget to be used for certain existing entitlements (publications, office requisites and stationery, printing and communications, software, and Australian flags). This creates greater flexibility and limits the administrative burden on members accessing these entitlements.

Human rights implications

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

Conclusion

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

Michael Ronaldson
Special Minister of State

Details of the Parliamentary Entitlements Amendment (Office Budget) Regulation 2015

Section 1- Name

This section provides that the title of the Regulation is the *Parliamentary Entitlements Amendment (Office Budget) Regulation 2015* (the Regulation).

Section 2 – Commencement

This section provides that the Regulation commences on 1 July 2015.

Section 3 – Authority

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

Section 4 – Schedules

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] inserts a number of definitions into regulation 2 of the *Parliamentary Entitlements Regulations 1997* (Principal Regulations). The terms defined (*office budget*, *office budget benefit* and *remainder of the office budget*) are used in new Part 2AA, which is inserted by item [11] of the Regulation (see below). This item also inserts a definition of *standard rate of postage* into regulation 2 on the same terms as the definition previously contained in regulation 3AB, which is repealed and substituted by other provisions in the Regulation (see item [2] below).

Item [2] repeals regulations 3AB and 3AC of the Principal Regulations, which set out the value of the printing and communications entitlement for members of the House of Representatives and Senators, respectively. The item substitutes a new regulation 3AB that provides that the cost of the printing and communications entitlement under regulation 3AA cannot exceed the remainder of the office budget. The office budget is set out in new Part 2AA (see item [11] below).

Items [3], [4] and [5] make amendments to regulation 3EA to remove references to ‘relevant determinations’. Relevant determinations were previously prescribed as certain determinations under the *Members of Parliament (Staff) Act 1984* (MOP(S) Act) (relating to the Electorate Staff Travel Budget (ESTB) and the Relief Staff Budget (RSB)), however this is now being removed from the Principal Regulations. The Electorate Support Budget (which replaces the ESTB and RSB) will still be available to be supplemented, however this will be dealt with separately under the relevant determination under the MOP(S) Act

Item [6] omits the reference to *Determination 2011/12, Supplement – Relief Staff Budget and Electorate Staff Travel Budget* in subregulation 3EA(5), and is consequential to the removal of the references to relevant determinations (see item [3] above).

Item [7] repeals the note under subregulation 3EA(5), which is no longer relevant with the removal of references to relevant determination.

Item [8] repeals and replaces subregulation 3EA(7). This amendment is consequential to the establishment of the office budget that certain entitlements are now subject to (under other amendments in the Regulation), to clarify how the supplement provisions apply to these entitlements. New subregulation 3EA(7) provides that a supplement approved for a purpose related to capped entitlement that is an office budget benefit may only be used if the member has fully expended the office budget in the relevant financial year. The provision in relation to other capped entitlements that may be supplemented is unchanged, so that these entitlements may only be supplemented where a member has fully expended that capped entitlement in the relevant financial year.

This item also makes consequential amendments to subregulation 3EA(8) to remove reference to determinations made under the *Members of Parliament (Staff) Act 1984*. This is consequential to the removal of references to relevant determination (see item [3] above).

This item also repeals subregulations 3EA(7A) and (7B), as these provisions relate to previous financial years and are therefore spent.

Item [9] repeals and substitutes the definition of *capped entitlement* to reflect the amendment to subregulation (8). See item [8] above.

Item [10] repeals the definition of *relevant determination*. This is consequential to the removal of relevant determination from regulation 3EA (see item [3] above).

Item [11] inserts a new Part 2AA into the Principal Regulations, which sets out the total amount that is available to members for expenditure (the office budget) on office budget benefits (flags, office requisites and stationery, software, publications, and printing and communications).

New regulation 3ED sets out the calculation of the office budget for Senators (subregulation (1)) and members of the House of Representatives (subregulation (2)) for a financial year. The office budget is available for expenditure on office budget benefits. Members have discretion on their use of these entitlements, which must not exceed the total of the office budget in a year (with office requisites and stationery limited to \$50,000 in a year, from the office budget, see item [15] below).

Subregulation (1) provides that the office budget for a Senator is the sum of \$11,500; and \$86,271 indexed annually in accordance with the Consumer Price Index.

Subregulation (2) provides that the office budget for a member of the House of Representatives is calculated as the sum of a fixed amount (\$86,500); an amount worked out based on the number of enrolled voters in the member's electorate and the standard rate of postage (as set out in subregulations (3) and (4)); and an amount based on whether the member's electorate is inner or outer metropolitan (\$44,416) or otherwise (\$45,751), indexed annually in accordance with the Consumer Price Index.

The office budget is the equivalent to the sum of the previous individual amounts for the entitlements that are now office budget benefits, with a component of \$10,000 in relation to Australian flags (flags and software did not previously have an express cap in the legislation, however were subject to an administrative cap, as approved by the Special Minister of State under the relevant entitlement).

Under new subregulations (5) and (6), the office budget is reduced by the amount of a supplement under regulation 3EA that is spent in relation to an office budget benefit, unless the Special Minister of State decides that this should not apply. This is equivalent to the provisions previously applying to the supplemented capped entitlements that are now office budget benefits (Australian flags, office requisites and stationery, and printing and communications).

Item [12] inserts a new Part 4 into the Principal Regulations which provides for transitional arrangements for the office budget for the 2015-16 financial year. This provision applies in circumstances where a member used a supplement under regulation 3EA in 2014-15 financial year, in relation to a capped entitlement that is now an office budget benefit. The effect of this provision is that the office budget for the 2015-16 financial year will be reduced by any amount of supplement spent for a purpose connected with printing and communications, office requisites and stationery or Australian flags, in the 2014-15 financial year, unless the Special Minister of State has decided that this should not apply.

Item [13] inserts (1) after ‘2.’ in item 2 of Part 1, Schedule 1 to the Act (via the insertion of item [100AAA] into Part 1, Schedule 1 to the Principal Regulations), to change existing item 2 into subitem 2(1). This is consequential to the insertion of new subitem 2(2), see item [14] below.

Item [14] inserts subitem (2) after subitem 2(1) of Part 1, Schedule 1 to the Act (via the insertion of item [100AB] into Part 1, Schedule 1 to the Principal Regulations). This subitem provides that the cost of Australian flags to which a member is entitled cannot exceed the remainder of the office budget (the value of the office budget is set out in new Part 2AA, see item [11] above).

Item [15] repeals subitems 7(2), (3), (4), (5) and (6) of Part 1, Schedule 1 to the Act (via an amendment to item [104] of Part 1, Schedule 1 to the Principal Regulations), and substitutes new subitems (2) and (3).

New subitem (2) replaces the previous budget provision for the office requisites and stationery entitlement in subitem (1), making this entitlement subject to the office budget in new Part 2AA (see item [11] above). The amount that may be spent on this entitlement is subject to the remainder of the office budget, but must not exceed \$50,000.

New subitem (3) provides that the cost of software that a member is entitled to under subitem (1) cannot exceed the remainder of the office budget (the value of the office budget is set out in new Part 2AA, see item [11] above). Software is not specifically identified as an entitlement under subitem (1), however has historically been approved by the Special Minister of State as an office facility provided as a benefit under this subitem.

Previous subitems (3) to (6) are not substituted under the amendments in this item, as they related to the recovery of a supplement amount spent in relation to office requisites and stationery. These subitems have been replicated in new Part 2AA in relation to the office budget (see item [11] above).

Item [16] repeals subitems 7A(2) and (3) of Part 1, Schedule 1 to the Act (via an amendment to item [104A] of Part 1, Schedule 1 to the Principal Regulations) and substitutes new subitem (2).

New subitem (2) replaces the previous budget provisions for the publications entitlement, and provides that the cost of publications to which a member is entitled under subitem (1) cannot exceed the remainder of the office budget (the value of the office budget is set out in new Part 2AA, see item [11] above).