

EXPLANATORY STATEMENT

Issued by the Authority of the Special Minister of State

Parliamentary Retirement Travel Act 2002

Parliamentary Retirement Travel Regulations 2018

General outline

The *Parliamentary Retirement Travel Act 2002* (the Act, formerly the *Members of Parliament (Life Gold Pass) Act 2002*) provides travel at Commonwealth expense (known as a ‘Parliamentary Retirement Travel Entitlement’ (PRT Entitlement)) to former Prime Ministers who meet certain qualifying criteria (see section 30 of the Act) and a qualifying former Prime Minister’s spouse or de facto partner.

Section 10 of the Act places a cap on the number of domestic return trips that can be met at Commonwealth expense for eligible travellers. A ‘domestic return trip’ is defined in section 4 of the Act as a return trip that:

- is wholly within Australia
- satisfies the purpose test specified in section 4AA, and
- is on a scheduled transport service or combination of scheduled transport services.

A ‘scheduled transport service’ is defined in section 4 of the Act to mean scheduled air, rail, bus, tram, ferry, or vehicular services.

Part 7 of the Act sets out a ‘stop-over rule’ which provides that if an eligible traveller has a stop-over during a domestic return trip that is longer than 24 hours, the traveller is taken to have completed an additional 0.5 domestic return trips (that is the travel is counted as 1.5 domestic return trips). Section 4 of the Act provides that a ‘stop-over’ means a ‘stop-over in the forward or return part of the trip’.

Subparagraphs 21(c)(ii) and 22(d)(ii) of the Act allow regulations to declare ‘exceptional circumstances’ which are exempt from the stop-over rule. Section 35 of the Act provides that the Governor-General may make regulations required or permitted by the Act.

The *Parliamentary Retirement Travel Regulations 2018* (the Regulations) repeal and replace the *Members of Parliament (Life Gold Pass) Regulations 2002* (LGP Regulations) which were due to sunset on 1 October 2019. The LGP Regulations previously declared two broad categories of exceptional circumstances for the purposes of subparagraphs 21(c)(ii), 22(d)(ii), 23(d)(ii), and 24(c)(ii) of the Act. These categories were health reasons (where an injury or illness prevents travel from being undertaken within 24 hours after the beginning of the stop-over) and transport reasons (where a delay or cancellation in a scheduled transport service prevents travel from being undertaken within 24 hours after the beginning of the stop-over).

Consistent with the *Guide to Managing Sunsetting of Legislative Instruments* issued by the Attorney-General’s Department, the Department of Finance conducted a review of the LGP Regulations to determine if those regulations were still necessary and, if so, fit-for-purpose. The report from the review recommended that the LGP Regulations be

remade, as it is appropriate that exemptions for health and transport reasons continue to be provided so that eligible travellers are not penalised in situations that are effectively beyond their control.

However, the report determined that the LGP Regulations should be remade with the following minor technical and policy amendments:

- changes to the name of the regulations to reflect the name change of the Act
- references to the *Members of Parliament (Life Gold Pass) Act 2002* updated to the *Parliamentary Retirement Travel Act 2002* to reflect the name change of the Act
- references to sections 23 and 24 of the Act removed to recognise their repeal from the Act
- references to ‘members’ and the spouse or de facto partner of a member removed in recognition of the closure of the PRT Entitlement to members other than eligible former Prime Ministers and their spouse or de facto partner
- references to ‘Life Gold Pass’ removed in recognition of the name change of the PRT Entitlement
- replace the requirement to provide evidence to the Minister with a requirement to provide evidence to the administrator of the PRT Entitlement to better reflect current administrative practices in the parliamentary work expenses framework, and
- updates to current drafting practices and style.

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

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

Commencement

The Regulations commence on the day after registration on the Federal Register of Legislation.

Consultation

In relation to section 17 of the *Legislation Act 2003*, consultation was undertaken with the Independent Parliamentary Expenses Authority (IPEA) who administer the PRT Entitlement. IPEA supports the recommendations of the review report and the text of the new Regulations. Further consultation was not considered necessary or appropriate as the Regulations effectively mirror existing arrangements without substantive amendment.

Regulatory Impact Statement

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. Consequently, OBPR has advised that a RIS is not required. OBPR ID Number: 23811.

Details of the *Parliamentary Retirement Travel Regulations 2018*

Section 1 – Name

1. This section provides that the title of the Regulations is the *Parliamentary Retirement Travel Regulations 2018* (the Regulations).

Section 2 – Commencement

2. This section provides that the Regulations commence in accordance with column 2 of the table in subsection 2(1).
3. Item 1 of the table provides that the whole of the instrument commences on the day after the Regulations are registered on the Federal Register of Legislation.

Section 3 – Authority

4. This section states that the Regulations are made under the *Parliamentary Retirement Travel Act 2002* (the Act).

Section 4 – Schedules

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

Section 5 – Definitions

6. This section provides definitions to support the operation of the Regulations.

Section 6 – Exceptional circumstances

7. This section declares the exceptional circumstances for the purposes of subparagraphs 21(c)(ii) and 22(d)(ii) of the Act.
8. Paragraphs 6(a) to (c) provide exemptions for health reasons. This is where an injury or illness prevents travel within 24 hours after the beginning of the stop-over.
9. Paragraph 6(a) covers the situation where an eligible traveller (either a former Prime Minister, or the spouse or de facto partner of a former Prime Minister) is unable to travel within 24 hours after the beginning of the stop-over due to health reasons.
10. Paragraph 6(b) covers the situation where the eligible traveller is a former Prime Minister and they are accompanied by their spouse or de facto partner, and their spouse or de facto has health reasons that prevent the spouse or de facto partner from travelling within 24 hours after the beginning of the stop-over. In this instance the former Prime Minister is exempt from the stop-over rule in addition to their spouse or de facto partner

who is also exempt from the stop-over rule under paragraph 6(a) (see above). This exemption recognises the caring responsibilities that the former Prime Minister may have for their spouse or de facto partner.

11. Paragraph 6(c) covers the situation where the eligible traveller is the spouse or de facto partner of a former Prime Minister and they are accompanied by the former Prime Minister, and the former Prime Minister has health reasons that prevent the former Prime Minister from travelling within 24 hours after the beginning of the stop-over. In this instance the spouse or de facto partner is exempt from the stop-over rule in addition to the former Prime Minister who is also exempt from the stop-over rule under paragraph 6(a) (see above). This exemption recognises the caring responsibilities that the spouse or de facto partner may have for the former Prime Minister.
12. Paragraph 6(d) provides an exemption for transport reasons, where a delay or cancellation of a scheduled transport service prevents the eligible traveller (either a former Prime Minister, or the spouse or de facto partner of a former Prime Minister) from travelling within 24 hours after the beginning of the stop-over. For example, where an airline cancels or delays a flight and the eligible traveller is unable to access an alternate flight within the 24 hour period.

Section 7 – Evidence of exceptional circumstances

13. Section 7 sets out the evidentiary requirements for eligible travellers seeking to rely on the exemptions in section 6. Unlike the *Members of Parliament (Life Gold Pass) Regulations 2002* which these Regulations repeal and replace, evidence to support a claim of exceptional circumstances does not have to be provided to the Minister administering the Act. Rather, section 7 is drafted to require that evidence is provided with the claim to the relevant administrator. At the present time the Independent Parliamentary Expenses Authority administers PRT Entitlement travel. This new practice better reflects the current administrative arrangements for travel under the Act, and parliamentary work expenses generally.
14. Paragraph 7(a) provides that where a claim for special circumstances is made in respect of health reasons (an injury or illness) it must be accompanied by a medical certificate stating that the injury or illness prevented the person with the injury or illness from travelling within 24 hours after the beginning of the stop-over. In this context ‘medical certificate’ takes its ordinary meaning, that is a certificate made out by a doctor testifying to the state of a person’s health.
15. Paragraph 7(b) provides that where a claim for special circumstances is made in respect of transport reasons (a delay or cancellation of a scheduled transport service) it must be accompanied by a statutory declaration by the eligible traveller that declares that the delay or cancellation prevented the eligible traveller from travelling within 24 hours after the beginning of the stop-over.

Schedule 1 – Repeals

Members of Parliament (Life Gold Pass) Regulations 2002

Item [1] – The whole of the instrument

16. This item repeals the whole of the *Members of Parliament (Life Gold Pass) Regulations 2002* which were due to sunset on 1 October 2019. The sunset instrument is effectively replaced by these Regulations.

Statement of Compatibility with Human Rights

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

Parliamentary Retirement Travel 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

This Legislative Instrument repeals and replaces sunseting regulations made under the *Parliamentary Retirement Travel Act 2002* to declare exemptions to the stop-over rule under that Act.

The Act provides eligible former Prime Ministers (and their spouse or de facto partner) with access to travel at Commonwealth expense in certain circumstances. The Act includes a cap on the number of domestic return trips that can be met annually at Commonwealth expense for eligible travellers. If an eligible traveller has a stop-over during a domestic return trip, the ‘stop-over rule’ provides that where the stop-over is longer than 24 hours, the traveller is taken to have completed an additional 0.5 domestic return trips.

Regulations made under the Act may declare types of exceptional circumstances that will exempt an eligible traveller from the stop-over rule. This Legislative Instrument declares those circumstances to be health reasons (where an injury or illness prevents travel within 24 hours after the beginning of the stop-over) and transport reasons (where a delay or cancellation of a scheduled transport service prevents travel within 24 hours after the beginning of the stop-over). The Legislative Instrument also sets out evidentiary requirements for persons seeking to rely on an exemption.

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.

Alex Hawke
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