

## Department of Finance and Administration

### Members of Parliament Staff (MOP(S)) Inquiry – response to questions asked by the Senate Finance and Public Administration References Committee on 27 August 2003

#### A. The making and administration of determinations under the Act.

1. What determinations have been made under section 12? Who gets them? How are they prepared? How might a member, or a member of the public, know what section 12 determinations exist? Can the committee obtain copies of these determinations?

Section 12 Determinations are made by the Special Minister of State under authorisation from the Prime Minister to allow certain Senators and Members to employ personal staff under Part III of the *Members of Parliament (Staff) Act* (the MOP(S) Act). These Senators and Members are:

- President of the Senate and Speaker of the House of Representatives;
- Deputy President and Deputy Speaker;
- Government Whips;
- Whips of recognised non-Government parties in the Senate and the House of Representatives;
- Opposition shadow ministers;
- Australian Democrats; and
- Independent Senators and Members.

The Determinations are prepared by the Department of Finance and Administration upon legal advice. They are kept within the Department.

Senators and Members who are the subject of section 12 Determinations are either advised in writing by the Special Minister of State or advised by their Account Manager in Ministerial and Parliamentary Services.

It is not usual practice to make copies of Determinations publicly available because they relate to terms and conditions of employment.

**2. What arrangements have been approved by the Prime Minister under section 13 and section 20? Who prepares and administers these arrangements? How standardised are they? What variations exist? How can these be located? Can the Committee obtain copies of these determinations?**

The Prime Minister has authorised the Special Minister of State to exercise his powers under section 13(2) and 20(2) of the MOP(S) Act to approve employment arrangements for the staff of Office Holders and Senators and Members, and to determine any further employment conditions for such staff.

There have been some arrangements approved under sections 13(2) and 20(2) of the MOP(S) Act. For example, changes to the staff travel budget for electorate staff and changes to the relief staff budget draw on these powers.

However, most employment arrangements are approved pursuant to sections 14(3) and 21(3) of the MOP(S) Act.

There are no Determinations made under sections 13(2) and 20(2). Members and Senators are notified by circular or individual letter of changes to the staff travel budget and the relief staff budget. Entitlement handbooks issued by Ministerial and Parliamentary Services to our Parliamentary clients also contain information about these entitlements.

**3. What Determinations has the Prime Minister made under section 14(3) or 21(3)? Who prepares and administers these arrangements? Where can these be located? Can the Committee obtain copies of these determinations?**

The Prime Minister has authorised the Special Minister of State to make determinations under sections 14(3) and 21(3) of MOP(S) Act to vary the terms and conditions of employment of staff.

The terms and conditions of MOP(S) Act employment are administered by the Department of Finance and Administration. This includes the retention of Determinations once they are made.

*Examples of Determinations made under section 14(3) of the MOP(S) Act include:*

- Determinations giving effect to Australian Workplace Agreements (AWAs);
- Determinations changing terms and conditions under AWAs including pay rises under the performance review framework for senior government and non government staff, availability of flu vaccinations and an increase in the Ministerial Staff Allowance;
- Determinations that provide the flexibility for Office Holders (Ministers, Parliamentary Secretaries, the Leader and Deputy Leader of the Opposition in the House of Representatives and the Senate, and the Leader and Deputy Leader of the Australian Democrats) to appoint electorate staff at any salary point within the salary band and personal staff to a higher salary point within the relevant salary bands, at any time.
- Determinations that give effect to the terms and conditions of senior staff who decline to sign an AWA.

*Examples of Determinations made under section 21(3) of the MOP(S) Act include:*

- Determination to give effect to the 2001-02 Certified Agreement for Parliamentarians' staff.
- Determination to give effect to the 2003-06 Certified Agreement for Parliamentarians' staff.

The content of Determinations made under these provisions of the Act is made known to those affected either individually or, in the case of the Certified Agreement and changes to the AWA framework, by letter or circular from either the Special Minister of State or the Department of Finance and Administration to Senators and Members and all staff.

Changes to terms and conditions affecting a class of people, for instance, those whose employment is covered by the Certified Agreement are also advised through information and circulars on the MOP(S) Intranet site. The staff help desk in Ministerial and Parliamentary Services also provides oral advice to staff on the terms and conditions of employment.

It is not usual practice to make copies of Determinations publicly available because they relate to terms and conditions of employment.

**4. What determinations have been made under section 18(5) or 23(4)? What has been their purpose? How have they worked? Can the Committee obtain copies of these determinations?**

It is assumed the question refers to section 16(5) since section 18(5) does not exist. These sections allow the Prime Minister to deem employment terminated by virtue of 16(1) or (2) or 23(1) of the MOP(S) Act is to continue for a specified period.

The Prime Minister has authorised the Special Minister of State to exercise his powers under these sections of the MOP(S) Act.

There are standard situations where the Special Minister of State exercises his powers in this way, such as:

- Death in office or resignation – staff continue to be employed until a new Member is elected or a new Senator is appointed.
- Retirement with dissolution of Parliament – staff continue to be employed until declaration of polls or two weeks after the election, whichever is the earlier.

Attached are copies of standard letters sent out by Ministerial and Parliamentary Services to those Senators and Members and Ministers who are not seeking re-election advising them that a Determination has been made to extend the employment to their staff.

Senators and Members affected by such Determinations are advised of them by the Special Minister of State or the Department of Finance and Administration, depending on the circumstances. Where the Senator or Member dies, the staff are notified by the Department that their employment is deemed to have continued for a specified period of time.

It is not usual practice to make copies of Determinations publicly available because they relate to terms and conditions of employment.



### Telephone

Please return your mobile telephone and Telecard to the State Manager. With regard to your home telephones, your entitlement ceased on dissolution of the Parliament. Arrangements have been made for the meter to be read and for subsequent accounts to be sent to you.

### Postage/Communications Allowance

Australia Post accounts will be closed and the postage meter will be suspended, blocking any further credits. However, in order to provide continuity of service to constituents we will arrange for the postage meter to remain available for electorate use with a float of \$500. Please return your Australia Post Authority Card to the State Manager.

### Other

Arrangements will be made for your newspaper delivery under entitlement to cease. As this Department does not make arrangements to redirect the mail of former Members, this is a matter you may wish to consider.

### Travel

Your entitlement to travel as a Member, [REDACTED], ceased at the dissolution of Parliament. However, your length of service in the Parliament entitles you to a Life Gold Pass. In relation to this entitlement arrangements will be made to have a Pass struck and it will be forwarded to you as soon as it is available. Details of the entitlement are attached for your information. For the time being, you should continue to use your current Jetset profile number when booking Life Gold Pass travel for you and your spouse. Shortly a replacement Jetset booking card will be forwarded to you.

### OR

While your entitlement to travel as a Member, [REDACTED] ceased at the dissolution of Parliament, under the provisions of the Remuneration Tribunal Determination No 26 of 1998, you are eligible for ~~severance~~ severance travel within Australia. The travel is for yourself only and for non-commercial purposes. Details of this new entitlement are attached for your information. You should continue to use your current Jetset profile number when booking your travel. Shortly, a replacement Jetset booking card will be forwarded to you.

Staff of the Ministerial and Parliamentary Services Group have enjoyed our association with you and your staff. Please do not hesitate to contact your Account Manager whose number appears below \* if you require any additional information.

Yours sincerely

Jan Mason  
General Manager  
Ministerial and Parliamentary Services Group  
<DATE>

\*Sue Whisker (02) 6215 3426 – NSW and Tasmania;  
Greg Miles (02) 6215 3827 – Victoria, SA, NT and ACT;  
John Ignatius (02) 6215 3623 – Queensland and WA.



DEPARTMENT OF  
FINANCE AND  
ADMINISTRATION

**(viii)(i) Ministers (Not seeking re-election)**

**ENTITLEMENTS AND FACILITIES – ELECTION PERIOD**

Dear Minister

I am writing to you to outline the arrangements which apply in your case in respect of entitlements and facilities once the House of Representatives is dissolved. I note that you have indicated publicly that you will not be seeking re-election at the forthcoming General Election.

With the dissolution of the House your entitlements as a Member cease. I should mention that while the *Parliamentary Allowances Act 1952* contains bridging provisions (Section 5A) for a Member seeking re-election no such provision has been made in the case of a Member who is not seeking re-election.

You may of course access your electorate office to finalise your parliamentary and/or electorate affairs – to oversight the packing and archiving and hand over of assets.

As a Minister you continue to hold Ministerial Office until your commission is resigned or withdrawn. Therefore for the election campaign period and the period until the swearing-in of the new Government you continue to be eligible for Ministerial salary and all other benefits associated with carrying out the duties and functions of a Minister. Ministers may travel anywhere in Australia to undertake official business as a Minister – this can include addressing organisations and groups about individual portfolio matters and the Government's policies and achievements more generally.

There are two long standing conventions which I should like to draw to your particular attention:

- (i) a Minister does not claim travelling allowances during the election period unless travel is to attend a Cabinet Meeting or primarily to fulfil official Ministerial duties;
- (ii) similarly, a Minister does not access his/her charter entitlement (with the exception of the Prime Minister) except in special circumstances where travel is essential and related specifically to portfolio or Ministerial responsibilities.

Under the convention the election period begins on the day of the launch of the party's policy speech by the Leader of the party to the day after polling day (ie does not claim an overnight stay in respect of the night of the policy launch until the night after the night of polling day).

In relation to staff the situation is as follows. All your staff, both personal ministerial staff and electorate staff, are employed under Part III of the *Members of Parliament (Staff) Act 1984*.

By Determination made under the Act the staff may continue to be employed until two weeks after your Ministerial appointment ceases. All staff work at your direction until that time. It is expected that the personal staff will continue to assist you in your ministerial duties and that the electorate staff will continue to provide a service to constituents as well as assisting you in the settling out process.

If you need any further information about your entitlements during this time please contact your Account Manager whose number appears below\*.

Yours sincerely

Jan Mason  
General Manager  
Ministerial and Parliamentary Services Group  
<DATE>

\*Sue Whisker (02) 6215 3426 – NSW and Tasmania;  
Greg Miles (02) 6215 3827 – Victoria, SA, NT and ACT;  
John Ignatius (02) 6215 3623 – Queensland and WA.



**5. Which of the various determinations mentioned above are publicly available? Which are available to all MOPS staff and Members? What is the rationale for levels of availability that exist?**

There is no requirement under the MOP(S) Act, or any other relevant Commonwealth law, to provide a Member, or members of the public, with MOPS Act determinations.

In addition, many of these determinations include names and other personal information of MOPS Act staff and it would be inappropriate to provide this to the Committee, which will be reporting publicly.

## **B. Delegation of powers under the Act**

### **Background**

**The Departmental submission indicates that ‘In practise, the Prime Minister authorises the Special Minister of State to exercise management responsibilities for the MOP(S) Act’ (p. 7)**

- 6. Are these letters of authorisation published or tabled, or somehow made available? Can the Committee obtain copies of these letters?  
Are they a blanket authorisation to undertake all PM’s functions under the Act? If not, what areas of action are outlined in them?**

As the letters are from the Prime Minister, these questions will be answered by the Department of the Prime Minister and Cabinet.