

EXPLANATORY STATEMENT

Issued by the Authority of the Special Minister of State

Parliamentary Entitlements Act 1990

Parliamentary Entitlements Amendment (Presiding Officer and Parliamentary Delegation Travel) Regulations 2017

The *Parliamentary Entitlements Act 1990* (the Act) provides members of each House of the Parliament (members) with a range of benefits. These benefits are set out in Schedule 1 to the Act (section 4), and the regulations (paragraph 5(1)(b)). Subsection 9(2) of the Act provides that a benefit listed in Schedule 1 to the Act may be varied or omitted by the regulations.

Section 12 of the Act provides that the Governor-General may make regulations for the purposes of section 9 of the Act. The *Parliamentary Entitlements Regulations 1997* (the Principal Regulations) currently provide for a number of variations to Schedule 1 to the Act (see Schedule 1 to the Principal Regulations).

These Regulations alter the approval requirements for certain overseas travel benefits currently provided for under the Act (as varied by the Principal Regulations):

- official overseas travel of Presiding Officers (item 2, Part 2, Schedule 1 to the Act), and
- travel by members of Parliamentary Delegations (item 9, Part 1, Schedule 1 to the Act).

Currently, the Prime Minister is responsible for approving both types of travel. These Regulations make the respective Presiding Officer responsible for the approval of their travel (or the travel of a person representing them), up to a limit of \$250,000 per financial year for each Presiding Officer, after which the approval of the Prime Minister is required. The \$250,000 limit includes the cost of travel of the Presiding Officer, any accompanying staff, and any accompanying spouse. For travel by members of Parliamentary Delegations, these Regulations provide that the approval of the Presiding Officers jointly is required.

These Regulations include transitional provisions that provide that the changes to the approval requirements do not apply to travel approved before the commencement of the Regulations. For official Presiding Officer travel, the transitional arrangements provide that for the remainder of the 2016-2017 financial year the limit before which Prime Ministerial approval is required is \$125,000, less the cost of any travel taken between 1 January 2017 and the commencement of the Regulations. This accounts for the amendments commencing during the financial year.

Details of the Regulations are set out at [Attachment A](#). A Statement of Compatibility with Human Rights is at [Attachment B](#).

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

Commencement

The Regulations commence on the day after registration on the Federal Register of Legislation.

Consultation and Regulatory Impact

In relation to section 17 of the *Legislation Act 2003*, consultation was undertaken with the Presiding Officers. Further consultation is not considered necessary or appropriate as the amendments are machinery in nature and do not substantially alter existing arrangements.

The Office of Best Practice Regulation (OBPR) has agreed that proposals such as these have no regulatory impact on businesses, individuals or organisations and therefore the regulatory costs are nil. OBPR ID Number: 19957.

Details of the *Parliamentary Entitlements Amendment (Presiding Officer and Parliamentary Delegation Travel) Regulations 2017*

Section 1 – Name

This section provides that the title of the Regulations is the *Parliamentary Entitlements Amendment (Presiding Officer and Parliamentary Delegation Travel) Regulations 2017* (the Regulations).

Section 2 – Commencement

This section provides that the Regulations commence in accordance with column 2 of the table in subsection 2(1).

Item 1 of the table provides that the whole of the instrument commences on the day after the Regulations are registered on the Federal Register of Legislation.

Section 3 – Authority

This section states that the Regulations are made under the *Parliamentary Entitlements Act 1990* (the Act).

Section 4 – Schedules

This section provides that each instrument specified in a Schedule to the Regulations 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 Part 4 into the Principal Regulations, which provides transitional arrangements for the application of Schedule 1 to the Regulations. This part is repealed at the start of 1 July 2017.

New regulation 19 provides a definition of *amending regulations*, being the Regulations, for the purposes of the transitional provisions.

New regulation 20 applies to the amendments to Parliamentary Delegation travel. Subregulation (1) makes it clear that new item [105B] of Schedule 1 to the Principal Regulations (as inserted by item 2 of Schedule 1 to the Regulations) applies to travel on or after the commencement of the regulations. Subregulation (2) further clarifies that the amendments do not apply to travel approved by the Prime Minister prior to the commencement of the Regulations.

New regulation 21 applies to travel by a Presiding Officer. Subregulation (1) makes it clear that the amendments to item [206] of Schedule 1 to the Principal Regulations only apply to travel on or after the commencement of the Regulations.

Subregulations (2) and (3) set the limit for the purposes of the new approval requirements in new subitems (2A) and (2B) (see item 6 below) for the remainder of the 2016-17 financial year. Under these subregulations the amount of travel that can be approved by each Presiding

Officer from the commencement of the Regulations up to and including 30 June 2017 is \$125,000, less the cost of any travel taken from 1 January 2017 until commencement. This accounts for the Regulations commencing during the financial year.

Item [2] varies subitem 9(1) of Schedule 1 to the Act through the insertion of item [105B] into the Principal Regulations. This item removes the first reference to the Prime Minister in that subitem and substitutes it with a reference to the Presiding Officers, as the Presiding Officers will now be approving the overseas travel of members of Parliamentary Delegations.

Item [3] varies subitem 2(1) of Schedule 1 to the Act through amending item [206] of Schedule 1 to the Principal Regulations. This item removes reference to travel on an itinerary approved by the Prime Minister, as this approval will no longer be required (subject to the new financial limit provided for by item 6 below).

Item [4] varies paragraph 2(1)(d) of Schedule 1 to the Act through amending item [206] of Schedule 1 to the Principal Regulations. This item removes reference to approval by the Prime Minister in that paragraph, as this approval will no longer be required (subject to the new financial limit provided for by item 6 below).

Item [5] varies subitem 2(2) of Schedule 1 to the Act through amending item [206] of Schedule 1 to the Principal Regulations. The item removes reference to the Prime Minister in that subitem and substitutes it with a reference to the relevant Presiding Officer, as the relevant Presiding Officer will now be approving a member travelling as their representative.

Item [6] varies item 2 of Schedule 1 to the Act through amending item [206] of Schedule 1 to the Principal Regulations. This item inserts new subitems (2A)-(2D), which set out the circumstances in which the approval of the Prime Minister is required for Presiding Officer travel under item 2 of Schedule 1 to the Act.

Subitem (2A) introduces a \$250,000 limit for each financial year on travel under items 2 and 3 of Schedule 1 to the Act, for any President of the Senate or member representing a President of the Senate. Once the \$250,000 limit has been reached in a financial year, further benefits for travel in that financial year, for any President of the Senate or member representing a President of the Senate, will require the approval of the Prime Minister.

Subitem (2B) provides for the same \$250,000 limit as subitem (2A) in relation to any Speaker of the House of Representatives or member representing a Speaker of the House of Representatives. Once the \$250,000 limit has been reached in a financial year, further benefits for travel in that financial year, for any Speaker of the House of Representatives or member representing a Speaker of the House of Representatives, will require the approval of the Prime Minister.

Subitem (2C) provides that if a Presiding Officer or member representing a Presiding Officer requires approval under either new subitem (2A) or (2B), the Prime Minister's approval is required for that Presiding Officer or member to be accompanied by a second staff member (as referred to in paragraph 2(1)(d) of Schedule 1 to the Act).

Subitem (2D) provides that for the purposes of item 2 of Schedule 1 to the Act travel commencing in a financial year and ending in the next financial year is taken to be travel in the earlier financial year. This means the cost of that travel is counted towards the \$250,000 limit of the financial year in which the travel commences.

Statement of Compatibility with Human Rights

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

Parliamentary Entitlements Amendment (Presiding Officer and Parliamentary Delegation Travel) Regulations 2017

These Regulations are 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 the *Parliamentary Entitlements Regulations 1997* to alter the approval requirements for travel overseas by Presiding Officers and by members of Parliamentary Delegations. For travel overseas on official business by the Presiding Officers, the Prime Minister's approval will no longer be required until the total expenditure on travel of a Presiding Officer in that financial year, including the costs of travel of any accompanying spouse and staff, exceeds \$250,000. The Legislative Instrument also provides that travel overseas as a member of a Parliamentary Delegation requires the approval of the Presiding Officers jointly, rather than the approval of the Prime Minister.

The benefits affected by this Legislative Instrument are administered by the Department of Finance.

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.

Scott Ryan
Special Minister of State