

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Finance

Parliamentary Business Resources Act 2017

Parliamentary Business Resources Amendment (Office Expenses) Regulations 2020

Outline

The *Parliamentary Business Resources Amendment (Office Expenses) Regulations 2020* (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 a Member of the House of Representatives representing an electorate with a demographic rating of Provincial or Rural, as given by the Australian Electoral Commission, to use office expenses for the production or placement of content for broadcast on radio, up to a limit of one third of the member's maximum amount payable for office expenses for the financial year, as prescribed under section 67 of the Principal Regulations where:

- the member is using these office expenses in relation to broadcasting services (other than in the Australian Capital Territory) by the licensee of a regional commercial radio broadcasting licence; and
- the regional licence area of the regional commercial radio broadcasting licence is, in whole or in part, the same as the area of the electorate which the member represents.

The proposed Regulations are being introduced in response to the impact of COVID 19 on regional media, in particular the reduction in print media services, to enable members in regional areas to continue to communicate with their constituents. However, the amendments would be permanent.

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 certain members of the Parliament affected by the amendments. Consultation was also undertaken with Commercial Radio Australia, the national industry body representing Australia's commercial radio broadcasters, to confirm the amendments reflect industry practice and understanding.

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: 42470.

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 (Office Expenses) Regulations 2020

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 (Office Expenses) Regulations 2020* (the Regulations) amend the *Parliamentary Business Resources Regulations 2017* (the Principal Regulations) to enable a Member of the House of Representatives representing an electorate with a demographic rating of Provincial or Rural, as given by the Australian Electoral Commission, to use office expenses for the production or placement of content for broadcast on radio, up to a limit of one third of the member's maximum amount payable for office expenses for the financial year, as prescribed under section 67 of the Principal Regulations where:

- the member is using these office expenses in relation to broadcasting services (other than in the Australian Capital Territory) by the licensee of a regional commercial radio broadcasting licence; and
- the regional licence area of the regional commercial radio broadcasting licence is, in whole or in part, the same as the area of the electorate which the member represents.

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)), and the right to take part in the conduct of public affairs (Article 25 of the *International Covenant on Civil and Political Rights* (ICCPR)).

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.

Article 25 of the ICCPR recognises that:

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- (c) To have access, on general terms of equality, to public service in his country.

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. This in turn promotes the right to take part in public affairs and to be elected to office, because it ensures that individuals from all parts of the Australian community can afford to enter and participate in political life.

These Regulations therefore 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 (Office Expenses) Regulations 2020*

Section 1 - Name

1. This section provides that the title of the Regulations is the *Parliamentary Business Resources Amendment (Office Expenses) Regulations 2020* (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 the 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

Parliamentary Business Resources Regulations 2017 (the Principal Regulations)

Item 1 – Section 4

5. Item 1 inserts new definitions of *regional commercial radio broadcasting licence* and *regional licence area* in section 4.

6. The new definitions have the same meaning as in section 61CA of the *Broadcasting Services Act 1992*.

7. This amendment is consequential to the insertion of new subsection 66(2A) by item 3 below.

Item 2 – Subsection 66(1) (note)

8. This item would repeal the note and substitute a new note ‘See also subsections (2B) and (2C)’.

9. This amendment is consequential to the insertion of new subsections 66(2B) and (2C) by item 3 below.

Item 3 – Subsection 66(2)

10. Item 2 omits ‘or radio’ from the subsection.

11. This amendment is consequential to the insertion of new subsection 66(2A) by item 3 below.

Item 4 – After subsection 66(2)

12. Item 3 adds new subsections 66(2A), (2B) and (2C).

13. New subsection 66(2A) enables a Member of the House of Representatives representing an electorate with a demographic rating of Provincial or Rural, as given by the Australian Electoral Commission (available on the Australian Electoral Commission's website, <http://www.aec.gov.au>), to use office expenses for the production and placement of content for broadcast on radio up to a limit of one third of the member's maximum amount payable for office expenses for the financial year, as prescribed under section 67 of the Principal Regulations where:

- the member is using these office expenses in relation to broadcasting services (other than in the Australian Capital Territory) by the licensee of a regional commercial radio broadcasting licence;
- the regional licence area of the regional commercial radio broadcasting licence is, in whole or in part, the same as the area of the electorate which the member represents.

14. The prohibition on the use of office expenses for the production or placement of content for broadcast on radio continues to apply for all Senators and for Members of the House of Representatives where the requirements of subsection 66(2A) are not met.

15. New subsection 66(2B) prohibits members from entering into cost sharing arrangements with each other for the production or placement of content for broadcast on radio as permitted by new subsection 66(2A).

16. New subsection 66(2C) confirms that members can enter into cost sharing arrangements with each other for office expenses mentioned in subsection 66(1) (other than as prohibited by proposed new subsection (2B)), but that each member who is a party to the cost sharing arrangement may only claim the member's proportion of the office expenses incurred. This amendment reflects current administration of cost sharing arrangements for office expenses as reflected in the Note repealed by item 1A above.