



REMUNERATION TRIBUNAL OF SOUTH AUSTRALIA

REPORT RELATING TO DETERMINATION NO. 1 OF 2012

MEMBERS OF PARLIAMENT TRAVEL ENTITLEMENT AND RULES

1. INTRODUCTION

- 1.1 Section 4 of the *Parliamentary Remuneration Act 1990*, sets out the basis of the remuneration payable to a Member of the Parliament of South Australia. In particular, subsection (1)(c) provides that the remuneration of a Member comprises in part "*such electorate allowances and other allowances, expenses and benefits as are determined from time to time by the Remuneration Tribunal*".
- 1.2 Section 8(1) of the *Remuneration Act 1990*, provides that "*a sitting of the Tribunal may be convened by the President of the Tribunal of his or her own motion or at the request of the Minister*".
- 1.3 On 14 November 2011, the Premier, who is the Minister responsible for the *Remuneration Act 1990*, wrote to the President of the Remuneration Tribunal ('the Tribunal'), and pursuant to Section 8(1) of the *Remuneration Act 1990*, requested that the Tribunal convene a sitting and make a determination regarding those aspects of the travel allowance provisions that provide for a member's spouse, partner or family member to accompany them on parliamentary travel.
- 1.4 The Premier included a copy of the Members of Parliament Travel Entitlement Rules (as amended at 20 November 2008) which until this determination of the Tribunal were a set of rules approved by the Government. The Premier's letter asked that the Tribunal consider the existing rules relating to the entitlements for a spouse, domestic partner, or family member to accompany the Member on travel for parliamentary purposes, and issue a determination based on the outcome of the Tribunal's review and deliberations.
- 1.5 On 10 December 2011, a notice was published in *The Advertiser* newspaper, advising the general public that following a request from the Premier, the Tribunal was to conduct a review of the Parliament Travel Entitlement Rules, with particular attention being given to a review of the rule that permitted a spouse, domestic partner or family member to accompany a Member of Parliament on his or her domestic travel or overseas travel for parliamentary purposes. In his letter to the Tribunal, the Premier advised that there was clearly "community concern" about the existing rule that permitted a spouse, domestic partner or family member, to have their travel expenses met from the Member of Parliament's travel allowance. The public notice invited submissions to the review from interested persons, organisations and associations.

1.6 The Tribunal also wrote to and invited both written and oral submissions from the following:

- the Premier,
- the Leader of the Opposition,
- the Leader of the Family First Party of South Australia,
- the Leader of The Greens SA, and
- all current Members of the Parliament of South Australia.

1.7 As a follow up to the submissions received from the Premier, the Liberal Party of SA, and four individual Members of Parliament, the Tribunal wrote to these persons and bodies on 7 February 2012, seeking any further comment with regards to the *Members of Parliament Travel Entitlement Rules* as a whole. This subsequent invitation to the political entities who had already made submissions was a decision of the Tribunal which considered it appropriate to inform these entities that based on its statutory powers, the Tribunal was in fact reviewing all the rules as part of its deliberations before issuing a determination in terms of Section 4(1)(c) of the *Parliamentary Remuneration Act*.

2. SUBMISSIONS

2.1 The Tribunal received ten (10) written submissions; four (4) from individual parliamentarians, three (3) from members of the public, and submissions from the South Australian Government, the Liberal Party of SA and the Clerk of the House of Assembly of Parliament House. The Tribunal also received two supplementary submissions.

2.2 The Tribunal convened on 30 January 2012, and on 27 February 2012, to consider the submissions, and to hear one oral submission.

2.3 The submissions received were generally supportive of maintaining the provision for a spouse (or domestic partner) to accompany a Member on parliamentary travel, but were not supportive of another family member, in particular children, accompanying a Member on parliamentary travel.

2.4 There was no opposition to a staff member accompanying a Member on parliamentary travel in the submissions to the Tribunal.

2.5 The following points were raised in submissions in support of a spouse and domestic partner accompanying a Member of Parliament on his or her travel:

- The company of a spouse (or domestic partner) on parliamentary travel provides benefits to the Member, including; increased security, rather than travelling alone; additional knowledge if a spouse (or domestic partner) has special language skills or knowledge or previous experience of the location.
- Due to the nature of their work, Members are often absent from their family for long periods, especially country Members. In addition technological advancements and the public's need for information have resulted in a Member's role changing significantly. Members are often effectively 'on-call' at all times for electorate matters. The travel provision can assist to ease the strain on Members' personal relationships, and maintain greater work/life balance, by allowing the Member to spend time with their spouse (or domestic partner).

- A spouse (or domestic partner) is often part of the public face of the Member. Hosts often expect that a spouse (or domestic partner) will accompany a Member at functions and events. Attendance of a spouse (or domestic partner) at such proceedings can communicate to hosts and the community that the Member considers the event to be important, and can often improve interaction of individuals.
- 2.6 The following points were raised in submissions in opposition to a spouse, domestic partner, or family member accompanying a Member of Parliament on his or her travel:
- The responsibility of childcare whilst on parliamentary travel is an unnecessary distraction for the Member, particularly during 'working hours' when it would be expected that the Member would be focussed on parliamentary matters and functions. In such circumstances the Member would either be responsible for care of the child, or the responsibility would fall to another individual.
 - The benefit to a Member of Parliament in their role as a parliamentarian, or the benefit to the electorate, of a child's presence on parliamentary travel is questionable. As it is tax-payer funded, it is important that the funds are spent in a manner that provides a direct benefit to the Member in their role as a parliamentarian, to the electorate or to the South Australian people.
 - The lack of transparency regarding the benefit provided by a child or family member's presence during parliamentary travel has led to the public's loss of confidence in the rationale for the travel. Greater transparency should be implemented to more clearly indicate how the presence of the spouse will assist the Member in their role as a parliamentarian, or will benefit South Australians in general.
 - While the need for Members to maintain a good work/life balance and healthy personal relationships is recognised, it is questionable if the spouse (or domestic partner) or family member travel provisions are the most effective and appropriate way to combat the impact of the role and the Members' absences.
 - Such provisions do not exist in other occupations or industries for individuals in roles of similar status.
- 2.7 A number of submissions advocated that provision should be made for an independent arbiter to determine on the merits of the case, whether approval be granted for payment of the travel expenses of a spouse or domestic partner, or where appropriate a family member. Appropriate circumstances could relate to the visit itself, the particular circumstances of the individual Member, the spouse (or domestic partner) or the family member, or the general personal circumstances of the Member and their family.
- 2.8 It was suggested that special circumstances could also relate to the mobility or sensory needs of the Member or the spouse (or domestic partner), or family member, the personal or medical circumstances relating to the Member, or any unforeseen circumstances that arise close to the time of the planned travel.
- 2.9 The submissions argued that any discretion must be balanced by the need for transparency and accountability for public funds, for example, requiring strict guidelines for approval and reporting.

- 2.10 It was also submitted that the Tribunal review and consider the appropriateness of continuing the "Gold Pass" entitlement, particularly in view of the relative cost of air and rail travel.
- 2.11 One submission brought to the Tribunal's attention a number of provisions in the existing rules that were either unclear or open to different interpretation.

3. INTERSTATE PROVISIONS

- 3.1 The Tribunal researched the travel arrangements that apply in each of the different Australian jurisdictions and found that the arrangements that applied varied significantly from jurisdiction to jurisdiction, particularly in relation to the rules. Whilst not all jurisdictions provide an automatic travel allowance provision, the Tribunal did find that there was a reasonable closeness in the quantum of the travel allowance between South Australia and several other States.
- 3.2 The Tribunal found that in terms of the eligibility and the rules relating to a spouse, domestic partner or family member accompanying a Member of Parliament on parliamentary travel, the arrangements varied widely.
- 3.3 There is no general standard for the provision of an entitlement for, or the sharing of a parliamentarian's travel allowance with a spouse, domestic partner or family member. However in most jurisdictions, but not all, some provision is made for a spouse or a family member to accompany a Member on parliamentary travel. Where an eligibility exists, some jurisdictions have more stringent rules than others.

4. FAIR WORK ACT 1994 (SA)

- 4.1 The Tribunal, as required by Section 101(1) of the *Fair Work Act 1994 (SA)* has in this matter, and continues to have, due regard to the Wage Fixing Principles, and as it deems appropriate to apply and give effect to such principles in this Determination.

5. OPERATIVE DATE

- 5.1 As this is the first time the Tribunal has considered the provisions currently established under the *Members of Parliament Travel Entitlement Rules*, it has determined that a retrospective operative date is not appropriate.
- 5.2 Accordingly, the Tribunal has considered the submissions made and determined an operative date of 9 March 2012 for Determination 1 of 2012.

6. DISCUSSION

- 6.1 The Tribunal has recognised the need for the provision of transparent and accountable travel in all situations where travel is undertaken in respect of parliamentary service at taxpayer expense.
- 6.2 The Tribunal has had regard to all the submissions and material before it, including information regarding current interstate provisions for taxpayer financed travel for a spouse, domestic partner or family member.
- 6.3 In light of the information before the Tribunal, it has determined that it was appropriate for a number of changes to be made to the provisions contained in the *Members of Parliament Travel Entitlement Rules* as presented to the Tribunal. The

Tribunal has therefore issued the new *Members of Parliament Travel Entitlement and Rules* in its Determination 1 of 2012.

- 6.4 The Tribunal came to the conclusion that it was no longer appropriate for an immediate family member to accompany a Member on parliamentary travel in lieu of a spouse or domestic partner at taxpayer expense. Accordingly, the previous entitlement for a family member in lieu of a spouse or domestic partner has been removed.
- 6.5 The Tribunal did find however, that there were certain situations where it was appropriate for a Member to have the travel expenses of his or her spouse or domestic partner met from the Member's travel allowance. The Tribunal noted that in terms of the existing rules presented to the Tribunal for review, a Member could have the travel expenses of his or her spouse or domestic partner met from the Member's travel allowance as of right. The only restriction was that no more than 50% of the Member's travel allowance could be applied to the travel expenses of his or her spouse or domestic partner.
- 6.6 The Tribunal has determined that there needs to be more transparency and justification for a spouse or domestic partner accompanying a Member who travels as part of their parliamentary work and service at taxpayer expense. For this reason, the Tribunal has determined that the travel expenses of a spouse or domestic partner can only be met from the Member's travel allowance where the spouse or domestic partner has been formally invited to accompany the Member to a community function in South Australia, or a parliamentary function. It is considered appropriate that the travel expenses of a spouse or domestic partner be met where there is an expectation that a spouse or domestic partner will accompany the Member to such an event, when the spouse or domestic partner has been formally invited. The current limitation that no more than 50% of the Member's travel allowance may be expended on a spouse or domestic partner's travel expenses has been retained.
- 6.7 The Tribunal has included a provision for a discretionary approval power, exercisable by the Tribunal, to allow up to 50% of the Member's travel allowance to be expended on someone other than the Member's spouse or domestic partner, but in special circumstances only. These special or Extraordinary Circumstances, as the new rule is termed in the Determination, are those where the Member or the Member's spouse or domestic partner or member of staff have special physical or medical needs that require assistance to enable the Member or the Member's spouse or domestic partner or member of staff to undertake approved domestic or overseas travel. A Member with such needs will be able to apply to the Tribunal for approval for the cost of a carer's travel expenses to be charged to the Member's travel allowance. A limit of 50% of the travel allowance applies to the expenses that may be charged under this new special circumstances rule.
- 6.8 The Tribunal has removed reference to 'a *nominated family member of his or her immediate family*' from the previous Gold Pass rule. In light of the limited use of this provision by family members, and the current cost of rail travel, the Tribunal is of the view that this entitlement be limited to the spouse or domestic partner of the Member. The Tribunal received views in the submissions supporting this new position.
- 6.9 In addition, it is the Tribunal's intention to review the Gold Pass provisions set out in Rule 17 between now and the next review of this Determination as required by statute. After considering the Gold Pass rule at the current time, the Tribunal notes

that in the context of the cost of comparable rail and air travel in Australia and the associated travel time, it is difficult to justify an arrangement whereby taxpayers meet the cost of a form of travel that is more expensive than air travel.

6.10 A number of Schedules were referenced in the original Members of Parliament Travel Entitlement Rules. The Schedules assisted in the day-to-day administration of the Rules. In the interests of administrative efficiency, references to the Schedules have been replaced with references to an administrative manner and form as determined by the appropriate Presiding Officer.

6.11 The Tribunal has reviewed the entitlement of the aspect of the rules as requested by the Premier. It has also reviewed the existing entitlement and the remainder of the rules as presented to the Tribunal. Not only did the Tribunal have the statutory powers to review the entitlements and rules before issuing a Determination, it considered it had a responsibility to do this. As a consequence, Determination 1 of 2012 has made many changes of a minor nature to the wording in the existing provisions. Whilst most of these changes do not alter the existing policy, the Tribunal believed the changes were necessary to provide clarity and remove the possibility of the intention of the rules being open to alternative interpretation.

7. CONCLUSION

7.1 Having had regard to all the submissions and material before it, the Tribunal has determined that the *Members of Parliament Travel Entitlement Rules* as provided to the Tribunal by the Premier on 14 November 2011, be replaced with its Determination 1 of 2012, in the terms expressed in that Determination, and for the reasons set out in this Report.



Deane R Prior
PRESIDENT

9 March 2012