



No. 18 of 2022

REPORT OF THE REMUNERATION TRIBUNAL

2022 Review of Accommodation Expense Reimbursement and Allowances for Country Members of Parliament

INTRODUCTION

1. The Remuneration Tribunal (**Tribunal**) has conducted a review of Determination 6 of 2021¹ which provides for eligible members of Parliament to claim allowances or reimbursements for overnight 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 expense reimbursement by 1.5% and the second residence accommodation allowance by 3.4%. The Tribunal has issued an accompanying determination, which applies from 1 January 2023.

THE REVIEW PROCESS

3. On 22 June 2022, in accordance with sections 10(2) and 10(4) of the *Remuneration Act 1990 (Act)*, the Tribunal wrote to and invited submissions by 19 August 2022 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 in the public interest
 - b. members of Parliament
 - c. the Treasurer
 - d. the Independent Commissioner Against Corruption (**ICAC**)
4. The Tribunal also advertised its intention to review this, and other determinations applicable to members of Parliament, on its website from 22 June 2022. Submissions were also invited by 19 August 2022.
5. On 16 August 2022, the Premier's representative confirmed that no submission would be made.
6. The only submission received was from the ICAC, the Hon Ann Vanstone KC, by letter dated 29 June 2022. Commissioner Vanstone asked the Tribunal to reconsider the submission she put in 2021. In that submission, the Commissioner suggested the Tribunal consider altering the scheme to a yearly fixed amount for country members, with members

¹ Accommodation Expense Reimbursement and Allowance for Country Members of Parliament.

claiming the allowance required to make a statutory declaration as to their place of residence and its distance from the General Post Office. The Commission suggested that this would reduce compliance costs and efforts, facilitate simpler administration and audit requirements, and would address her concerns that the current criteria for purpose of travel were extremely subjective and were difficult to enforce.

7. While the Tribunal did not adopt this proposal in its 2021 determination, it did adopt the suggestion by the Commissioner to require members to provide a statutory declaration, instead of a mere declaration, as to residence arrangements and the minimum number of nights per year spent at the member's second residence.
8. Separately, on 26 October 2022, the Clerk of the House of Assembly raised an issue about how the current determination would apply in circumstances where a member of Parliament started to rent out their second residence after they had already made eligible claims for the second residence allowance in a financial year. The Tribunal understands this was a hypothetical question raised to assist members of Parliament comply with the determination.

A BACKGROUND TO THIS REVIEW

9. The history of the previous allowance arrangements is set out in detail in Report 9 of 2020. In summary form, the Tribunal noted that the long standing allowance entitlement existed to facilitate journeys of an official nature from a country member's usual place of residence to Adelaide. The allowance was directed to ensuring that country members were not disadvantaged for fully and properly carrying out their official parliamentary, community or electoral duties in Adelaide.
10. In 2020 the Tribunal made significant changes to the previous allowance system. These changes followed consideration of the arrangements applicable in other States and Territories and recognition of the requirement for an administratively efficient system that was demonstrably reflective of the actual costs incurred by country members of Parliament. As a result of this review, the Tribunal adopted a reimbursement based system for commercial accommodation expenses and an allowance based approach for those country members of Parliament who chose to purchase, or rent on a long term basis, a second Adelaide based residence to enable them to undertake their Parliamentary, community and electoral duties.
11. In its 2021 review the Tribunal made some changes to the administrative requirements for the reimbursement and allowance payment arrangements. The Tribunal noted that significant changes to the system established in 2020 were not sought by members of Parliament. The Tribunal decided to apply a modest inflationary adjustment to amounts established in 2020.

THE CURRENT SYSTEM

12. The scheme established by the Tribunal's 2020 determination and marginally modified by the 2021 determination differentiates between benefits provided to country members of Parliament whose usual place of residence is outside of the metropolitan Adelaide boundary but within 75 km of the General Post Office and those whose usual place of residence is beyond 75 km from the General Post Office. The first category of members are able to claim a reimbursement amount for accommodation expenses incurred because they need to stay overnight in Adelaide to attend to parliamentary business, or community or electoral activities. A limit is set on the number of night's accommodation which can be claimed each year.

13. The second category of country members can also claim reimbursement of accommodation expenses incurred for the same reasons, or can receive an allowance determined by the Tribunal in the event that they purchase or rent on a long-term basis, a residence as an alternative to incurring nightly accommodation expenses.
14. In its 2020 Report the Tribunal reviewed the 75 km distance provisions and noted inherent difficulties in assessing some locations. A map showing specific locations for the purposes of differentiating between the two groups was adopted.

CONCLUSIONS ABOUT THE SCHEME

15. The Tribunal is cognizant of the need to strike a balance between the adoption of a system which minimizes uncertainty and the potential for inadvertent misuse and is administratively efficient.
16. In this respect the Tribunal believes that administrative improvements could conceivably be made to the existing system. These could particularly apply to reporting arrangements. However, in the absence of any request from either the members of Parliament who benefit from and apply the current system, or from those responsible for administering this system, the Tribunal is not inclined to make a significant change this year.
17. Instead, the Tribunal is minded to consider potential improvements to the scheme and to put out a draft proposal ahead of next year's review.
18. The Tribunal has considered Commissioner Vanstone's proposition that country members might be required to provide an annual statutory declaration confirming that their usual place of residence is either within the 75 km zone or outside of that zone. The Tribunal is cognizant of the significance of the map designating this area rather than road measurements. If a statutory declaration relative to the location of a member of Parliament's usual place of residence is applied as an additional reporting requirement, the Tribunal is not convinced that it will alter factual circumstance of that location. If, however, the statutory declaration is applied to effectively replace a specific claim for reimbursement, the Tribunal is concerned this will diminish the overall accountability of the system and result in a change from an inherently reimbursement based system to a general allowance that does not represent the degree of accountability that prompted the 2020 scheme. Consequently, the Tribunal has decided against any significant change to the structure of the scheme at the present time. In reaching this conclusion the Tribunal appreciates the enforcement difficulties identified by Commissioner Vanstone, particularly in relation to which activities are legitimately encompassed within the purpose of the allowance but has concluded that the obligation should remain vested with members of Parliament to determine, and, if necessary, validate claims made in this respect. The Tribunal will however give further consideration to these submissions in preparing any draft proposal for next year's review.
19. In respect of the matter raised by the Clerk of the House of Assembly, the Tribunal notes that clause 4.2.4 of the current determination provides as follows

If a Member's usual place of residence or second residence is rented out (i.e. rented to a person in exchange for a monetary payment or pecuniary benefit of any kind) for any period within a financial year, then the Member will not be entitled to a second residence allowance for that financial year. This clause (4.2.4) will come into operation commencing from the 2021/22 financial year.

20. The Tribunal believes this clause is unambiguous, and in practice requires a member of Parliament to decide at the start of a financial year whether they intend to rent out their usual or second place of residence for any period in that financial year, and hence to only

claim the allowance if they do not intend to rent out either residence. Renting out a residence after claiming the allowance would undermine their eligibility to have claimed that allowance. The Tribunal acknowledges that this aspect of the determination could cause issues for members of Parliament, but believes this issue is best addressed as part of the foreshadowed proposed amendments for next year's review, which will allow affected persons a proper opportunity to comment on proposed amendments to the scheme as a whole.

Amounts

21. The Tribunal has reviewed the allowances and reimbursement amounts in the context of the following data on cost increases.
22. The Consumer Price Index (All groups Adelaide) shows the following percentage changes from the corresponding quarters of previous years:
 - a. 3.3% for December 2021
 - b. 4.7% for March 2022
 - c. 6.4% for June 2022
 - d. 8.4% for September 2022.
23. The Australian Bureau of Statistics (**ABS**) assessment of Adelaide rental cost increases shows the following percentage changes from the corresponding quarters of previous years:
 - a. 2.5% for December 2021
 - b. 2.8% for March 2022
 - c. 3.4% for June 2022
 - d. 4.4% for September 2022.
24. While the Tribunal has reviewed data on overall housing cost changes, no definitive conclusion can be extracted from the ABS material.
25. The Tribunal has also had regard to the Australian Taxation Office Taxation Determinations 2021/6 and 2022/10, which respectively set for taxation purposes reasonable accommodation, meal and incidental expenses for the 2021-22 and 2022-23 income years. The Tribunal has noted there was a 0% increase to accommodation costs for all capital cities, and most country centres, between those respective Taxation Determinations. The Tribunal has also taken note of the number of recent interest rate rises.
26. Having regard to these factors, and the Australian Taxation Office Taxation Determinations in particular, the Tribunal has decided to increase the commercial accommodation expense reimbursement amount by 1.5%. The information on rental cost increases, and significant interest rate rises, justifies a higher increase for the second residence accommodation allowance. The Tribunal has accordingly decided to increase that allowance by 3.4%. The increases will apply from 1 January 2023.



Matthew O'Callaghan
PRESIDENT



Deborah Black
MEMBER



Peter de Cure AM
MEMBER