

EXPLANATORY STATEMENT

Parliamentary Legislation Amendment (Fortnightly Payments) Regulations 2024

Issued by the authority of the Special Minister of State

Parliamentary Business Resources Act 2017

Parliamentary Contributory Superannuation Act 1948

Outline

The *Parliamentary Legislation Amendment (Fortnightly Payments) Regulations 2024* (the Regulations) are made under section 61 of the *Parliamentary Business Resources Act 2017* (the PBR Act), and under section 28 of the *Parliamentary Contributory Superannuation Act 1948* (the PCS Act).

The Regulations amend the *Parliamentary Business Resources Regulations 2017* (the PBR Regulations) and amend and rename the *Parliamentary Contributory Superannuation (Early Release Payments) Regulations 2020* (the PCS Regulations) to give effect to Schedule 4 of the *Parliamentary Business Resources Legislative Amendment (Review Implementation and Other Measures) Act 2024* (the Amendment Act). Schedule 4 of the Amendment Act provides for the payment of components of parliamentarians' remuneration on a fortnightly basis and flows through the change of payment frequency to contributions to the Parliamentary Contributory Superannuation Scheme (PCSS). Parliamentarians are currently paid remuneration on a monthly basis.

The PBR Act established the framework for the provision of resources, including remuneration, to parliamentarians (referred to as *members* by the PBR Act) in respect of their parliamentary business. Section 14 of the PBR Act provides that a member is to be paid the remuneration determined from time to time, under section 45, by the Remuneration Tribunal.

From commencement of Schedule 4 of the Amendment Act, the PBR Act will provide that the following components of members' remuneration are payable on a fortnightly basis, where applicable:

- base salary (subsection 14(2), PBR Act)
- electorate allowance (paragraph 14(3)(a), PBR Act)
- office holder's salary (paragraph 14(3)(b), PBR Act)
- vehicle allowance (that is, an allowance determined for the purposes of paragraph 14(4)(b), PBR Act).

The PBR Act will provide that the amount of each component of remuneration to be paid to a member per fortnight is to be worked out in accordance with a method prescribed by the PBR Regulations. This includes dealing with pro-rating due to transition to the fortnightly payment frequency, and pro-rating of any particular component of remuneration – for example, if a person becomes an office holder during a fortnight. While the PBR Act will provide that the method for working out the amount of remuneration payable must be based on the amount determined by the Remuneration Tribunal under section 45 of the PBR Act, the amount of remuneration which is actually payable to a person is the amount worked out by the PBR Regulations.

The PCS Act established the PCSS, which provides benefits to former members of Parliament, their spouses and orphan children. Membership of the PCSS closed to new members from 9 October 2004.

Schedule 4 of the Amendment Act will amend the PCS Act in respect of the rate of parliamentary allowance that a PCSS member must contribute to the scheme during their term of service. Specifically, the PCS Act will provide that the contribution rate per fortnight is based on the fortnightly amount of parliamentary allowance, and if applicable, allowance by way of salary, payable to the person, as worked out in accordance with the PCS Regulations.

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

Part 1 of Schedule 1 of the Regulations amend the PBR Regulations. Part 2 of Schedule 1 of the Regulations amend the PCS Regulations.

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

Commencement

The Regulations commence on the day after the instrument is registered on the Federal Register of Legislation, or the day on which Schedule 4 to the Amendment Act commences, whichever is the later.

Consultation

The Department of the Senate and the Department of the House of Representatives have been consulted on the Regulations.

Regulatory impact

The Office of Impact Analysis (OIA) has advised that an Impact Analysis is not required in relation to fortnightly payments measure (OIA ref OBPR23-04352).

Authority: Section 61 of the
*Parliamentary Business
Resources Act 2017*

and

*Section 28 of the Parliamentary
Contributory Superannuation Act
1948*

Details of the *Parliamentary Legislation Amendment (Fortnightly Payments) Regulations 2024*

Section 1 - Name

This section provides that the title of the instrument is the *Parliamentary Legislation Amendment (Fortnightly Payments) Regulations 2024* (the Regulations).

Section 2 - Commencement

This section provides that the whole of the instrument commences on the day after the instrument is registered on the Federal Register of Legislation, or the day on which Schedule 4 of the *Parliamentary Business Resources Legislation Amendment (Review Implementation and Other Measures) Act 2024* (the Amendment Act) commences, whichever is the later.

Subsection 2(2) clarifies that any information included in column 3 of the table in subsection 2(1) is not part of the instrument; rather, information may be inserted in that column or edited in any published version of the instrument in order to assist the reader.

Section 3 – Authority

This section confirms that the instrument is made under the *Parliamentary Business Resources Act 2017* (the PBR Act) and the *Parliamentary Contributory Superannuation Act 1948* (the PCS Act).

Section 4 – Schedules

This section provides that each instrument that is specified in the Schedule to this instrument 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

Part 1—Fortnightly payments

Parliamentary Business Resources Regulations 2017 (the PBR Regulations)

Item 1 – Section 4

Item 1 inserts new definitions into section 4 of the PBR Regulations.

The included definition of *Act* clarifies that this means the *Parliamentary Business Resources Act 2017*.

A number of definitions set out the meaning of key terms that are used for the purposes of calculating the fortnightly amount of the relevant component of remuneration determined by the Remuneration Tribunal – these are:

- ***fortnightly amount of base salary***, which means the amount worked out in accordance with section 95B
- ***fortnightly amount of electorate allowance***, which means the amount worked out in accordance with section 95C
- ***fortnightly amount of office holder’s salary***, which means the amount worked out in accordance with section 95D
- ***fortnightly amount of vehicle allowance***, which means the amount worked out in accordance with section 95E

- **transitional fortnight**, which means the fortnight beginning on 4 July 2024, including the period that is taken to be included in that fortnight because of subitem 23(2) of Schedule 4 to the Amendment Act.

Subitem 23(2) of the Amendment Act provides that if commencement occurs on 1 July 2024 (and, therefore, that the first fortnight begins on 4 July 2024, as provided by subitem 23(1) of the Amendment Act) the transitional period of 1 to 3 July 2024 is taken to be included as a part of the first fortnight beginning on 4 July 2024. In practical terms, this means that the first ‘pay day’ for the payment of fortnightly remuneration will be 18 July 2024. While every pay day after 18 July 2024 would cover a consistent 14 (calendar) day period (subject to any applicable pro-rating), the first pay day on 18 July 2024 will cover the transitional fortnight being the period of 1 – 17 July 2024).

The Note under the definition of **transitional fortnight** clarifies that the additional period to be included in the transitional fortnight is 3 days (being 1 – 3 July 2024).

Item 2 – After section 95

From commencement of Schedule 4 of the Amendment Act, section 52A of the PBR Act will provide that the following components of members’ remuneration are payable on a fortnightly (rather than the current monthly) basis:

- base salary (subsection 14(2), PBR Act)
- electorate allowance (paragraph 14(3)(a), PBR Act)
- office holder’s salary (paragraph 14(3)(b), PBR Act)
- vehicle allowance (that is, an allowance determined for the purposes of paragraph 14(4)(b), PBR Act).

Section 52A of the PBR Act will also provide that:

- the PBR Regulations are to prescribe the **relevant method** for working out the amount of the components of remuneration to be paid to a person per fortnight (subsection 52A(2), PBR Act).
- the **relevant method** is to be based on the amount of each component of remuneration, where applicable, as determined by the Remuneration Tribunal under subsection 45(1) of the PBR Act. That is, the relevant method would convert components of remuneration as determined by the Remuneration Tribunal under section 14 of the PBR Act into fortnightly payments (subsection 52A(3), PBR Act).
- the **relevant method** may result in a member being paid less or more than the amount of the component of remuneration determined by the Remuneration Tribunal (subsection 52A(4), PBR Act). This is to account for the fact that a year comprises 26 whole fortnights and either one day (in a regular year) or two days (in a leap year). The amount of remuneration required to be paid in a year would necessarily differ from the amounts determined by the Remuneration Tribunal where these amounts are determined for a period other than a fortnight.

Section 95A – Fortnightly payments to senators and members

Item 2 inserts section 95A into the PBR Regulations to provide, for the purposes of subsection 52A(2) of the PBR Act, the method for working out the amount to be paid to a person per fortnight

is to add up each of the following amounts (as defined under Item 1 of this instrument) payable to the person for the fortnight:

- the fortnightly amount of base salary
- the fortnightly amount of electorate allowance
- the fortnightly amount of office holder’s salary (if any)
- the fortnightly amount of vehicle allowance (if any).

Subsection 95A(2) provides that, for the purposes of working out the amount under subsection 95A(1), each of the amounts covered by paragraphs 95A(1)(a) to (d) must be rounded to the nearest cent (rounding 0.5 cents upwards).

The components of remuneration need to be provided for individually to take into account each member’s unique arrangements, and noting that not all members are eligible for all components of remuneration. For example, only office holders are eligible for office holder’s salary, and a person may become an office holder part-way through a fortnight (and therefore only be eligible for office holder’s salary for that part of the fortnight). However, the person may be eligible for base salary for the whole of the fortnight.

Item 2 inserts sections 95B to 95E which provide the formulae for working out the relevant fortnightly amount of each component of remuneration.

Section 95B – Fortnightly amount of base salary

Subsection 95B(1) provides the formula for working out the fortnightly amount of base salary for a whole fortnight (that is, a 14 day fortnight). (Subsections 95B(3) and (4) deal with the fortnightly amount of base salary for the whole of the transitional fortnight.) Specifically, subsection 95B(1) provides that, subject to subsection 95B(2), the formula for calculating the fortnightly amount of base salary in respect of a whole fortnight that is payable to a person is:

$$\frac{\text{The amount of base salary payable to the person} \times 12}{313}$$

Base salary is defined by section 5 of the PBR Act to mean an *annual* allowance determined for the purposes of subsection 14(2) of the PBR Act (as reflected by the Note under subsection 95B(1)). The amount of base salary payable to the person for the purposes of the formula is therefore the annual amount of base salary determined by the Remuneration Tribunal.

The formula is necessary to account for the fact that:

- there are not a whole number of fortnights in a regular or a leap year (a regular year comprises 26 fortnights and one day; and a leap year, 26 fortnights and two days); and
- there are 26 ‘pay days’ (on a fortnightly basis) in 11 financial years and 27 ‘pay days’ in a twelfth financial year in a cycle (due to the cumulative effect of the one or two additional days per annum).

The formula multiplies the (annual) amount of base salary by 12 to reflect the 12-year cycle period, and divides it by 313 to reflect the number of pay days within a 12 year period (that is, 313 is the sum of 11 years of 26 ‘pay days’ (11 x 26 = 286) and a twelfth year with 27 ‘pay days’ (286+27 = 313)).

This formula accords with that used to calculate the fortnightly payment of salary for other Commonwealth employees, including *Members of Parliament (Staff) Act 1984* employees.

Amount of base salary for part of a fortnight

Subsection 95B(2) provides the formula for calculating the fortnightly amount of base salary that is payable to a person if that person is only eligible for base salary for a part of a whole fortnight. (Subsections 95B(3) and (4) deal with the fortnightly amount of base salary which is payable for a part of the transitional fortnight.) For example, a person would be paid a pro-rated amount of base salary if they became (or ceased to be) a member part way through that relevant pay period. The formula in these circumstances is:

$$\frac{\text{Full fortnightly amount} \times \text{Number of included days}}{14}$$

For the purposes of the formula in subsection 95B(2), the **full fortnightly amount** means the amount worked out in accordance with the formula in subsection 95B(1), and **number of included days** means the number of days in the part of the fortnight (that is, the number of days within the fortnight that the person is eligible to be paid base salary, in accordance with section 49 of the PBR Act).

Amount of base salary for the transitional fortnight

Subsection 95B(3) provides that, subject to subsection 95B(4), subsections 95B(1) and (2) do not apply in relation to the transitional fortnight. Item 1 inserts the definition of the transitional fortnight into the PBR Regulations. Broadly, the transitional fortnight will occur only once at the commencement of Schedule 4 of the Amendment Act, and comprises 17 days (being 1 – 17 July 2024).

Subsection 95B(4) provides the formula for calculating the fortnightly amount of base salary that is payable to a person if that person is eligible for base salary for a part or the whole of the transitional fortnight. That is, the formula provides for the possibility that a person may become or cease to be eligible for base salary part-way through the transitional fortnight. The formula in these circumstances is:

$$\frac{\text{Full fortnightly amount} \times \text{Number of included days}}{14}$$

For the purposes of the formula in subsection 95B(4), the **full fortnightly amount** means the amount worked out in accordance with the formula in subsection 95B(1), and the **number of included days** means 17 if base salary is payable to the person for the whole of the transitional fortnight; or otherwise, the number of days in the part of the transitional fortnight that the person is eligible to be paid base salary, in accordance with section 49 of the PBR Act.

The Note at the end of subsection 95B(4) clarifies that a part of the transitional fortnight may be more than 14 days, for example, base salary could be payable to a person for 15 of the 17 days in the transitional fortnight.

Sections 95C, 95D and 95E – Fortnightly amount of electorate allowance, office holder’s salary and vehicle allowance

Item 2 also inserts sections 95C, 95D and 95E into the PBR Regulations to provide the formulae for calculating the fortnightly amount of electorate allowance, office holder’s salary and vehicle allowance respectively that is payable to a person for a whole fortnight (subsections 95C(1), 95D(1) and 95E(1)), for part of a fortnight (subsections 95C(2), 95D(2) and 95E(2)) and for the transitional fortnight (subsections 95C(3) and (4); 95D(3) and (4); and 95E(3) and (4)).

Unlike base salary which is defined to be an *annual* allowance, electorate allowance, office holder's salary and vehicle allowance are not defined by the PBR Act in respect of a particular payment period. The Remuneration Tribunal has historically determined the amount of electorate allowance and vehicle allowance as *annual* amounts that are payable to members and office holder's salary as a percentage of the (annual) amount of base salary. All formulae provided under sections 95C, 95D and 95E assume that the Remuneration Tribunal will continue to determine electorate allowance, office holder's salary and vehicle allowance consistent with existing practice. Amendments to the PBR Regulations would be required should the Remuneration Tribunal specify a different period in respect of which the amount of electorate allowance or vehicle allowance is payable, or if alternations were made to how office holder's salary is determined.

Subsections 95C(1), 95D(1) and 95E(1) – Amount of electorate allowance, office holder's salary or vehicle allowance for a whole fortnight

Subsection 95C(1) provides that, subject to subsection 95C(2), the fortnightly amount of electorate allowance payable to a person for a whole fortnight is to be worked out in accordance with the following formula:

$$\frac{\text{The annual amount of electorate allowance payable to the person} \times 12}{313}$$

The formula specifies that the amount of electorate allowance for the purposes of the calculation is the *annual* amount. The formula otherwise aligns with the formula in subsection 95B(1) (regarding the fortnightly amount of base salary payable to the person in respect of a whole fortnight).

The formulae in subsections 95D(1) and 95E(1) for calculating the fortnightly amount of office holder's salary or vehicle allowance that is payable to a person for a whole fortnight are identical to the formula as 95C(1), other than the variable being the annual amount of office holder's salary (in subsection 95D(1)) or the annual amount of vehicle allowance (in subsection 95E(1), where applicable). The annual amount of office holder's salary is calculated by multiplying the percentage determined by the Remuneration Tribunal in respect of the particular office holder by the (annual) amount of base salary.

Subsections 95C(2), 95D(2) and 95E(2) – Amount of electorate allowance, office holder's salary or vehicle allowance for part of a fortnight

Subsections 95C(2), 95D(2) and 95E(2) provide the formulae for calculating the fortnightly amount of electorate allowance, office holder's salary and vehicle allowance respectively that is payable to a person if that person is only eligible for the particular component of remuneration for a part of a fortnight, as follows:

$$\frac{\text{Full fortnightly amount} \times \text{Number of included days}}{14}$$

Other than the variables in the formulae at subsections 95C(2), 95D(2) and 95E(2) being defined in respect of electorate allowance, office holder's salary or vehicle allowance and the relevant *full fortnightly amount* referring to the formula under subsection 95C(1), 95D(1) or 95E(1) respectively, these subsections align with subsection 95B(2) (in relation to the fortnightly amount of base salary that is payable to the person in respect of a whole fortnight).

Subsections 95C(3) and (4), 95D(3) and (4), and 95E(3) and (4) – Amount of electorate allowance, office holder’s salary and vehicle allowance for the transitional fortnight

Subsections 95C(3) and (4) and the Note under subsection 95C(4) set out provisions in relation to the calculation of the fortnightly amount of electorate allowance that is payable to a person if that person is eligible for electorate allowance for a part or the whole of the transitional fortnight. Subsections 95D(3) and (4) and the Note under subsection 95D(4) provide similarly in respect of office holder’s salary, and subsections 95E(3) and (4) and the Note under subsection 95E(4) in respect of vehicle allowance, in relation to the transitional fortnight.

Other than the variables in these formulae being defined in respect of electorate allowance, office holder’s salary or vehicle allowance and the relevant *full fortnightly amount* referring to the formula under subsection 95C(1), 95D(1) or 95E(1) respectively, these subsections align with subsections 95B(3) and (4) (in relation to the fortnightly amount of base salary that is payable to the person in respect of the transitional fortnight).

Part 2 – Superannuation

Parliamentary Contributory Superannuation (Early Release Payments) Regulations 2020 (PCS Regulations)

Item 3 – Before section 1

Item 3 inserts a new Part 1 and heading – Preliminary.

Item 4 – Section 1

Item 4 changes the name of the instrument to the *Parliamentary Contributory Superannuation Regulations 2020*. This reflects the broader scope of the PCS Regulations as a result of this instrument’s amendments.

Item 5 – Section 4 (note)

Item 5 repeals the note at the beginning of section 4 and replaces it with the following note:

- Note: A number of expressions used in this instrument are defined in the Act or for Part VA of the Act, including the following:
- (a) allowance by way of salary;
 - (b) deferring member;
 - (c) parliamentary allowance;
 - (d) SIS Regulations;
 - (e) Trust.

The new note lists certain expressions that are defined in the PCS Act or for Part VA of the PCS Act, and expands the list in the repealed note by including the references to ‘allowance by way of salary’ and ‘parliamentary allowance’.

Item 6 – Section 4

Item 6 inserts the following definitions in section 4 of the PCS Regulations:

covered parliamentary allowance means parliamentary allowance covered by paragraph (e) of the definition of *parliamentary allowance* in subsection 4(1) of the PCS Act. Paragraph (e) of the definition in the PCS Act defines *parliamentary allowance* to mean base salary (within the meaning of the PBR Act), excluding any portion determined under paragraph 45(3)(a) of that Act as not being parliamentary allowance for the purposes of the PCS Act.

fortnightly amount of the allowance by way of salary means the amount worked out in accordance with section 4B.

fortnightly amount of the parliamentary allowance means the amount worked out in accordance with section 4A.

transitional fortnight means the fortnight beginning on 4 July 2024, including the period that is taken to be included in that fortnight because of subitem 38(2) of Schedule 4 to the Amendment Act. The Note under the definition clarifies that the additional period to be included in the transitional fortnight is 3 days (being 1 – 3 July 2024). Subitem 38(2) of the Amendment Act provides that if commencement occurs on 1 July 2024 (and, therefore, that the first fortnight begins on 4 July 2024, as provided by subitem 38(1) of the Amendment Act) the transitional period of 1 to 3 July 2024 is taken to be included as a part of the first fortnight beginning on 4 July 2024.

Item 7 – After section 4

Item 7 inserts a new Part 2 and heading – *Fortnightly payments*, and sections 4A (in relation to covered parliamentary allowance) and 4B (in relation to allowance by way of salary) in the PCS Regulations.

Under the PCS Act, members are currently required to pay contributions to the Parliamentary Contributory Superannuation Scheme (PCSS) at a fixed percentage of their monthly parliamentary allowances or salary. Consistent with the amendments to the PBR Act and the PBR Regulations in relation to the payment of members’ remuneration on a fortnightly basis, regulations under the PCS Act will provide that those contributions are payable in respect of a fortnight.

Fortnightly amount of covered parliamentary allowance

Section 4A provides the formulae for calculating the fortnightly amount of covered parliamentary allowance that is payable to a person for a whole fortnight (subsection 4A(1)), for part of a whole fortnight (subsection 4A(2)), and for the transitional fortnight (subsections 4A(3) and (4)). As explained in relation to the amendments to Part 1 of this instrument, the formulae are necessary to account for the fact that there is not a whole number of fortnights in a regular or a leap year.

Subsection 4A(1) provides that, subject to subsection 4A(2), and for the purposes of subsection 13(1A) of the PCS Act, the fortnightly amount of the covered parliamentary allowance (a defined term – see Item 6) payable to a person for a fortnight is to be worked out in accordance with the following formula:

$$\left(\frac{\text{Amount of base salary} - \text{Excluded portion of base salary}}{12} \right) \times 12$$

313

For the purposes of the formula in subsection 4A(1), the *amount of base salary* means base salary (within the meaning of the PBR Act) that is payable to the person. The Note under the definition clarifies that base salary is an annual allowance determined for the purposes of subsection 14(2) of the PBR Act. The *excluded portion of base salary* means the portion covered by paragraph 45(3)(a) of the PBR Act. This is a portion of base salary that is not parliamentary allowance for the purposes of the PCS Act. The portion is a dollar amount and is determined by the Remuneration Tribunal in accordance with paragraph 45(3)(a) of the PBR Act. The formula assumes the *excluded portion of base salary* is an annual amount, consistent with long-standing arrangements (noting that paragraph

45(3)(a) of the PBR Act does not require the Remuneration Tribunal to determine an annual amount).

Amount of covered parliamentary allowance for part of a fortnight

Subsection 4A(2) provides the formula for the purposes of subsection 13(1A) of the PCS Act for calculating the fortnightly amount of covered parliamentary allowance that is payable to a person if that person is only eligible for covered parliamentary allowance for a part of a whole fortnight. (Subsections 4A(3) and (4) deal with the fortnightly amount of covered parliamentary allowance which is payable for a part of the transitional fortnight.) For example, a pro-rated amount of parliamentary allowance would be required (as per the specified formula) for working out the correct amount of contributions to be paid by a person if they became (or ceased to be) a member part way through the relevant period. The formula in these circumstances is:

$$\frac{\text{Full fortnightly amount} \times \text{Number of included days}}{14}$$

For the purposes of the formula in subsection 4A(2), the **full fortnightly amount** means the amount worked out in accordance with the formula in subsection 4A(1), and the **number of included days** means the number of days in the part of the fortnight (that is, the number of days within the fortnight that the person is eligible for the covered parliamentary allowance).

Amount of covered parliamentary allowance for the transitional fortnight

Subsection 4A(3) provides that, subject to subsection 4A(4), subsections 4A(1) and (2) do not apply in relation to the transitional fortnight. Item 6 inserts the definition of the transitional fortnight into the PCS Regulations. Broadly, the transitional fortnight will occur only once at the commencement of Schedule 4 of the Amendment Act, and will comprise 17 days (being 1 – 17 July 2024).

Subsection 4A(4) provides the formula, for the purposes of subsection 13(1A) of the Act, for calculating the fortnightly amount of covered parliamentary allowance that is payable to a person if covered parliamentary allowance is payable to that person for a part or the whole of the transitional fortnight. That is, the formula provides for the possibility that a person may become or cease to be eligible for covered parliamentary allowance part-way through the transitional fortnight. The formula in these circumstances is:

$$\frac{\text{Full fortnightly amount} \times \text{Number of included days}}{14}$$

For the purposes of the formula in subsection 4A(4) the **full fortnightly amount** means the amount worked out in accordance with the formula in subsection 4A(1), and the **number of included days** means 17 if covered parliamentary allowance was payable to the person for the whole of the transitional fortnight; or, otherwise, the number of days in the part of the transitional fortnight that the person is eligible for covered parliamentary allowance.

The Note at the end of subsection 4A(4) clarifies that a part of the transitional fortnight may be more than 14 (calendar) days, for example, a person could be eligible for covered parliamentary allowance for 15 of the 17 days in the transitional fortnight.

Fortnightly amount of allowance by way of salary

Item 7 also inserts section 4B which provides the formulae for calculating the fortnightly amount of the allowance by way of salary that is payable to a person for a whole fortnight (subsection 4B(1)),

for part of a whole fortnight (subsection 4B(2)), and for the transitional fortnight (subsections 4B(3) and (4)). Consistent with other provisions in this instrument, the formulae are necessary to account for the fact that there is not a whole number of fortnights in a regular or a leap year.

Subsection 4B(1) provides that, subject to subsection 4B(2), and for the purposes of subsection 13(3A) of the PCS Act, the fortnightly amount of the allowance by way of salary (a defined term – see Item 6) payable to a person for a fortnight is to be worked out in accordance with the following formula:

$$\frac{\left(\text{Amount of office holder's salary} - \text{Excluded portion of office holder's salary} \right) \times 12}{313}$$

For the purposes of the formula in subsection 4B(1) the **amount of office holder's salary** means the annual amount of office holder's salary (within the meaning of paragraph 14(3)(b) of the PBR Act) payable to the person, and the **excluded portion of office holder's salary** means the annual amount of office holder's salary (within the meaning of the PBR Act) that is payable to the person multiplied by the portion covered by paragraph 45(3)(b) of the PBR Act. The annual amount of office holder's salary is calculated by multiplying the percentage determined by the Remuneration Tribunal in respect of the particular office holder by the (annual) amount of base salary. The formula assumes that the *excluded portion of office holder's salary* is a percentage amount, consistent with long-standing arrangements (noting that paragraph 45(3)(b) of the PBR Act does not specify whether the excluded portion of office holder's salary must be an amount or a percentage).

The Remuneration Tribunal has historically determined the amount of office holder's salary as a percentage of the (annual) amount of base salary that is payable to eligible members. All formulae provided under section 4B of the PCS Regulations assume that the Remuneration Tribunal will continue to determine office holder's salary consistent with existing practice. Amendments to the PCS Regulations would be required should the Remuneration Tribunal make alternations to how office holder's salary is determined.

Amount of allowance by way of salary for part of a fortnight

Similar to subsection 4A(2), subsection 4B(2) provides the formula for the purposes of subsection 13(3A) of the PCS Act for working out the fortnightly amount of the allowance by way of salary that is payable to a person if that person is only eligible for the allowance by way of salary for a part of a whole fortnight. (Subsections 4B(3) and (4) deal with the fortnightly amount of covered parliamentary allowance which is payable for a part of the transitional fortnight.) For example, a pro-rated amount of allowance by way of salary would be required (as per the specified formula) for working out the correct amount of contributions to be paid by a person if they became (or ceased to be) an office holder part way through the relevant period. The formula in these circumstances is:

$$\frac{\text{Full fortnightly amount} \times \text{Number of included days}}{14}$$

For the purposes of the formula in subsection 4B(2), the **full fortnightly amount** means the amount worked out in accordance with the formula in subsection 4B(1), and the **number of included days** means the number of days in the part of the fortnight (that is, the number of days within the fortnight that the person is eligible for the allowance by way of salary).

Amount of allowance by way of salary for the transitional fortnight

Subsection 4B(3) provides that, subject to subsection 4B(4), subsections 4B(1) and (2) do not apply in relation to the transitional fortnight. As noted above, the transitional fortnight comprises 17 days.

Subsection 4B(4) provides the formula, for the purposes of subsection 13(3A) of the Act, for calculating the fortnightly amount of the allowance by way of salary that is payable to a person if that allowance is payable to that person for a part or the whole of the transitional fortnight. That is, the formula provides for the possibility that a person may become or cease to be eligible for the allowance by way of salary part-way through the transitional fortnight. The formula in these circumstances is:

$$\frac{\text{Full fortnightly amount} \times \text{Number of included days}}{14}$$

For the purposes of the formula in subsection 4B(4), the *full fortnightly amount* means the amount worked out in accordance with the formula in subsection 4B(1), and the *number of included days* means 17 if the allowance by way of salary was payable to the person for the whole of the transitional fortnight; or, otherwise, the number of days in the part of the transitional fortnight that the person is eligible for the allowance by way of salary.

The Note at the end of subsection 4B(4) clarifies that a part of the transitional fortnight may be more than 14 (calendar) days, for example, a person could be eligible for the allowance by way of salary for 15 of the 17 days in the transitional fortnight.

Item 8 – Before section 5

Item 8 inserts a new Part 3 and heading – *Early release payments*. The main provisions of the existing PCS Regulations form the content of Part 3 of the PCS Regulations following amendment.

Statement of Compatibility with Human Rights

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

Parliamentary Legislation Amendment (Fortnightly Payments) Regulations 2024

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 Legislation Amendment (Fortnightly Payments) Regulations 2024* (the Regulations) are made under section 61 of the *Parliamentary Business Resources Act 2017* (the PBR Act) and under section 28 of the *Parliamentary Contributory Superannuation Act 1948* (the PCS Act).

The Regulations will amend the *Parliamentary Business Resources Regulations 2017* (the PBR Regulations) and will amend and rename the *Parliamentary Contributory Superannuation (Early Release Payments) Regulations 2020* (the PCS Regulations) to give effect to Schedule 4 of the *Parliamentary Business Resources Legislative Amendment (Review Implementation and Other Measures) Act 2024* (the Amendment Act). Schedule 4 of the Amendment Act provides for the payment of components of parliamentarians' remuneration on a fortnightly basis and flows through the change of payment frequency to contributions to the Parliamentary Contributory Superannuation Scheme (PCSS). Parliamentarians are currently paid remuneration on a monthly basis.

The PBR Act established the framework for the provision of resources, including remuneration, to parliamentarians (referred to as *members* by the PBR Act) in respect of their parliamentary business. Section 14 of the PBR Act provides that a member is to be paid the remuneration determined from time to time, under section 45, by the Remuneration Tribunal.

From commencement of Schedule 4 of the Amendment Act, the PBR Act will provide that the following components of members' remuneration are payable on a fortnightly basis, where applicable:

- base salary (subsection 14(2), PBR Act)
- electorate allowance (paragraph 14(3)(a), PBR Act)
- office holder's salary (paragraph 14(3)(b), PBR Act)
- vehicle allowance (that is, an allowance determined for the purposes of paragraph 14(4)(b), PBR Act).

The PBR Act will provide that the amount of each component of remuneration to be paid to a member per fortnight is to be worked out in accordance with a method prescribed by the PBR Regulations. This includes dealing with pro-rating due to transition to the fortnightly payment frequency, and pro-rating of any particular component of remuneration – for example, if a person becomes an office holder during a fortnight. While the PBR Act will provide that the method for determining the amount of remuneration payable must be based on the amount determined by the Remuneration Tribunal under section 45 of the PBR Act, the amount of remuneration which is actually payable to a person is the amount worked out by the PBR Regulations.

The PCS Act established the PCSS, which provides benefits to former members of Parliament, their spouses and orphan children. Membership of the PCSS closed to new members from 9 October 2004.

Schedule 4 of the Amendment Act will amend the PCS Act in respect of the rate of parliamentary allowance that a PCSS member must contribute to the scheme during their term of service. Specifically, the PCS Act will provide that the contribution rate per fortnight is based on the fortnightly amount of parliamentary allowance payable to the person, as worked out in accordance with the PCS Regulations.

Human rights implications

The legislative instrument does not engage any of the applicable rights or freedoms.

Conclusion

The *Parliamentary Legislation Amendment (Fortnightly Payments) Regulations 2024* are compatible with human rights as they do not raise any human rights issues.

Senator the Hon Don Farrell