



No. 9 of 2023

REPORT OF THE REMUNERATION TRIBUNAL

2023 Review of Accommodation Reimbursement and Allowances for Country Members of Parliament

INTRODUCTION

1. The Remuneration Tribunal (**Tribunal**) has conducted a review of Determination 18 of 2022, which provides for eligible members of Parliament to claim allowances or reimbursements for accommodation costs from commercial accommodation or a second residence in Metropolitan Adelaide.
2. As explained in this report, the Tribunal has determined to increase the commercial accommodation reimbursement by 1.5%, the second residence accommodation payment by 4.4% and to introduce a new category of non-commercial accommodation. The Tribunal has issued an accompanying determination, which applies from 1 January 2024.

BACKGROUND

3. The country members accommodation determination exists to facilitate journeys of an official nature from a country member's principal place of residence to Adelaide. The determination operates such that country members are not disadvantaged for fully and properly carrying out their official parliamentary, electoral, community or ministerial duties in Adelaide.
4. The Tribunal's Report 9 of 2020 contains extensive information about the history of the country members accommodation reimbursement/allowance. We do not propose to reproduce that information in this report.
5. In 2020 the Tribunal implemented significant changes by moving the system from an allowance based one to a reimbursement and allowance based arrangement. In particular, it adopted a reimbursement system for commercial accommodation expenses and an allowance based approach for those country members of Parliament who purchase, or rent on a long term basis, a second Adelaide based residence to enable them to undertake their parliamentary, community and electoral duties.
6. In 2021 the Tribunal made some changes to the administrative requirements for the reimbursement and allowance payment arrangements.
7. In 2022 the Tribunal commented that it believed administrative improvements could conceivably be made to the system, particularly in relation to the reporting arrangements. It also noted its intention to put out a draft proposal ahead of the next review.

THE REVIEW PROCESS

8. On 1 June 2023, in accordance with sections 10(2) and 10(4) of the *Remuneration Act 1990 (SA) (Act)*, the Tribunal wrote to and invited submissions by 29 June 2023 in respect of this review from:
 - a. the Honourable Premier of South Australia – as the Minister responsible for the Act who may make submissions or introduce evidence on any question relevant to the public interest;
 - b. members of Parliament;
 - c. the Treasurer; and
 - d. the Independent Commissioner Against Corruption (**ICAC**).
9. The Tribunal also advertised its intention to review Determination 18 of 2022 on its website from 1 June 2023. Submissions were also invited by 29 June 2023.
10. Consistent with the comments made in Report 18 of 2022, the Tribunal included a consultation paper that contained some options for consideration by those wishing to make submissions. Those options, in summary, included:
 - 1) Simplifying the current determination
 - 2) Returning to the previous allowance scheme
 - 3) Making no changes to the current determination
 - 4) Implementing a fixed yearly allowance amount
11. The Tribunal advised in the consultation paper that it was of the preliminary view that option 1, simplifying the current determination, increased transparency and accountability through improvements made to the reporting arrangements, whilst also simplifying the current scheme.
12. Attached to the consultation paper was a draft determination reflecting option 1. Details of the other options were discussed in the consultation paper, with other questions posed at the end of the paper for consideration.
13. Submissions were invited on the options put by the Tribunal as well as other alternate approaches that were not contained within the consultation paper. Importantly, submissions were not limited to the options contained within the consultation paper.
14. On 21 June 2023, the ICAC, the Hon Ann Vanstone KC, sent a letter referring to her submission from previous years for a fixed yearly allowance, which she considered would streamline the process. She observed that the processes demanded by the draft determination of option 1 would result in the expenditure of a disproportionate amount of time by the member, his or her staff, parliamentary officers and Shared Services.
15. On 28 June 2023, the Premier's representative confirmed that no submission would be made.

Opposition Members submission

16. On 29 June 2023, a written submission was received from Opposition Members.
17. Opposition Members submitted firstly, that the determination should include a statement of purpose, rather than codifying criteria and secondly that the Tribunal should adopt the recommendations and observations of the ICAC set out in the Commissioner's letters dated 14 July 2021 and 29 June 2022 respectively.

18. Opposition Members advised that country members who are Ministers, Shadow Ministers, Members of the Legislative Council or who hold other offices may be required to spend more nights working in Adelaide than at their usual place of residence. Furthermore, that the only office provided for Members of the Legislative Council is located in Parliament House.
19. Historically Parliament incorporated overnight accommodation quarters for country members within the building itself. The provision of accommodation is a core component of country members capacity to serve their constituents. Nowadays, country members set up routines to establish a sustainable home away from home. This may include sharing accommodation with family or colleagues and making other long-term arrangements, for example buying or leasing city accommodation, rather than booking night by night commercial accommodation.
20. Opposition Members adopt the earlier ICAC's recommendation of 14 July 2021 that the current regime ought to be replaced with an allowance and applied in increments according to relevant responsibilities. Such a model would eliminate uncertainty and would add transparency of remuneration of members of Parliament. Opposition Members share ICAC's doubts that there is a valid reason to discriminate between members of Parliament who incur accommodation costs at hotels as against those who choose to keep a second residence in Adelaide. Furthermore, a distinction ought to be drawn between transparency on the one hand and privacy on the other hand. There being a clear public interest in ensuring transparency of remuneration but not the particular living arrangements of a member of Parliament, which includes country members.
21. Opposition Members submit that the definition of terms in the determination appear to contemplate a non-exhaustive and wide range of ways and reasons to stay overnight in Adelaide, with the utility of doing so not being clear. In their view, it is problematic to codify certain categories of a country member's duties, as codification risks circumscribing the role of a country member in a way that is not elsewhere so circumscribed.
22. Opposition Members also sought to make oral submissions and therefore a hearing was held on 19 July 2023. Joshua Teague MP and David Basham MP appeared on behalf of Opposition Members. They reiterated the written submissions.

Clerk of the House of Assembly

23. On 25 July 2023, the Tribunal received a submission from the Clerk of the House of Assembly.
24. The Clerk's submission was limited to the proposed insertion of a clause that requires the Clerk of the House to cause to be tabled the claim forms, not the signed statutory declarations, in each House of Parliament.
25. The Clerk advised that since early in the financial year 2020-21, both Houses of Parliament have published on the SA Parliament website monthly Country Members Accommodation Reimbursement and Allowance consolidated reports. This reporting function was a direct response to a statement made in the House of Assembly by Speaker Tarzia on 22 September 2020, that claims for the Country Members' Accommodation Allowance and the Leader of the Opposition's travel be published on the Parliament's website each month.
26. Furthermore, if claim forms were tabled, they contain details such as the name of the commercial accommodation being used, the address of the member's usual place of residence and/or second residence. On 21 July 2020, Speaker Tarzia tabled advice from

SAPOL regarding the publishing of members addresses. That advice stated that public access to members details such as their address presents a risk to members.

CONSIDERATION

27. The Tribunal is not persuaded that the fundamental nature of this allowance should be changed to reflect an administratively simple allowance payment. Taking into account the contentious history of this allowance system, the Tribunal remains committed to a system that has a significant level of accountability. Changes to make this as administratively efficient as possible are advantageous but accountability mechanisms continue to be of paramount significance.
28. The Tribunal is of the view that Determination 18 of 2022 could be amended to simplify and clarify the eligibility requirements for claiming a country members accommodation reimbursement or allowance. It has therefore rearranged various parts of the determination, consistent with the draft determination that accompanied the consultation paper. In effect, the overall entitlement to make a claim has not significantly changed.
29. Part A now clearly sets out the options available to a member of Parliament whose principal place of residence is greater than 75kms by road from Parliament House, by the most direct route. In this instance, the member has access to three different options. The first is to claim a commercial accommodation reimbursement, which is short term accommodation in a commercial establishment, which now includes Airbnb or a similar platform. The second option is to receive payment for staying at a second residence in Metropolitan Adelaide and the third is a new category, non-commercial accommodation.
30. Non-commercial accommodation provides a mechanism for members of Parliament to claim a set allowance for staying with family or friends on the basis that it is likely that members incur some costs in doing so. Those costs may include commercial meal costs or simply a contribution to their hosts. The intention is to provide another option to members, on the basis that the amount payable to a member is significantly less than the other two options.
31. The claim limit for Part A claims, regardless of the type of claim made, is currently 135 nights. The Tribunal has determined to continue to apply this limit. It recognises there is a new category of claim, non-commercial accommodation. However, the intention of this new category is to increase the options available for country members, not to increase the number of nights of accommodation available. Evidence that satisfactorily establishes a requirement for increased nights in Adelaide has not been provided to the Tribunal.
32. Part B applies to a member of Parliament whose principal place of residence is less than 75kms by road from Parliament House, by the most direct route, but is outside of Metropolitan Adelaide. A commercial accommodation reimbursement is the only option available to Members who fall within this category. The claim limit of 15 nights, per financial year, continues to apply.
33. Part C is a newly created section of the determination. It takes the evidence requirements listed in various clauses of Determination 18 of 2022 and lists them more easily in one place by categorising them in relation to the claim being made (commercial accommodation reimbursement, second residence payment, non-commercial accommodation allowance). Furthermore, clause 11.1.4 makes it clear that a member of Parliament cannot commercially rent out their principal place of residence or second residence if they wish to make a claim.
34. One element of the determination that the Tribunal has decided to amend is the landmark that is used to determine the distance required in order to be eligible to make a claim. The

current landmark is the General Post Office at Adelaide (**GPO**). The Tribunal is of the view that using Parliament House as a landmark, rather than the GPO, better aligns with the primary purpose of the determination and as such has amended the determination in this regard.

35. The Tribunal also proposed, in the consultation paper and draft determination, a clause stating that the Clerk of the House shall cause a copy of the claim forms to be tabled in each House of Parliament. The Tribunal notes the submission made by the Clerk of the House of Assembly that consolidated details of the claims are already published on Parliament's website as a result of a statement made in 2020 by Speaker Tarzia. As such, the Tribunal has determined not to include this clause. The Tribunal agrees with the position that the address of members of Parliament need not be publicly disclosed.
36. In relation to the Opposition Members submission, the Tribunal has not been convinced that the determination should merely be a statement of purpose, rather than a codifying criteria and, further, that a fixed yearly allowance should apply as first suggested by the ICAC in 2021. The Tribunal is primarily concerned with having a system that is transparent and ensures public accountability. Whilst it recognises the concerns raised in relation to privacy, it is of the view that the scheme that has been implemented strikes a balance between the need for transparency and privacy.
37. Whilst the Tribunal has not accepted the Opposition Members submission, it has decided to include a purpose at the beginning of the determination to make it clear to those administering it that the purpose is to provide a mechanism for members of Parliament who meet the eligibility criteria to make a claim for expenditure incurred when staying in Metropolitan Adelaide for the primary purpose of performing either parliamentary, electoral, community or ministerial duties.
38. Finally, given the wording of the determination has been simplified, this has allowed the interpretation section to be reduced to only terms that require a definition. For example, some of the terms that have been removed include 'Overnight Accommodation Costs', 'Country Members', and 'House of Parliament'.

Amounts

39. The Tribunal has reviewed the determination amounts in the context of the following data on cost increases.
40. The Consumer Price Index (All groups Adelaide) shows the following percentage changes from the corresponding quarters of previous years:
 - i. 8.6% for December 2022
 - ii. 7.9% for March 2023
 - iii. 6.9% for June 2023
 - iv. 5.9% for September 2023
41. The Tribunal has also had regard to the Australian Taxation Office Taxation Determinations TD2022/10 and TD2023/3, which respectively set for taxation purposes reasonable accommodation, meal and incidental expenses for the 2022-23 and 2023-24 income years. The Tribunal has noted there was an overall increase of 1.16% to 1.81% for the daily total (which includes accommodation, meals and incidentals), with the exception of Hobart which had an 11.26% increase to the daily total. The Tribunal has also taken note of interest rate movements.
42. Having regard to these factors, the Tribunal has decided to increase the commercial accommodation reimbursement amount by 1.5%. The Tribunal has also decided to

increase the second residence payment by 4.4%. The new category of non-commercial accommodation will be set as \$89 The Tribunal will be interested to review the uptake of the non-commercial accommodation allowance at the next review. The increases and new non-commercial accommodation allowance will apply from 1 January 2024.



Matthew O'Callaghan
PRESIDENT



Deborah Black
MEMBER



Peter de Cure AM
MEMBER

Dated: 5 December 2023