



No. 6 of 2021

REPORT OF THE REMUNERATION TRIBUNAL
ACCOMMODATION EXPENSE REIMBURSEMENT AND ALLOWANCE FOR
COUNTRY MEMBERS OF PARLIAMENT

INTRODUCTION AND BACKGROUND

1. Section 14 of the *Remuneration Act 1990* (“the Act”) provides that the Remuneration Tribunal (“the Tribunal”) has jurisdiction to determine the remuneration, or a specified part of the remuneration, payable in respect of certain offices, if such jurisdiction is conferred upon the Tribunal by any other Act or by the Governor by proclamation.
2. Section 3A(2) of the *Parliamentary Remuneration Act 1990* (“the PR Act”) confers jurisdiction upon the Tribunal to make a Determination or perform any other function required by the PR Act.
3. Section 3A(3) of the PR Act provides that the Tribunal may make a different provision according to the member, the electorate, the House of Parliament or the circumstances to which the Determination is to apply.
4. Section 4(2)(a) of the PR Act provides that the Tribunal must, in determining electorate allowances and other remuneration for members of Parliament, have regard not only to their parliamentary duties, but also to:
 - 4.1. Their duty to be actively involved in community affairs; and
 - 4.2. Their duty to represent and assist their constituents in dealings with governmental and other public agencies and authorities.

PROCEDURAL HISTORY

5. Section 10(2) of the Act provides that prior to the making of a Determination, the Tribunal must allow an affected person, or persons of an affected class, a reasonable opportunity to make submissions orally or in writing to the Tribunal.
6. Section 10(4) of the Act provides that the Minister responsible for the Act may intervene, personally or by counsel or other representative, in proceedings before the Tribunal for the purpose of introducing evidence, or making submissions, on any question relevant to the public interest.
7. On 28 June 2021, the Tribunal wrote to the Members of Parliament, notifying of the Tribunal’s intention to conduct a review of its Determinations in relation to Members of Parliament. The Tribunal invited written submissions with a closing date of 16 July 2021.
8. On 28 June 2021, the Tribunal wrote to the Honourable Premier of South Australia (“the Premier”), as the Minister responsible for the Act, inviting submissions in the public interest, with a closing date of 16 July 2021.

9. In addition, on 28 June 2021, a public notification of the review was placed on the Tribunal's website.

SUBMISSIONS

10. A summary of the submissions made to the Tribunal in relation to this review is included below.

Clerk of the House of Assembly

- 10.1. The Clerk of the House of Assembly sought clarification in relation to particular definitions within the Tribunal's Determination. Those definitions included references to accommodation costs, Ministerial duties and a written declaration.

The Hon. Nicola Centofanti, MLC

- 10.2. The Hon. Nicola Centofanti MLC sought provision for the cost of meals within the Tribunal's Determination of Country Members accommodation allowance.

The Hon. Ann Vanstone QC, Independent Commissioner Against Corruption

- 10.3. Commissioner Vanstone wrote to the Tribunal suggesting that the current scheme for the Country Members entitlement could be altered to reduce compliance costs and effort and to facilitate simpler administration and audit requirements.
11. The Tribunal acknowledges these submissions and thanks each of the people who have made them.
12. No other submissions were received by the Tribunal in relation to the review to which this Report relates.

CONSIDERATION AND CONCLUSION

13. The Tribunal has noted the submissions of the Clerk of the House of Assembly and has provided additional definitions within its Determination. Notably, the Tribunal provided definitions for ministerial duties, declaration requirements and overnight accommodation costs. In terms of the overnight accommodation costs, the Tribunal has recognised that these costs may include costs that have a direct nexus to the provision of overnight accommodation, including booking and transaction fees.
14. The Tribunal has considered the submission made by Ms Centofanti that the cost of meals should be provided for within the Tribunal's Determination. The Tribunal notes that the intent of the Country Members accommodation entitlement is to provide a modest level of assistance to Country Members of Parliament who commute to metropolitan Adelaide for certain official purposes.
15. The Tribunal does not consider that a meal allowance for country members ought to be included in the Determination at the present time. The Tribunal considers that the current entitlements are adequate incentive for Country Members to be present in Adelaide for the official purposes described within the Determination. Those entitlements include a reimbursement of commercial accommodation costs up to a specified amount, or, alternatively, a second residence allowance. However, the Tribunal has noted that some commercial accommodation providers include the provision of a light breakfast in their overnight accommodation service. Where this occurs, it may not be possible to separate out the breakfast component from the accommodation and the Tribunal considers that, in these instances the light breakfast cost component should form part of the accommodation cost.
16. The Tribunal has considered the suggestions put to the Tribunal by Commissioner Vanstone. The Tribunal considers the issues raised warrant substantial attention but notes that quite significant changes to the current arrangements would most likely be required. In the absence of any requests for such substantial changes from members of Parliament, the Tribunal is reluctant to implement major changes without further consultation. Consequently, the Tribunal has decided to make minimal change to the current system at this stage but has resolved to invite submissions on a more substantial change at the next annual review of this entitlement in 2022.

17. In the interim, to clarify accountability and efficiency obligations and remove any confusion, the Tribunal has decided that the current Determination should be updated to clarify that a statutory declaration should be provided to confirm that a second residence is maintained by the Member in Metropolitan Adelaide, including the address of that second residence. This requirement will come into effect on and from 1 January 2022. The requirement for a statutory declaration does not extend to commercial accommodation expense reimbursement where a claim form signed by the member will suffice.
18. The Tribunal has decided to clarify that the primary purpose for overnight metropolitan accommodation should be clarified such that it is for the primary purpose of performing either parliamentary, electoral, community or *ministerial* duties (but not for the purpose of party political duties). This clarification confirms that ministerial duties form part of the eligibility criteria. A definition for ministerial duties has been included.
19. The Tribunal has decided to apply a modest inflationary adjustment to the amounts of the entitlement for Country Members. Accordingly, the Tribunal has concluded that the amounts of the reimbursement for commercial accommodation and the second residence allowance for Members of Parliament shall be increased by 1.75%.

DATE OF OPERATION

20. The accompanying Determination shall have operative effect on and from 1 October 2021, save and except for clauses 4.2.4, 4.3.1 and 6.3.1 of that Determination.
21. The accompanying Determination supersedes in full the accommodation allowance provisions for Country Members within Determination 9 of 2020.



Matthew O'Callaghan
PRESIDENT



Deborah Black
MEMBER



Peter de Cure
MEMBER

Dated this 20th day of September 2021