

## **EXPLANATORY STATEMENT**

Issued by the Authority of the Special Minister of State

*Parliamentary Entitlements (Supplement of Capped Entitlements) Determination 2017  
(No. 1)*

### **Background**

The *Parliamentary Entitlements Act 1990* (the Act) provides members of each House of Parliament (members) with a range of benefits, including additional benefits that are prescribed by the regulations.

Regulation 3EA of the *Parliamentary Entitlements Regulations 1997* (the Regulations) provides an entitlement to supplement a member's existing capped entitlements in exceptional circumstances.

The *Parliamentary Entitlements (Supplement of Capped Entitlements) Determination 2017 (No. 1)* (the Determination) is a legislative instrument for the purposes of the *Legislation Act 2003*. The Act or Regulations do not impose any conditions that need to be satisfied before the power to make the Determination may be exercised.

### **Purpose**

The Determination sets out certain parameters for the supplement of capped entitlements in exceptional circumstances in regulation 3EA of the Regulations (the supplement purposes and the capped entitlements). Details of the Determination are included in Attachment A.

### **Documents incorporated by reference**

Clauses and documents incorporated by reference in the Determination include:

- (a) regulation 3AA of the Regulations;
- (b) subitem 7 (1) of Part 1, Schedule 1 to the Act;
- (c) item 2 of Part 1, Schedule 1 to the Act;
- (d) clause 7.2 of Remuneration Tribunal *Determination 2012/04: Members of Parliament – Entitlements*;
- (e) clauses 3.15 and 3.15.1 to 3.15.3 of Remuneration Tribunal *Determination 2014/16: Members of Parliament – Travelling Allowance*;
- (f) clauses 3.15 and 3.15.1 to 3.15.3 of Remuneration Tribunal *Determination 2015/12: Members of Parliament – Travelling Allowance*; and
- (g) clauses 3.14 and 3.14.1 to 3.14.3 of Remuneration Tribunal *Determination 2016/08: Members of Parliament – Travelling Allowance*.

These documents are available at [www.legislation.gov.au](http://www.legislation.gov.au).

### **Commencement, Consultation and Regulatory Impact**

The Determination commences on 1 July 2015. Any retrospective application of the Determination is consistent with subsection 12(2) of the *Legislation Act 2003* (Legislation Act), as it does not affect the rights of a person (other than the Commonwealth or an authority of the Commonwealth) to that person's disadvantage, nor does it impose any liability on such a person.

In accordance with section 17 of the Legislation Act, consultation was undertaken with all members in relation to the supplement of capped entitlements in exceptional circumstances, as included in the explanatory statement to the *Parliamentary Entitlements Amendment Regulations 2011 (No. 1)*. Further consultation was not deemed necessary because, in accordance with section 18 of the LIA, the instrument is minor or machinery in nature and does not substantially alter existing arrangements.

The Office of Best Practice Regulation has confirmed that the preparation of a Regulation Impact Statement is not necessary (reference number: ID 19346), as the amendments are machinery in nature and have a nil or low impact on business or the economy or individuals, apart from the Federal Parliamentarians affected.

**Statement of compatibility with human rights**

A statement of compatibility with human rights is set out at [Attachment B](#).

**Details of the Determination**

**Section 1 – Name of Determination**

This section provides that the title of the Determination is the *Parliamentary Entitlements (Supplement of Capped Entitlements) Determination 2017 (No. 1)*.

**Section 2 – Commencement and Revocation of Previous Determination**

This section provides that the Determination commences on 1 July 2015, and that the *Parliamentary Entitlements (Supplement of Capped Entitlements) Determination 2012 (No. 1)*, made by the Special Minister of State on 30 October 2012, is revoked.

**Section 3 – Definitions**

This section provides the definitions of ‘Act’ and ‘Regulations’, for the purposes of the Determination.

**Section 4 – Supplement Purposes**

This section provides that, for the purposes of subregulation 3EA(6) of the Regulations, the entitlement provided in regulation 3EA of the Regulations may only be used for one or more of the following purposes:

- (a) printing and communications, in accordance with regulation 3AA of the Regulations;
- (b) office requisites and stationery, in accordance with subitem 7(1) of Part 1, Schedule 1 to the Act;
- (c) Australian flags and printed material related to national symbols, for presentation to constituents, in accordance with item 2 of Part 1, Schedule 1 to the Act;
- (d) charter transport in accordance with Remuneration Tribunal *Determination 2012/04: Members of Parliament – Entitlements*;
- (e) overnight stays in the member’s electorate, State or Territory between 1 July 2015 and 29 August 2015, in accordance with Remuneration Tribunal *Determination 2014/16: Members of Parliament – Travelling Allowance*, as in force on 1 July 2015;
- (f) overnight stays in the member’s electorate, State or Territory, from 30 August 2015 to 27 August 2016, in accordance with Remuneration Tribunal *Determination 2015/12: Members of Parliament – Travelling Allowance*; and
- (g) overnight stays in the member’s electorate, state or Territory, from 28 August 2016, in accordance with Remuneration Tribunal *Determination 2016/08: Members of Parliament Travelling Allowance*.

**Section 5 – Capped entitlement**

This section provides what the term ‘capped entitlement’ means, for the purposes of subregulation 3EA(8) of the Regulations, and includes the entitlements listed in paragraphs (a) to (e), above.

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

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

### **Parliamentary Entitlements (Supplement of Capped Entitlements) Determination 2017 (No. 1)**

This Legislative Instrument 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**

Regulation 3EA of the *Parliamentary Entitlements Regulations 1997* (the Regulations) provides an entitlement to supplement a member's existing capped entitlements in exceptional circumstances.

This Legislative Instrument is made under regulation 3EA of the Regulations, and sets out certain parameters for the supplement of capped entitlements in exceptional circumstances. Specifically, the Legislative Instrument sets out:

- a) the purposes for which a supplement may be used; and
- b) the capped entitlements that can be supplemented.

#### **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.

**Senator the Hon Scott Ryan  
Special Minister of State**