

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Finance

Parliamentary Business Resources Act 2017

Parliamentary Business Resources Amendment (Office Expenses No. 2) Regulations 2020

Outline

The *Parliamentary Business Resources Amendment (Office Expenses No. 2) 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 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.

The Regulations complement the amendments made by the *Parliamentary Business Resources Amendment (Office Expenses) Regulations 2020*, by extending eligible members' ability to use their office expenses in relation to regional commercial radio broadcasting services to community and open narrowcast radio services, as well. Narrowcast radio services are radio services whose reception is limited in some way, such as by location or specific events.

The Regulations amend the Principal Regulations to enable an eligible Member of the House of Representatives to use office expenses for the production or placement of content for broadcast on community and open narrowcast radio services where:

- the member is using these office expenses in relation to broadcasting services (other than in the Australian Capital Territory) provided by the licensee of a regional community radio broadcasting licence or a class licence under the *Broadcasting Services Act 1992* for the provision of an open narrowcasting radio service; and
- the regional licence area of the regional community radio broadcasting licence or the coverage area of the open narrowcast radio service is, in whole or in part, the same as the area of the electorate which the member represents.

This would, in effect,

- expand the types of radio services which could be met from eligible members' office expenses. It would provide for members who are currently eligible to use their office expenses for commercial broadcasting services (i.e. those representing a rural or provincial electorate) to also use their office expenses to communicate with constituents using community and/or open narrowcasting radio services; and
- restrict eligible radio broadcasting to licence or coverage areas that overlap with an eligible member's electorate.

The proportion of office expenses that a member may use on commercial radio services is currently prescribed by paragraph 66(2A)(e) of the Principal Regulations. The Regulations make no change to this proportion, which would result in eligible members being able to use a maximum total of one third of their annual budget for office expenses, as calculated under section 67 of the Principal Regulations, on all categories of radio services.

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.

Regulatory impact

The Office of Best Practice Regulation (OBPR) has agreed that amendments to the Principal Regulations are not regulatory.

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 No. 2) 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 No. 2) Regulations 2020* (the Regulations) amend the *Parliamentary Business Resources Regulations 2017* (the Principal Regulations) to enable an eligible Member of the House of Representatives to use office expenses for the production or placement of content for broadcast on community and open narrowcast radio services where:

- the member is using these office expenses in relation to broadcasting services (other than in the Australian Capital Territory) provided by the licensee of a regional community radio broadcasting licence or a class licence under the *Broadcasting Services Act 1992* for the provision of an open narrowcasting radio service; and
- the regional licence area of the regional community radio broadcasting licence or the coverage area of the open narrowcasting radio service 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, and 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 No. 2) 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 a new definition of *regional community radio broadcasting licence* in section 4.

6. The new definition means a community radio broadcasting licence (within the meaning of the *Broadcasting Services Act 1992*) that has a regional licence area.

7. This amendment is consequential to amendments to subsection 66(2A) by item 2 below.

Item 2 – Paragraph 66(2A)(c) and (d)

8. Item 2 repeals the current paragraphs (c) and (d) and substitutes the new paragraphs (c) and (d) as follows. Together, these have the effect of expanding the range of broadcasting services for which office expenses could be used to include community and open narrowcast radio services (except in the Australian Capital Territory).

- (c) the office expenses are so used by the member in relation to broadcasting services (other than in the Australian Capital Territory) by the licensee of:
 - (i) a regional commercial radio broadcasting licence; or
 - (ii) a regional community radio broadcasting licence; or

- (iii) a class licence under the Broadcasting Services Act 1992 for the provision of an open narrowcasting radio service (within the meaning of that Act); and
- (d) one of the following subparagraphs applies:
 - (i) for 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;
 - (ii) for a regional community radio broadcasting licence—the regional licence area of the regional community radio broadcasting licence is, in whole or in part, the same as the area of the electorate which the member represents;
 - (iii) for a licence mentioned in subparagraph (c)(iii)—the coverage area of the open narrowcasting radio service is, in whole or in part, the same as the area of the electorate which the member represents; and