

## **EXPLANATORY STATEMENT**

Issued by the authority of the Minister for Finance

*Parliamentary Business Resources Act 2017*

*Parliamentary Business Resources (Parliamentary Business) 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. Parliamentarians are eligible to claim public resources under the new framework in respect of their parliamentary business.

‘Parliamentary business’ has the meaning given by section 6 of the Act. Section 6 of the Act provides that parliamentary business means the ‘parliamentary duties’, ‘electorate duties’, ‘party political duties’ or ‘official duties’ of the member, where:

- the *parliamentary duties* of a member are activities of a member that:
  - (i) relate directly to a member’s role as a member, and
  - (ii) are determined by the Minister as the member’s parliamentary duties;
- the *electorate duties* of a member are activities of a member that:
  - (i) support or serve the member’s constituents, and
  - (ii) are determined by the Minister as the member’s electorate duties;
- the *party political duties* of a member are activities of a member that:
  - (i) are determined by the Minister as the member’s party political duties; and
- the *official duties* of a member are activities of a member that:
  - (i) relate to the member’s role as an office holder or Minister of State, and
  - (ii) are determined by the Minister as the member’s official duties.

This Determination determines the activities which fall within the four duty streams set out above. It does this by listing the activities in Schedules 1 to 4 of this Determination.

While paragraph 6(2)(b) of the Act also provides that the Minister may determine certain activities are not parliamentary business for the purposes of the Act, the Minister has not exercised this power at this time. Rather, the Act currently provides that activities undertaken for the dominant purpose of both or either of the following are not parliamentary business:

- providing a personal benefit to the member or another person, or
- pursuing commercial purposes of the member or another person.

Commercial purposes is defined in section 6 of the Act and means a purpose relating to the derivation of financial gain or reward.

Subsection 6(5) of the Act provides that the determination may determine a matter for:

- a particular member, office holder or Minister of State;
- a class of members, office holders or Ministers of State; or
- members, office holders or Ministers of State generally.

This Determination distinguishes between particular classes of members as specified in Schedules 1 to 4 in recognition of the different types of duties that are relevant for each role.

The Act does not impose any conditions that need to be satisfied before the power to make the Determination may be exercised. Details of the Determination are included in Attachment A.

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

This Determination is a legislative instrument for the purposes of the *Legislation Act 2003* (Legislation Act). However, subsection 6(6) of the Act provides that this Determination is not subject to disallowance under section 42 of the Legislation Act.

Subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* requires a Statement of Compatibility with Human Rights for all legislative instruments subject to disallowance under section 42 of the Legislation Act. As the Determination is exempt from disallowance, a Statement of Compatibility with Human Rights is not required.

### **Commencement**

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

### **Consultation and Regulatory Impact**

In relation to section 17 of the *Legislation Act 2003*, consultation was undertaken with the Remuneration Tribunal Secretariat and the Department of the Prime Minister and Cabinet. Consultation was also undertaken with members of the Parliament, including members of the Government, Opposition and the Australian Greens.

Wider consultation was not considered necessary as the types of actives covered by the instrument were designed to reflect those recommended in the review: *An Independent Parliamentary Entitlements System* (February 2016) (the Review).

A copy of the Review is available here:

<https://www.finance.gov.au/publications/parliamentary-entitlements-review/>

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: Subsections 6(3) and 6(4) of the  
*Parliamentary Business Resources  
Act 2017*

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

Section 1- Name

1. This section provides that the title of the Determination is the *Parliamentary Business Resources (Parliamentary Business) 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 Act commences by Proclamation on 1 January 2018.

Section 3 – Authority

3. This section states that the Determination is made under subsections 6(3) and 6(4) of the Act.

Section 4 – Interpretation

4. This section provides a definition for the term ‘Act’ used in the Determination. ‘Act’ is defined to mean the *Parliamentary Business Resources Act 2017*.

5. The note under subsection 4(1) clarifies that the Determination uses a number of terms that are defined in the Act, including: constituent, member, office holder, and vice regal function.

6. This section also clarifies that an activity specified in a Schedule to the Determination is specified whether it takes place within Australia or overseas.

Section 5 – Parliamentary business of members

7. This section provides that the ‘parliamentary duties’, ‘electorate duties’, ‘party political duties’ and ‘official duties’ of a member are the activities specified in Schedules 1 to 4 respectively of the Determination, for that member.

Schedule 1 – Parliamentary duties

8. Column 1 of this Schedule prescribes parliamentary duties for only members who are also senators or members of the House of Representatives. That is, in the unusual circumstances where a Minister of State, or a person who is taken to be a Presiding Officer under the *Parliamentary Presiding Officers Act 1965*, does not sit in either House of the Parliament, they will not perform parliamentary duties. This is because they do not sit in the Parliament.

9. Column 2 lists the activities that constitute parliamentary duties for the purposes of the Act. Many of these activities are self-evident; however, the following provides further clarification on some of these activities for the avoidance of doubt:

- proceedings of the Parliament covered by paragraph (a), includes parliamentary committee proceedings
- a member’s policy portfolio covered by paragraphs (c) and (e) includes a policy portfolio adopted by or allocated to a member in the course of their parliamentary activities more broadly, whether

the member is a member of a party or independent – but does not include policy portfolio duties that are covered as part of an office holder’s official duties (see Schedule 4), and

- activities that involve the representation of the Parliament covered by paragraph (g) include parliamentary delegation travel by a member under the Regulations.

#### Schedule 2 – Electorate duties

10. Column 1 of this Schedule prescribes parliamentary duties for only members who are also senators or members of the House of Representatives. That is, in the unusual circumstances where a Minister of State, or a person who is taken to be a Presiding Officer under the *Parliamentary Presiding Officers Act 1965*, does not sit in either House of the Parliament, they will not perform electorate duties. This is because they do not have an electorate.

11. Column 2 lists the activities that constitute electorate duties for the purposes of the Act.

#### Schedule 3 – Party political duties

12. Column 1 of this Schedule prescribes parliamentary duties for only members who are also senators or members of the House of Representatives. That is, in the unusual circumstances where a Minister of State, or a person who is taken to be a Presiding Officer under the *Parliamentary Presiding Officers Act 1965*, does not sit in either House of the Parliament, they will not perform party political duties.

13. Column 2 lists the activities that constitute party political duties for the purposes of the Act.

#### Schedule 4 – Official duties

14. Column 1 of this Schedule prescribes official duties for only office holders and Ministers of State. ‘Office holder’ is defined in section 5 of the Act, and covers the Presiding or Deputy Presiding Officers, and any person who is an office holder because of a determination made by the Minister under section 7 of the Act.

15. Column 2 lists the activities that constitute official duties for the purposes of the Act.