



REMUNERATION TRIBUNAL

Explanatory Statement: Determination 2017/16 **Members of Parliament – Travelling Allowance**

1. The *Remuneration Tribunal Act 1973* (the Act) establishes the Remuneration Tribunal (the Tribunal) as an independent statutory authority responsible for reporting on and determining the remuneration, allowances and expenses of key Commonwealth office holders. These include members of parliament, Judges of Federal Courts, most full-time and part-time holders of public offices including Specified Statutory Offices and Principal Executive Offices.

Consultation

2. Section 11 of the Act advises that in the performance of its functions the Tribunal:
 - may inform itself in such manner as it thinks fit;
 - may receive written or oral statements;
 - is not required to conduct any proceeding in a formal manner; and
 - is not bound by the rules of evidence.
3. The Tribunal normally receives submissions on remuneration from a portfolio minister, or a secretary, program manager or employing body (in respect of a Principal Executive Office) with responsibility for the relevant office(s). The Tribunal will normally seek the views of the relevant Portfolio Minister prior to determining remuneration for an office.
4. The Tribunal may reach a decision based on the information provided in the submission and other publicly available information such as portfolio budget statements, annual reports, corporate plans, legislation and media releases. On occasion it may wish to meet with relevant parties or seek further information from the relevant minister or person making the submission.
5. Amongst other relevant matters in deliberating on appropriate remuneration for an office the Tribunal informs itself on:
 - the main functions, responsibilities and accountabilities of the office;
 - the organisational structure, budget and workforce;
 - the requisite characteristics, skills or qualifications required of the office holder(s); and
 - the remuneration of similar, comparator, offices within its jurisdiction.

Review of Travelling Allowance

6. There was no consultation on this matter as it is the Tribunal's practice to review, each year, the travelling allowance rates available to office holders for which it determines remuneration. In conducting this review, making this Determination and adjusting travelling allowance rates the Tribunal has relied on the Australian Taxation Office's (ATO) Determination TD 2017/19: *Income tax: what are the reasonable travel and overtime meal allowance expense amounts for the 2017-18 income year?*

7. Amongst other things the ATO Determination sets out the amounts that the ATO Commissioner considers are reasonable for the substantiation exception in Subdivision 900-B of the *Income Tax Assessment Act 1997* for the 2017-18 income year in relation to claims made by employees for domestic travel expenses and overseas travel expenses.
8. This Determination includes substantively similar provisions to the previous Determination with minor adjustments to most travelling allowance rates. Changes to travelling allowance rates are consistent with the ATO Determination.

Retrospectivity

9. Any retrospective application of this Determination is in accordance with subsection 12(2) of the *Legislation Act 2003* 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.

The power to repeal, rescind and revoke, amend and vary

10. Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Details of the determination are as follows:

PART 1 – LEGAL MATTERS AND EXPLANATION OF TERMS

11. Part 1 specifies the authority for and the date of effect of the Determination and notes that it supersedes and revokes the previous Principal Determination 2016/08 applying to the persons covered by this Determination. It also sets out the definitions of certain words and references used in the Determination.
12. The provisions in Part 1 are unchanged from those contained in Part 1 of the superseded determination.

PART 2 – RATES

13. Part 2 provides that the domestic travelling allowance rates set out in Schedule A of the Determination will apply to members and office holders (as specified in Clause 2.3). These rates have been updated with effect from 27 August 2017. The Canberra rate in Schedule A has increased from \$276 to \$285 per overnight stay.
14. Clause 2.2 sets out the provisions applying to the Prime Minister. The rate for his or her accommodation and sustenance in respect of each overnight stay in a place other than an official establishment or the Prime Minister's home base has increased to a limit of \$571 (from \$565).
15. With the exception of the rate changes specified above, the provisions in Part 2 are unchanged from those contained in Part 2 of the superseded determination.

PART 3 – CONDITIONS OF PAYMENT

16. Part 3 sets out the conditions of payment for travelling allowance. Clauses 3.1 to 3.6 set out general conditions of payment.
17. Clauses 3.7 to 3.10 set out the specific travelling allowance provisions applying to the Prime Minister, Ministers and office holders. Clause 3.7 reflects the change to the Prime Minister's rate set in clause 2.2 of this Determination.

Clause 3.8.2 provides for Ministers (other than the Prime Minister) and specified office holders, in exceptional circumstances, to receive an allowance for meals and incidental costs only. This allowance has been increased up to a limit of \$181 (from \$177) per day.

18. Clauses 3.11 to 3.15 set out general travelling allowance provisions.
19. Clause 3.15 varies the rate of daily expense allowance payable to a member from the Australian Capital Territory or, in certain cases, a member of the House of Representatives representing an electorate adjacent to the Australian Capital Territory, from \$87 to \$90 for each day of attendance in Canberra on parliamentary business.
20. Clauses 3.16 to 3.19 set out the travelling allowance provisions for travel to the External Territories.
21. Clauses 3.20 to 3.27 set out the travelling allowance provisions for Party Leaders, Chief/Primary Whips, Whips, Chairs of Parliamentary Committees and Shadow Ministers.
22. With the exception of the rate changes specified above, the provisions in Part 3 are unchanged from those contained in Part 3 of the superseded determination.

Authority: Sub-sections 7(1), 7(2) and 7(4)
of the *Remuneration Tribunal Act 1973*