

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Finance

Parliamentary Business Resources Act 2017

Parliamentary Business Resources Amendment (2018 Measures No. 1) Regulations 2018

Outline

The *Parliamentary Business Resources Amendment (2018 Measures No. 1) Regulations 2018* (the Regulations) are made under section 61 of the *Parliamentary Business Resources Act 2017* (the Act). The Act together with the *Parliamentary Business Resources Regulations 2017* (the Principal Regulations) establishes a framework for providing resources to parliamentarians in respect of their parliamentary business.

The Regulations amend the Principal Regulations to:

- enable members to procure mobile electorate office equipment and facilities from their office budget, for the purpose of conducting their parliamentary business;
- provide for members of the House of Representatives with electorates with an area of 25,000 km² or greater to claim reimbursement for leasing and other expenses relating to a privately leased office;
- prescribe temporary office accommodation and facilities in a capital city as public resources that may be determined by the Minister under subsection 33(1) of the Act; and
- make other technical amendments (repealing a redundant provision relating to mobile phones, and providing for the pro-rating of non-financial limits on resources where a person becomes a member part way through a financial year).

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

Commencement

The Regulations commence the day after the instrument is registered on the Federal Register of Legislation.

Consultation

Consultation was undertaken with the Remuneration Tribunal and certain members of Parliament affected by the amendments. The Remuneration Tribunal supports the pro-rating of non-financial limits on the basis that it reinstates arrangements which were in place under the *Parliamentary Entitlements Act 1990* framework.

Regulatory impact

The Office of Best Practice Regulation (OBPR) has agreed that amendments to the Principal Regulations have no regulatory impact on businesses, individuals or organisations and therefore the regulatory costs are nil.

OBPR ID Number: 22472.

Authority: Section 61 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 Amendment (2018 Measures No. 1) Regulations 2018

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

The *Parliamentary Business Resources Amendment (2018 Measures No. 1) Regulations 2018* (the Regulations) amend the *Parliamentary Business Resources Regulations 2017* to:

- enable members to procure mobile electorate office equipment and facilities as an office expense, for the purpose of conducting their parliamentary business;
- provide for members of the House of Representatives with electorates with an area of 25,000 km² or greater to claim reimbursement for leasing and other service expenses relating to a privately leased office;
- prescribe temporary office accommodation and facilities in a capital city as public resources that may be determined by the Minister under subsection 33(1) of the Act; and
- make other technical amendments (repealing a redundant provision relating to mobile phones, and providing for the pro-rating of non-financial limits on resources where a person becomes a member part way through a financial year).

Human rights implications

The Regulations substantially engage the right to work and rights at work (Articles 6 and 7 of the *International Covenant on Economic Social and Cultural Rights* (ICESCR)).

Right to work and rights at work

Article 6(1) of the ICESCR recognises ‘...the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.’

Article 6(2) further provides:

The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedom to the individual.

Article 7 of the ICESCR further recognises:

...the right of everyone to the enjoyment of just and favourable conditions of work, which ensure, in particular:

(a) Remuneration which provides all workers, as a minimum, with:

(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b) Safe and healthy working conditions;

(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

Effect of the Regulations in enhancing human rights

While the work expenses prescribed under the Regulations are not in the nature of remuneration, providing such work expenses ensures that parliamentarians do not personally have to meet the sorts of costs that a reasonable person would expect their employer to meet. This ensures that parliamentarians continue to be fairly remunerated in respect of the work they undertake and that individuals from all parts of the Australian community can afford to enter and participate in political life.

Therefore, these Regulations promote the applicable rights and freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it promotes the protection of human rights.

Mathias Cormann
Minister for Finance

Details of the *Parliamentary Business Resources Amendment (2018 Measures No. 1) Regulations 2018*

Section 1 - Name

1. This section provides that the title of the Regulations is the *Parliamentary Business Resources Amendment (2018 Measures No. 1) Regulations 2018* (the Regulations).

Section 2 - Commencement

2. This section provides that the Regulations commence the day after the instrument is registered on the Federal Register of Legislation.

Section 3 - Authority

3. This section confirms that the Regulations are made under the *Parliamentary Business Resources Act 2017* (the Act).

Section 4 – Schedules

4. This section provides that each instrument specified in the Schedule to these Regulations is amended or repealed as set out in the items in that Schedule, and that any other item in the Schedule has effect according to its terms.

Schedule 1 – Amendments to the Principal Regulations

Item 1 – At the end of paragraph 66(1)(o)

5. Item 1 inserts ‘, and mobile office facilities and equipment’ into paragraph 66(1)(o) of the Principal Regulations. This allows members to procure a range of facilities and equipment for use as part of a mobile office, in addition to the existing signage that they are eligible to claim. For example, a member could procure a marquee to provide coverage when they are conducting their parliamentary business outdoors, and other items such as tables and chairs.

6. The cost of items procured for this purpose is deducted from the annual budget for office expenses in section 67 of the Principal Regulations, and the procurement of items is subject to the obligations in the Act (including ensuring value for money).

Items 2 and 3 – Section 71

7. These items make amendments to section 71 of the Principal Regulations to expand coverage of section 71 (which provides for the reimbursement of certain expenses for privately leased office accommodation) to members of the House of Representatives with an electorate that has an area of 25,000 km² or more.

8. Previously the reimbursement of expenses was limited to members of the House of Representatives with electorates with an area of at least 5,000 km², but less than 25,000 km². The reimbursement for these members was limited to \$50,000 for the 2017-2018 financial year, with the limit indexed for future financial years under section 102 of the Principal Regulations.

9. These arrangements have been retained (see new paragraph 71(2)(a)), and members of the House of Representatives with an electorate of 25,000 km² or more have been added. The limit of the reimbursement for these members is \$20,000 for the 2017-2018 financial year, with the limit indexed for future financial years under section 102 of the Principal Regulations (see new paragraph 71(2)(b)).

Items 4 to 8 – Section 72

10. Items 4 to 8 amend section 72 of the Principal Regulations to provide for temporary office accommodation and associated facilities to be public resources that the Minister may determine under subsection 33(1) of the Act. Section 72 previously only provided for the Minister to determine offices for members in their electorate.

11. This formalises existing arrangements, as the Department of Finance has historically provided access to visiting suites and associated facilities for members in capital cities at the Commonwealth Parliament Offices. Allowing the Minister to determine such resources under the Act will bring them under the new parliamentary work expenses framework and ensure consistency for the resources provided to members for conducting their parliamentary business.

Item 9 – Section 76

12. Item 9 repeals section 76 of the Principal Regulations, which provided mobile phone services for personal employees of certain members (and was equivalent to the benefit provided under the old parliamentary work expenses framework established by the *Parliamentary Entitlements Act 1990* (PE Act) – see regulation 3E of the *Parliamentary Entitlements Regulations 1997*, as in force before its repeal).

13. In reviewing matters after the commencement of the Act, it was identified that this section is no longer required as the resources may also be provided under section 74 of the Principal Regulations (as information and communication technology and services for offices). This overlap is consistent with the old parliamentary work expenses framework where these resources were also capable of being provided under the old equivalent of section 74 of the Principal Regulations (see subitem 7(1) of Schedule 1 to the PE Act, as varied by Schedule 1 to the PE Regs, as in force before its repeal).

Item 10 – After section 96

14. Item 10 inserts new section 96A into the Principal Regulations to provide for the pro-rating of non-financial limits where a person becomes a member part way through a financial year. This is consistent with section 53 of the Act, which provides for an equivalent pro-rating for financial limits.

15. New section 96A provides for annual amounts (other than a dollar amount) to be reduced on a pro-rata basis if a person becomes a member part way through a financial year. This section applies to public resources, and other resources prescribed in the Principal Regulations for the purposes of section 42 of the Act, in cases where they are subject to an annual limit that is not a dollar amount (dollar amounts are covered by section 53 of the Act).

16. New subsection 96A(2) contains a formula that sets out that the amount that the member is eligible to claim, in relation to the remainder of the financial year in which they become a member.

The amount is a proportion of the full amount for that financial year, based on the number of days left in the financial year. The net effect of this clause is that a member will be eligible for public and other resources under the Principal Regulations based on the proportion of days they are a member (pro-rata) during a year.

17. New subsection 96A(3) is a general rounding rule, which makes it clear that rounding provisions apply to amounts under this clause to produce a whole number greater than zero.

18. New subsection 96A(4) clarifies that new section 96A only applies to persons who become a member after the commencement of the new section, it does not apply to persons who became members between 1 January 2018 and the commencement of the section.