

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Finance

Parliamentary Business Resources Act 2017

Parliamentary Business Resources (Office Holder) Determination 2017

The *Parliamentary Business Resources Act 2017* (the Act) and the *Parliamentary Business Resources Regulations 2017* (the Regulations) establish a framework for providing resources to parliamentarians in respect of their parliamentary business. The framework replaces the existing parliamentary work expenses framework established under the *Parliamentary Entitlements Act 1990* and supporting Acts and instruments. Certain provisions of the Act and Regulations apply to members who are office holders.

Section 5 of the Act provides that an ‘office holder’ means the Presiding or Deputy Presiding Officers, and any person who is an office holder because of a determination under section 7 of the Act. Section 7 of the Act provides that the Minister may, by legislative instrument, determine:

- that a member who holds a specified position in, or in relation to the Parliament or either House of the Parliament; or
- who performs functions of a kind specified in the determination in, or in relation to the Parliament or either House of the Parliament,

is an office holder. This Determination determines, for the purposes of the Act, and consequently the Regulations, the members that are office holders. This Determination does this by specifying the relevant positions and functions for the purposes of section 7 of the Act in Schedule 1 of this Determination.

A Statement of Compatibility with Human Rights is included in [Attachment A](#). Details of the Determination are included in [Attachment B](#).

The Act does not impose any conditions that need to be satisfied before the power to make the Determination may be exercised. This Determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

Commencement

This Determination commences at the same time as the Act. The whole of the Act commences by Proclamation on 1 January 2018.

Consultation and Regulatory Impact

Consultation was not considered necessary or appropriate as the Determination is machinery in nature and maintains current arrangements under the existing parliamentary work expenses framework.

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: 22472.

Authority: Section 7 of the
*Parliamentary Business Resources
Act 2017*

Statement of Compatibility with Human Rights

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

Parliamentary Business Resources (Office Holder) Determination 2017

This Determination 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 determines, for the purposes of the *Parliamentary Business Resources Act 2017* and consequently the *Parliamentary Business Resources Regulations 2017*, the members of parliament who are also office holders.

Where a member is an office holder they may be eligible to access public resources to conduct their parliamentary business in a broader range of circumstances, and may also be eligible to receive additional remuneration. Access to additional resources and remuneration is intended to be commensurate with the additional duties and functions that certain office holders perform.

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.

Mathias Cormann
Minister for Finance

Details of the *Parliamentary Business Resources (Office Holder) Determination 2017*

Section 1- Name

1. This section provides that the title of the Determination is the *Parliamentary Business Resources (Office Holder) Determination 2017* (the Determination).

Section 2 – Commencement

2. This section provides that the Determination commences at the same time as the *Parliamentary Business Resources Act 2017* (the Act). The whole of the Act commences by Proclamation on 1 January 2018.

Section 3 – Authority

3. This section states that the Determination is made under section 7 of the Act.

Section 4 – Definitions

4. This section provides definitions for the terms ‘Act’ and ‘minority party’ used in the Determination. ‘Act’ is defined to mean the *Parliamentary Business Resources Act 2017*, and ‘minority party’ is defined as having the same meaning as given in the *Parliamentary Business Resources Regulations 2017*.

5. The Regulations presently provide that a ‘minority party’ is a party that:

- is not part of the Government or the Opposition; and
- has at least 5 members in the Parliament.

Section 5 – Members who are office holders

6. This section provides that the members who are office holders are the members who hold a position or perform a function of a kind specified in Schedule 1 of the Determination.

Schedule 1 – Office Holders

7. **Items [1] – [12]** specify the positions or functions which qualify a member to be an office holder. Member is defined in section 5 of the Act to mean:

- a senator;
- a member of the House of Representatives;
- a Minister of State who is not a senator or member of the House of Representatives; and
- a person who is taken to be the President of the Senate, or the Speaker of the House of Representatives under the *Parliamentary Presiding Officers Act 1965*, and who is not a senator or member of the House of Representatives.