

NEW SOUTH WALES

REPORT

AND

SPECIAL DETERMINATION

Pursuant to sections 10 and 12 of the

PARLIAMENTARY REMUNERATION ACT 1989

26 July 1999

The Honourable F L Wright
President
The Industrial Relations Commission of NSW
50 Phillip Street
SYDNEY NSW 2000

26 July 1999

Dear Mr President

The Parliamentary Remuneration Tribunal has the honour to present to you, pursuant to sections 10 and 12 of the Parliamentary Remuneration Act 1989, this Report of its Special Determination to be effective on and from 27 March 1999.

The intent of this Determination is to ensure the electoral districts in the determination correspond with those established in the recent electoral redistribution, and thereby to ensure that the allowances payable are correlated to the current structure of electorates. The quantum of and conditions for additional entitlements for members have not been altered.

As required by section 13(5) of the Parliamentary Remuneration Act 1989 I have appended the Secretary of the Treasury's Statement on the financial implications of the Determination.

Yours sincerely

The Hon (Justice) Michael Walton
THE PARLIAMENTARY REMUNERATION TRIBUNAL

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PARLIAMENTARY REMUNERATION ACT 1989
REPORT PURSUANT TO SECTIONS 10 and 12 OF THE ACT

1. By instrument of appointment made pursuant to the powers provided by clause 1 of schedule 2 of the *Parliamentary Remuneration Act 1989* (“the Act”) and dated 25 June 1999 the President of the Industrial Relations Commission of New South Wales appointed me as the Parliamentary Remuneration Tribunal (“the Tribunal”) for a term of office concluding on 31 December 1999.
2. The Act, which was assented to on 12 December 1989, constituted the Tribunal. The Act, *inter alia*, provides for the basic salaries of Members of Parliament to bear a fixed relationship to those of Members of the House of Representatives in the Commonwealth Parliament and for certain prescribed additional salaries and expense allowances to be at rates bearing a fixed percentage to the rate of basic salary.
3. Pursuant to s10(2) of the Act, the Tribunal may, by determination, fix the classes, terms, and other incidents of additional entitlements. Section 9 (1)(a) specifies that a function of the Tribunal is to make determinations of additional entitlements that are to be available to members or recognised office holders.
4. The Act does not define the concept of additional entitlements; but sets out, in section 10 of the Act, the following general provisions:

10 (3) A Determination may provide for additional entitlements in any form, including but not limited to:

- (a) the payment of additional allowances in terms of allowances, fees, and other emoluments payable in money (including for example electoral allowances, travel allowances, travel expenses, and committee allowances), and*
- (b) the provision of services, facilities and equipment (including for example electorate services, electorate staff, electorate offices, office equipment, travel, and communication equipment).*

10 (4) *A Determination may:*

- (a) *fix conditions on which an additional entitlement is to be provided, and may specify the form of substantiation (if any) that is required for particular kinds of additional entitlements, and*
- (b) *involve the reimbursement of the whole or a part of actual expenses, and*
- (c) *identify an existing entitlement as an additional entitlement, and*
- (d) *withdraw or alter an additional entitlement.*

5. The Act provides for an annual determination by the Tribunal of statutory additional entitlements; the Determination being made, usually, by 1 June each year, with effect from 1 July of that year. For 1999, the Chief Justice extended the date for making the annual determination to 29 October 1999.
6. The Act reserves to the Premier, as the Minister responsible for the Tribunal, a power to direct the Tribunal to make a special determination as to additional entitlements.
7. On 1 July 1999 the Premier of New South Wales directed the Tribunal, pursuant to section 12(1) of the Act to make a special determination as to Members' additional allowances. The direction was in the following terms:

As you are aware the Tribunal is required, pursuant to section 3(1) of the Parliamentary Remuneration Further Amendment Act 1998 to make its initial determination on Members' additional entitlements as soon as practicable after 27 March 1999.

Section 3(4) of that Act provides that additional allowances continue to be payable at the rates previously payable until such time as the additional entitlements in the nature of additional allowances become payable under the initial determination.

My concern is that the allowances previously payable relate to the 1998 Determination of the Tribunal which was made when there were 99 electorates in place. As you are aware since 27 March 1999 there have been 93 new electorates proclaimed and there does not appear to be a definitive source of authority for members of the new electorates to receive additional allowances.

To give certainty to Members, I direct you, pursuant to section 12(1) of the Parliamentary Remuneration Act 1989 to make a special determination on members additional allowances as soon as possible. This determination is for a specific purpose and in no way meant to represent the initial determination, the timetable for which is a matter for you.

8. Section 3(1) of the *Parliamentary Remuneration Further Amendment Act 1998*, provides for the making by the Tribunal of an initial determination relating to additional entitlements. Section 3(4) of the that Act provides that;

Additional allowances continue to be payable at the rates previously payable as if the Parliamentary Remuneration Amendment Act 1998 had not been enacted, until payment of additional entitlements in the nature of additional allowances can be effected under the initial determination, subject to any necessary adjustments.

9. The *Parliamentary Remuneration Further Amendment Act 1998* requires that the Tribunal make an initial determination relating to additional entitlements on or as soon as practicable after 27 March 1999. The initial determination, so made, has effect as a determination under and for the purposes of the Act and takes effect on and from the date it is made (or a later date specified in or determined under the initial determination in relation to any particular entitlements) (s3(3)).
10. In May 1999, the Tribunal issued a draft initial determination. This was forwarded to the NSW Treasury pursuant to section 13(5) of the Act. In June 1999 an advice was received from the Secretary of the Treasury.
11. However, the Tribunal has not made a report to the President (or, as was appropriate at the time, to the Chief Justice – see s 5(2) of the *Parliamentary Remuneration Amendment Act 1998*) pursuant to s13(1) of the Act and a copy of the advice received from the Secretary of the Treasury has not been published as an annexure to the report under s13(5) of the Act.
12. In consequence, an initial determination has not been made by the Tribunal pursuant to s 3 of the *Parliamentary Remuneration Further Amendment Act 1998*. The draft initial determination appears to be simply a draft determination prepared by the Honourable Mr Justice Sully who constituted the Tribunal until his resignation took effect on 25 June 1999. The Treasury advice is a document brought into existence in response to that draft determination but does not otherwise constitute an advice published as an annexure to a determination.
13. On 5 July 1999 the Tribunal issued a Statement which raised a number of issues concerning the draft determination and the Treasury advice which, in the opinion of the Tribunal, are required to be addressed before proceeding to consider and make an initial determination.

14. Historically the Tribunal has, for reasons of equity and administrative convenience, grouped electorates for the provision of various allowances. These groupings reflect geographic and demographic conditions as well as size and distance of each electorate from Sydney. While each electorate is different the Tribunal has consistently taken the view that there are sufficient similarities between electorates using the above criteria to allow groupings. In determining the various allowances the Tribunal has fixed particular allowances for each Group. However, the present form of the groupings originated from a Tribunal determination made on 29 May 1991 and was adopted in relation to the most recent determination of the Tribunal made in May 1998. That determination was made in circumstances when there existed 99 electorates in NSW.
15. A redistribution of electoral districts in accordance with the *Parliamentary Electorates and Elections Act 1912* was proclaimed on 10 July 1998 (the redistribution). The result of this redistribution was to reduce the number of electorates from 99 to 93. The new electorates came into effect from the date of the most recent NSW general election, namely 27 March 1999.
16. Whilst the end result of the electoral redistribution of 1998 was the reduction of the number of electorates from 99 to 93, in doing so the Electoral Commissioners effectively altered every electorate through changes to boundaries. Hence, 93 new electorates have been proclaimed notwithstanding that most retain the names of the previous electorates.
17. In the result there has arisen a disconformity between electoral districts in the groupings appearing in the 1998 Determination of the Tribunal and the present system of electoral districts in NSW. This arises for three reasons:
 - (I) there has been a removal of 6 electorates in total. These former electoral districts continue to appear in the groupings, but are now redundant entries.
 - (II) A number of former electoral districts have been renamed and new electoral districts have been created. These newly named electorates do not appear in the groupings.

- (III) Whilst the names of many electoral districts have been retained after the redistribution, the actual electoral districts (still bearing those names) are quite differently structured. Strictly speaking, the electoral districts appearing in the 1998 Determination do not correspond to the equivalently named electorates created under the redistribution.
18. It is necessary, therefore, for a new determination to be made so as to reflect the electoral districts created by the redistribution. This will, in part, have the effect of amending electoral districts in the 1998 Determination by removing redundant references and incorporating new electoral districts into groupings (by placement of the new electoral districts in the groupings at a point most closely approximating the position of counterpart former electoral districts).
 19. Apart from providing an interim basis for rectifying the present anomalies in the determination, the making of a special determination corresponding to the electoral districts under the redistribution will give certainty to Members about the source of authority for their various additional allowances until such time as the initial determination is completed.
 20. It should be noted that, the Tribunal has not at this time reassessed the quantum of and conditions for additional entitlements in the light of the restructuring of the electoral districts. Thus, the quantum of, and conditions for, allowances will remain unaltered. The direction for the making of a special determination does not require any substantial revisiting at this time of Members' additional allowance entitlements. The direction appropriately recognises that such an assessment should be undertaken as part of an initial determination.
 21. Such a determination (reducing the number of electoral districts covered by the determination and maintaining at this stage the existing quantum of and conditions for additional entitlements) should result in an overall reduction in the costs of additional entitlements when compared to the costs associated with the determination made in 1998.
 22. In these circumstances, the Tribunal has made a determination varying the electoral districts in the groupings appearing in the Appendices to the 1998 Determination so that the electoral districts (and allowances paid in relation to same) correspond to the electoral districts established by the redistribution.

23. It is appropriate that the special determination operates from 27 March 1999. This was the operative date of the redistribution. Furthermore this date of operation will have the effect of regularising the various allowance payments made since that time under the 1998 Determination.
24. Pursuant to sections 10 & 12 of the Act, the Tribunal makes a special determination in terms of the determination accompanying this Report.
25. Pursuant, therefore, to section 12 (3) of the Act the effective date of this special determination is on and from 27 March 1999.

PARLIAMENTARY REMUNERATION ACT 1989

DETERMINATION PURSUANT TO SECTIONS 10 and 12 OF THE ACT

For the reasons set forth in the above Report, the Parliamentary Remuneration Tribunal hereby makes the following determination of the additional entitlements which should be paid on and from 27 March 1999 to Members, including recognised office holders, in the Legislative Council and the Legislative Assembly of New South Wales, in lieu of the amounts presently payable, for each of the purposes indicated below, and not in addition thereto:

ELECTORAL ALLOWANCES FOR MEMBERS OF BOTH HOUSES

- (1) The electoral allowances payable to Members of the Legislative Assembly whose electoral districts are specified hereunder shall be as follows:

<u>Electoral Districts</u>	<u>Yearly Rate of Allowance</u>
	\$
Group 1	24,400
Group 2	29,200
Group 3	34,200
Group 4	40,300
Group 5	44,000
Group 6	46,800
Group 7	51,300
Murray Darling	60,000

The electoral districts included in each Group are as set out in Appendix A.

- (2) The electoral allowance payable to each Member of the Legislative Council shall be \$34,200 per annum.

SPECIAL EXPENSES OR "LIVING AWAY FROM HOME" ALLOWANCES

Special Expenses Allowances or "Living Away From Home" Allowances are provided to country Members of both Houses towards the cost of overnight accommodation and incidental expenses whilst in Sydney on parliamentary business or in transit to and from Sydney.

The Member may elect to be paid either a daily or annual Special Expenses Allowance on a financial year basis. This election is subject to the following conditions:

election is made for a full financial year;

such election to be received by the Accounts Section within 10 working days of the date of this Determination;

newly-elected Members to make their election from the date of their election until the end of the financial year;

re-elected Members would not be eligible to change their election until the end of the current financial year;

a Member who claims and is paid this allowance must certify that he/she has not so claimed and been paid in respect of any night or nights during which he/she has been accommodated free of charge in government owned and funded overnight accommodation. Any Member who has been so accommodated free of charge is required to make an appropriate, proportionate refund to the legislature.

A Special Expenses Allowance or "Living Away From Home" Allowance shall be payable to country Members for the cost of overnight accommodation whilst in Sydney on parliamentary business or while in transit to and from Sydney. The Allowance is payable when the stay is occasioned by:

- i) sittings of the House of Parliament or direct travel to and from such sittings; or
- ii) meetings of parliamentary committees of which he or she is a member, or direct travel to or from such meetings; or
- iii) other parliamentary business.

SPECIAL EXPENSES ALLOWANCE: DAILY ALLOWANCE

The daily Special Expenses Allowance or "Living Away From Home" Allowance per overnight stay is as follows:

	IN SYDNEY \$	IN TRANSIT TO & FROM SYDNEY \$
Ministers resident in Category 1 or 2.	147.00	114.00
The Leader of the Opposition in the Legislative Council, resident in Category 1 or 2.	147.00	114.00
The Leader of the Opposition in the Legislative Assembly, resident in Category 1 or 2.	147.00	114.00
Speaker of the Legislative Assembly, resident in Category 1 or 2.	147.00	114.00
Leader in the Legislative Assembly (other than the Leader of the Opposition) of a recognised political party of which not less than ten members are Members of the Legislative Assembly, resident in Category 1 or 2.	147.00	114.00
Chairman of Committees in the Legislative Assembly, resident in Category 1 or 2.	147.00	114.00
Members of the Legislative Council and Members of the Legislative Assembly resident in Category 1 or 2.	147.00	114.00

The maximum number of overnight stays per annum is as follows:

	RESIDENCE	OVERNIGHT STAYS p.a.
Minister, Speaker, Leader of the Opposition (Assembly and Council), Leader of Third Party in Assembly.	Category 1 or 2	140
Chairman of Committees in the Legislative Assembly.	Category 1 or 2	120 (35)
Parliamentary Secretary	Category 1	90 (35)
	Category 2	120 (50)
Other Assembly Members	Category 1	90 (35)
	Category 2	120 (35)
Other Council Members	Category 1	90 (35)
	Category 2	120 (35)

* The figures in brackets indicate the maximum number of overnight stays that are available on parliamentary business other than sittings of the House or meetings of parliamentary committees. The figures in brackets are not additional to the overall maximum overnight stays allowed.

SPECIAL EXPENSES ALLOWANCE: ANNUAL ALLOWANCE

The annual Special Expenses Allowances or "Living Away From Home" Allowances per overnight stay are as follows:

(1) \$20,580 per annum to :

- Each Minister of the Crown who is a Member of the Legislative Council and whose usual place of residence is situated in an electorate specified in Category 1 or Category 2. Each Minister of the Crown who is a Member of the Legislative Assembly and is the Member for, or whose usual place of residence is situated in an electoral district specified in Category 1 or Category 2.
- The Leader of the Opposition in the Legislative Council whose usual place of residence is situated in an electoral district specified in Category 1 or Category 2.
- The Speaker of the Legislative Assembly, being the Member for an electoral district specified in Category 1 or Category 2.
- The Leader of the Opposition in the Legislative Assembly, being the Member for an electoral district in Category 1 or Category 2.
- The Leader in the Legislative Assembly (other than the Leader of the Opposition) of a recognised political party of which not less than ten Members of the Legislative Assembly and of which no Member is the holder of any office of profit pursuant to section 13B of the Constitution Act 1902, being the Member for an electoral district specified in Category 1 or Category 2.

(2) \$17,640 per annum to :

- The chairman of Committees in the Legislative Assembly, being the Member for an electoral district specified in Category 1 or Category 2.
- Each Member of the Legislative Council whose usual place of residence is situated in an electoral district specified in Category 2 and to each Member of the Legislative Assembly for an electoral district specified in Category 2.

(3) \$13,230 per annum to:

- Each Member of the Legislative Council whose usual place of residence is situated in an electoral district specified in Category 1 and to each Member of the Legislative Assembly for an electoral district specified in Category 1.

A Member is entitled to only one allowance under paragraphs (1) to (3).

The electoral districts included in each category, are as set forth in Appendix B.

COMMITTEE ALLOWANCES

Members of the Legislative Council and the Legislative Assembly serving as Chairpersons of Joint Committees shall be paid the sum of \$110.00 for each day upon which they attend a meeting or an official visit of inspection if that day is one upon which the Legislative Council (so far as a Member of the Council is concerned) or the Legislative Assembly (so far as a Member of the Assembly is concerned) is not sitting. Members of the Public Accounts Committee, other than the Chairperson, shall each receive a committee allowance of \$2,490 per annum.

TRAVELLING ALLOWANCES FOR THE PREMIER, MINISTERS OF THE CROWN, OTHER RECOGNISED OFFICE HOLDERS, COMMITTEE MEMBERS, SPOUSES OR APPROVED RELATIVES

(a) When travelling on official business the following shall be the travelling allowances per day payable respectively to the undermentioned:

CLASSIFICATION	CAPITAL CITIES (incl. Canberra)	OTHER AREAS	WHERE NO OVERNIGHT STAY IS REQUIRED
Premier	\$337	\$186	\$84
Ministers	\$271	\$154	\$68
President of the Legislative Council and Speaker of the Legislative Assembly	\$271	\$154	\$68
Leader of the Opposition in the Legislative Council	\$271	\$154	\$68
Leader and Deputy-Leader of the Opposition in the Legislative Assembly	\$271	\$154	\$68
Leader and Deputy Leader of a Recognised Political Party of which not less than ten members are Members of the Legislative Assembly	\$271	\$154	\$68
Chairman of Select, Joint Standing and Public Accounts Committees	\$271	\$154	\$68
Members of Select, Joint and Public Accounts Committees	\$203	\$127	\$49

An absence from Sydney for a period in excess of six hours shall be the minimum requirement for the payment of travelling allowance where no overnight absence is involved. Where absence overnight is involved, the absence must extend six hours beyond the first period of twenty-four hours before a second day's allowance is payable. Therefore, the second day's allowance is as shown in the column headed "Where no overnight stay is involved".

On occasions when the rates of travelling allowance set out above prove to be insufficient, reimbursement of actual and reasonable expenses shall be allowed, subject to the production of receipts relating to accommodation and a statement from the Member concerned outlining other costs such as meals and incidental expenses.

A Minister, whose spouse accompanies him or her to a State or other official function and who consequently incurs expenses in respect of meals and accommodation for self and spouse exceeding the allowance to which he or she is entitled as indicated above, shall be entitled to be reimbursed such excess expenses. This provision applies to the "approved relative" of a Minister in a case where there is no spouse.

REIMBURSEMENT OF EXPENSES FOR CHARTER TRANSPORT OF MEMBERS OF THE LEGISLATIVE ASSEMBLY

For the purposes of this clause "charter transport" means charter transport used within and for the service of the Member's electorate and includes charter aircraft, drive yourself vehicles and any other mode of charter transport which may be deemed appropriate in the circumstances by the Speaker of the Legislative Assembly.

Each accounting year for the purposes of the reimbursement of expenses for charter transport shall commence on 1 July; and

- (1) The Member for the Electoral District of Murray Darling shall be reimbursed to a maximum amount of \$16,092 per annum for charter transport.
- (2) The Members for the Electoral Districts of, Barwon, Murrumbidgee, Lachlan, Upper Hunter shall each be reimbursed to a maximum amount of \$8,716 per annum for charter transport.
- (3) The Members for the Electoral Districts of, Albury, Burrinjuck, Clarence, Dubbo, Monaro and Northern Tablelands shall each be reimbursed to a maximum amount of \$5,362 per annum for charter transport.

While charter transport, reimbursable under this determination, is intended to be used within and for the service of the Member's electorate, where the source of available charter transport is outside the boundaries of the electorate, the reasonable additional expenses consequently incurred may be included in the reimbursement available under this determination.

REIMBURSEMENT OF CERTAIN TRAVELLING EXPENSES

- (1)
 - (a) When a Member of the Legislative Council or of the Legislative Assembly travels by taxi from Sydney Airport to the city for the purpose of attending a sitting of the House of Parliament or any Joint, Select or Standing Committee or the Public Accounts Committee, of which she or he is a member, the Member shall be entitled to be reimbursed the actual cost of the taxi fare incurred for the journey between Sydney Airport and the city. The Member shall also be entitled to be reimbursed the actual cost of the taxi fare incurred for the return journey between the city and Sydney Airport from such a sitting.
 - (b) A Member of the Legislative Council or of the Legislative Assembly shall be entitled to be reimbursed the actual cost of the fare incurred on up to thirty-five taxi journeys per annum when travelling in the course of other parliamentary business between Sydney Airport and the city.
- (2) Where the residence of a Member of the Legislative Council is more than 25 kilometres from the airport or the closest practicable railway station from which the Member is to commence a flight or train journey to Sydney for the purpose of attending a sitting of the Council or of a Select, Joint or Standing Committee of which she or he is a member, and travels by private motor vehicle to such airport or railway station, the Member shall be paid an amount equivalent to 51 cents per kilometre for the distance driven in excess of 25 kilometres on each single journey between the Member's place of residence and such airport or railway station. A separate allowance, calculated on the same basis, shall be payable in respect of the return journey.

This allowance is also payable in respect of other journeys between the Member's residence and Sydney on parliamentary business, but excluding party business, provided that, in the case of air travel, the fare is payable by the Government under the air travel entitlement provisions for journeys between the Member's residence and Sydney.

These allowances are payable upon the following conditions:

- (i) that the Member satisfies the President of the Legislative Council as to the existence of the circumstances mentioned above; and
- (ii) that the Member certifies to the President as to the distance driven by her or him to reach the airport or railway station and return home therefrom.

Dated this 26th Day of July 1999.

The Hon (Justice) Michael Walton

THE PARLIAMENTARY REMUNERATION TRIBUNAL

APPENDIX A**ELECTORAL DISTRICTS****Group 1**

Bligh
Coogee
North Shore

Marrickville
Port Jackson
Vaucluse

Group 2

Auburn
Bankstown
Baulkham Hills
Blacktown
Cabramatta
Campbelltown
Canterbury
Cronulla
Davidson
Drummoyne
East Hills
Epping
Fairfield
Georges River
Granville
Heffron
Hornsby
Kogarah
Ku-ring-gai
Lakemba
Lane Cove

Liverpool
Macquarie Fields
Manly
Maroubra
Menai
Miranda
Mount Drutt
Mulgoa
Parramatta
Penrith
Pittwater
Riverstone
Rockdale
Ryde
Smithfield
Strathfield
The Hills
Wakehurst
Wentworthville
Willoughby

Group 3

Blue Mountains
Camden
Charlestown
Gosford
Heathcote
Illawarra
Keira
Kiama
Lake Macquarie

Londonderry
Newcastle
Peats
Swansea
The Entrance
Wallsend
Wollongong
Wyong

Group 4

Ballina
Cessnock
Coffs Harbour
Hawkesbury
Lismore
Maitland

Myall Lakes
Port Macquarie
Port Stephens
South Coast
Southern Highlands
Tweed

Group 5

Bathurst
Bega
Orange

Oxley
Tamworth
Wagga Wagga

Group 6

Albury
Burrinjuck
Clarence

Dubbo
Monaro
Northern Tablelands

Group 7

Barwon
Lachlan

Murrumbidgee
Upper Hunter

Special Group

Murray Darling

APPENDIX B**ELECTORAL DISTRICTS INCLUDED IN EACH CATEGORY**Category 1

Blue Mountains	Londonderry
Camden	Newcastle
Charlestown	Peats
Gosford	Southern Highlands
Hawkesbury	Swansea
Heathcote	The Entrance
Illawarra	Wallsend
Keira	Wollongong
Kiama	Wyong
Lake Macquarie	

Category 2

Albury	Murray Darling
Ballina	Murrumbidgee
Barwon	Myall Lakes
Bathurst	Northern Tablelands
Bega	Orange
Burrinjuck	Oxley
Cessnock	Port Macquarie
Clarence	Port Stephens
Coffs Harbour	South Coast
Dubbo	Tamworth
Lachlan	Tweed
Lismore	Upper Hunter
Maitland	Wagga Wagga
Monaro	