

## Building a new remuneration structure for Members of the Queensland Parliament —Part three

Determination 5/2014  
30 September 2014



# Queensland Independent Remuneration Tribunal

Determination 5/2014

The Queensland Independent Remuneration Tribunal is an independent statutory authority established to determine the salaries, allowances and entitlements of Members of the Queensland Parliament (MPs) and former MPs.

The Tribunal was initially formed in July 2013 and subsequently established as a statutory authority by the *Queensland Independent Remuneration Tribunal Act 2013* on 9 August 2013.

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Professor Brailsford is the Vice Chancellor and President of Bond University. Professor Brailsford's previous positions include Executive Dean at the University of Queensland, Dean at the Australian National University in Canberra and other senior positions at the University of Melbourne and Monash University. Professor Brailsford's area of expertise is financial economics. He holds a PhD, masters and honours degrees and is a Senior Fellow of the Financial Services Institute of Australasia, Fellow of the Australian Institute of Management and Fellow of CPA Australia. He was appointed as the inaugural Frank Finn Professor of Finance at the University of Queensland.

## David Harrison

Mr Harrison is an experienced non-executive company director having served on a variety of private and public sector boards since 1987 and with more than 30 years of experience in industrial relations. He is currently the Chairman of QMI Solutions Limited (since December 2004).

Mr Harrison has filled many directorships and chairman roles over the years, including the Workers' Compensation Regulatory Authority – QCOMP (2012 to 2014), Australia TradeCoast Limited (2005 to 2012), Ferny Grove Bowls Sports and Community Club Inc. (2008 to 2013), Port of Brisbane Corporation (1999 to 2010), QIC Limited (1998 to 2011), Brisbane Airport Corporation (2005 to 2012), Sunsuper Pty Ltd (1994 to 2005), Queensland Theatre Company (2001 to 2004) and Sugar Manufacturers of Australia Retirement Trust Pty Ltd (1987 to 1994). His industrial relations experience includes nine years as Queensland Secretary of the Australian Manufacturing Workers' Union and 10 years as Honorary President of the Queensland Council of Unions. In 2003, he was awarded the Centenary Medal for distinguished services to industrial relations and he is a Fellow of the Australian Institute of Company Directors.

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# Executive Summary

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## *Introduction to former MP entitlements*

- 1.1 The Queensland Independent Remuneration Tribunal (the Tribunal) is an independent statutory authority established to determine remuneration in connection with Members and Former Members of the Queensland Legislative Assembly.
- 1.2 This Determination addresses the matters relating to former Member of Parliament (MP) entitlements.
- 1.3 The entitlements provided to former MPs can be grouped into two general categories being severance arrangements and travel entitlements.
- 1.4 Current severance arrangements payable when an MP involuntarily exits Parliament include a Resettlement Allowance of either three months or six months of the base salary depending on the number of terms served by the MP, and subject to certain conditions, severance travel of two trips provided in the two weeks following the return of the relevant election writ.
- 1.5 Since the 1950s, upon serving requisite periods of time in the Parliament, MPs are eligible to certain ongoing travel entitlements upon leaving the Parliament. These entitlements have also extended to the former MP's spouse, or approved relative, or in certain cases their widow or widower.
- 1.6 Current travel entitlements provided to former MPs include commercial air travel and rail travel benefits. Each former MP and their spouse are entitled to one return flight within Australia, New Zealand or Papua New Guinea each year upon meeting eligibility criteria. Former MPs are also entitled to a Railways of Australia Gold Pass or a Queensland Rail Gold Pass (and four return interstate rail trips per year) upon meeting eligibility criteria. A spouse, widow or widower of a former MP entitled to either Gold Pass is entitled to a Queensland Rail Gold Pass and four return interstate rail trips per year.

## *History and rationale for severance arrangements*

- 1.7 In March 2007, a Resettlement Allowance was introduced for MPs in Queensland on the same conditions as the then existing Commonwealth Resettlement Allowance. In 2011 the Commonwealth introduced a two-tiered Resettlement Allowance which also immediately applied to Queensland MPs and has remained unchanged since this time.
- 1.8 Various Australian jurisdictions provide a Resettlement Allowance, or equivalent, with the exception of New South Wales and Tasmania. Generally, jurisdictions note that MPs do not receive accrued leave or severance payments to assist the MP when leaving Parliament to re-establish themselves in the community and the general workforce.

- 1.9 In October 1992 severance travel was introduced to enable an MP to undertake up to two return trips between their electorate and Brisbane to finalise parliamentary business in the two weeks following the return of the relevant election writ.

## *Consultation process*

- 1.10 The Tribunal has considered submissions received as part of its earlier public consultation in relation to Determination 1/2013. Further, all former MPs were invited to make a submission on the specific issue of former MP entitlements.
- 1.11 Responses received from the public consultation can generally be grouped into two categories. First, some strong views have been expressed that no changes be made to former MP entitlements. The general argument advanced in support of this view is that there is a moral contract in place and any changes to entitlements would represent a breach of faith and effectively impose a retrospective adjustment. The alternate view expressed is that former MP entitlements should be abolished as these entitlements are archaic and relate to a set of circumstances that bear little relevance to today's environment. The weight of the public submissions support the latter view.
- 1.12 A number of former MP submissions commented that the intrinsic value of the travel entitlements was symbolic as it recognised the contribution of former MPs beyond the economic value of the benefits.
- 1.13 Consistent with previous determinations, superannuation entitlements for former MPs will not be adjusted.

## *Severance arrangements*

- 1.14 In relation to the Resettlement Allowance, some key themes provide justification for the payment of such an allowance:
- the majority of current MPs and all future new MPs are not eligible to access a pension or superannuation benefit (related to their service in the Parliament) immediately upon ceasing to be an MP
  - an MP does not receive leave entitlements or the cash equivalent
  - there may be difficulties in transitioning from public life to private life
  - a redundancy/severance payment is generally provided to employees in the general workforce when their 'employment' is involuntarily terminated, and
  - most jurisdictions provide a Resettlement Allowance or equivalent.
- 1.15 The Tribunal considers that a severance payment should be provided to MPs to assist as necessary in their return to private life and enable them to re-skill for alternate employment. To more accurately reflect the purpose of this payment the Tribunal has termed it the 'Transition Allowance'.
- 1.16 The Tribunal has previously noted that MPs are not employees in the typical workforce sense. Moreover, while noting that MPs have a diverse range of backgrounds and skills, the Tribunal has determined that an appropriate approach, in

line with general employment norms, is to provide a fair and consistent payment to all MPs after any length of term.

- 1.17 As such the Tribunal has determined that a Transition Allowance of 12 weeks' base salary will be provided to MPs serving one term or more (including an MP elected at a by-election who serves until the next general election provided they serve at least 12 months).
- 1.18 The new arrangements for the Transition Allowance will take effect for MPs elected after the date of this Determination. Arrangements for MPs who are currently members of the Legislative Assembly will remain unchanged.
- 1.19 In relation to severance travel the Tribunal notes that following an election MPs may need to travel from their electorate to Brisbane to finalise Parliamentary Business. The Tribunal is of the view that former MPs who have significant distances to travel between their electorate and Brisbane face the largest costs.
- 1.20 Accordingly, the Tribunal has determined that MPs who are entitled to an allocation of Air Warrants under the *Members' Remuneration Handbook* will also be entitled to severance travel which provides for up to two return flights (economy class) between the MP's electorate and Brisbane during the period up to two weeks after the return of the relevant election writ to allow finalisation of Parliamentary business, closure of office and associated activities following the election.

### Travel entitlements

- 1.21 The cost to Parliament of travel entitlements is published annually in the *Travel Benefits Afforded Former Members of the Queensland Legislative Assembly Annual Report*. The 2012-13 Report reveals that of the 138 eligible former MPs, the cost to Parliament for 58 former MPs was only the annual fee for either a Railways of Australia or Queensland Rail pass. When other travel costs of interstate rail and commercial air are included, the average cost to Parliament per former MP was \$2,116 excluding GST.
- 1.22 Submissions received from both the public and former MPs reveals two alternate views. First, former MP travel entitlements are contentious with the community with several public submissions expressing the view that former MP travel entitlements are no longer appropriate. This view is supported by a minority of former MPs. In contrast, the majority of submissions from former MPs have expressed the view that any changes should not be retrospective or impact on their current entitlements.
- 1.23 Other jurisdictions have scaled back or phased out the entitlements of former MPs to travel and closed travel entitlement schemes to future MPs.
- 1.24 The rail passes developed from an era when state governments owned and operated railway networks and ran solely, or in partnership with other state governments, the majority of Australia's rail network (Railways of Australia network). Over time, there have been significant changes to the ownership and governance of interstate rail

networks through the abolition of the Railways of Australia network, privatisation of rail networks and reduction in reciprocal recognition between jurisdictions.

- 1.25 The fact that the State Government no longer controls many of the suppliers of travel and associated services makes it increasingly difficult and costly to administer the travel entitlements.
- 1.26 In conclusion, the Tribunal has determined that all travel entitlements for former MPs, spouses, widows and widowers must be claimed and used by 31 December 2018 and there will be no further entitlements provided or claimable after 31 December 2018.

# Chapter 1 – Introduction to former MP entitlements

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Chapter one provides an introduction to the Tribunal and former MP entitlements in Queensland.

## 1.1 *The Queensland Independent Remuneration Tribunal*

The Tribunal is an independent statutory authority established under the *Queensland Independent Remuneration Tribunal Act 2013* (the Act). The Tribunal's functions are to review remuneration in connection with MPs and former MPs of the Queensland Legislative Assembly and make determinations about this remuneration.

In making a determination the Tribunal may inquire into and inform itself of anything it considers appropriate, may seek and receive written or oral statements and is not bound by the rules of evidence. The Tribunal must have regard to effective and efficient processes in carrying out its functions.

The Tribunal may consider the following principles:

- the value to the community of an MP carrying out their role, functions and responsibilities
- the importance of an MP being appropriately remunerated for carrying out their role, functions and responsibilities
- relevant laws that apply to MPs, and
- any other matter the Tribunal considers appropriate (e.g. the size of an MP's electorate).

Under the Act, the Tribunal must:

- consult with and consider the views of the Clerk of the Queensland Parliament (the Clerk)
- ensure any allowances paid to an MP reflect the amount of reasonable expenses incurred by an MP in servicing their electorate
- ensure these allowances are not a substitute for other remuneration, and
- ensure accommodation, services or other entitlements mentioned in section 55 of the Act are not taken into account.

In performing its functions, the Tribunal must also act independently, impartially and fairly.

To preserve the Tribunal's independence, it is not subject to direction from a Minister and its decisions are legally binding and cannot be appealed.

To ensure the Tribunal operates in a transparent manner it must include written reasons for its determinations, provide a copy of the determination and reasons to the Clerk for tabling in parliament and make the determination and reasons publicly available. This Determination is published on the Tribunal's website at [www.remunerationtribunal.qld.gov.au](http://www.remunerationtribunal.qld.gov.au).

## 1.2 Remuneration

For the purposes of the Act, ‘remuneration’ refers to salary, allowances or entitlements in connection with an MP or former MP.<sup>1</sup>

A former MP is a person who ceases to be recognised as the member for a Queensland electorate and therefore ceases to be a member of the Legislative Assembly.

The definition of remuneration includes the allowances or entitlements provided in connection with a former MP including a former MP’s spouse, widow or widower.

The *Members’ Remuneration Handbook*<sup>2</sup> provides that the spouse of an MP or former MP may be either the married partner of an MP designated by the MP, a de-facto partner of an MP designated by the MP, or for an MP that has no partner, a designated relative of an MP (subject to the Clerk’s approval).

Section 55 of the Act provides that any Tribunal Determination does not prevent a person from receiving the following:

- accommodation and services provided by the Parliamentary Service at Parliament House
- accommodation and services provided in electorate offices, such as offices, staff, IT infrastructure and other major office equipment
- entitlements a minister or assistant minister receives to perform that role under the *Queensland Ministerial Handbook*
- entitlements the Leader of the Opposition receives to perform that role under the *Queensland Opposition Handbook*
- entitlements the Speaker of the Legislative Assembly receives under the *Guidelines for the Financial Management of the Office of the Speaker*.

## 1.3 Context of this Determination

Four determinations have previously been issued by the Tribunal. These Determinations have addressed the key areas of base salary of an MP, the allowances system and the additional salary for office holders. These Determinations are available at [www.remunerationtribunal.qld.gov.au](http://www.remunerationtribunal.qld.gov.au).

A further area of remuneration covered by the Act, and thus required to be reviewed by the Tribunal, are the entitlements provided to former MPs, spouses, widows and widowers. These matters are addressed in this Determination.

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<sup>1</sup> *Queensland Independent Remuneration Tribunal Act 2013* (Qld) schedule 1.

<sup>2</sup> Office of the Clerk of the Parliament, *Members’ Remuneration Handbook* (31 March 2014) Queensland Parliament  
<<http://www.parliament.qld.gov.au/documents/Members/entitlements/Remuneration%20Handbook.pdf>>.

#### 1.4 Entitlements currently provided to former MPs

The entitlements currently provided to former MPs are outlined in chapter three of the *Members' Remuneration Handbook* and cover the two broad categories of severance arrangements and travel entitlements.

##### Severance arrangements

The first 'category' of entitlements former MPs may receive are severance arrangements. Severance arrangements include a Resettlement Allowance and severance travel.

An MP is eligible to receive the Resettlement Allowance where they:

- were elected or returned to the Parliament at or since the September 2006 election
- are not able to access a pension or superannuation benefit (related to their service in the Parliament) immediately upon ceasing to be an MP, and
- have retired involuntarily through loss of party pre-selection for reasons other than misconduct, or through defeat at an election (including where they have campaigned to be elected to represent a different Electoral District).

The Resettlement Allowance provides payment of three months' base salary of an MP (not including additional salary for any office) at the salary current on polling day. Where an MP has served more than one full term in the Parliament an additional three months' base salary is payable, bringing the total payment in this circumstance to six months' base salary. The Resettlement Allowance is subject to PAYG taxation but is not taken into account for superannuation purposes.

The *Members' Remuneration Handbook* states that 'The amount of the Resettlement Allowance is based on the same conditions as the Commonwealth Resettlement Allowance.' The Tribunal notes that the *Queensland Independent Remuneration Tribunal Act 2013* (the Act) severed the connection between remuneration (including the Resettlement Allowance), of members and former members of the Queensland Parliament and the Commonwealth.

The current eligibility requirements for the Resettlement Allowance are related to the former defined benefits' superannuation scheme. From 1948 to December 2004, MPs' superannuation was provided as a defined benefit through the Parliamentary Contributory Superannuation Fund. This scheme provided a lifetime pension upon retirement as an MP if an MP left voluntarily and had served more than eleven years, or had served more than eight years and left involuntarily. Eligible MPs could elect to convert the pension either partially or totally to a lump sum payment.

In December 2004 the then Parliament closed the defined benefit scheme to MPs elected for the first time. MPs elected after December 2004 no longer have access to the defined benefit scheme rather they now participate in a public sector superannuation scheme.

When the defined benefit scheme was closed to new MPs in 2004 it was not accompanied by any off-setting salary adjustment. Following the introduction of a Resettlement Allowance for Commonwealth MPs in 2007, Queensland introduced a similar scheme in March 2007.

Some defeated MPs are also currently entitled to undertake up to two return trips between their Electorate and Brisbane in the two weeks after the return of the relevant election writ. This entitlement allows for finalisation of Parliamentary business following the election and allows the MP to clean out their office and accommodation in the Parliamentary Annexe. The Parliamentary Service limits this entitlement to air warrant holders.

## **Travel**

The second 'category' of entitlements for former MPs and their spouses concerns ongoing travel, encompassing both commercial air and rail travel.

### Commercial air travel

Former MPs who have been elected on three occasions and served a minimum of seven years are entitled to one return flight each financial year. The spouse of a former MP who qualifies for commercial air travel is also entitled to one return flight each financial year. The spouse of a former MP can travel independently of the former MP.

The flight must be from the place of domicile within Queensland to one destination within Australia, New Zealand, or Papua New Guinea. In addition, one stop-over may be accessed over the duration of the return trip provided such a stopover is directly en-route to/from the destination, or on an accepted main connecting route to/from the main destination.

For travel to New Zealand and Papua New Guinea, a flight is available to the point of entry and from the point of exit of the country, with no entitlement to internal travel within these countries.

Former MPs are eligible for first class or business class tickets for the travel only where the flight time is in excess of three hours duration.

Commercial air travel entitlements are not cumulative from one financial year to another. Where travel entitlements are not accessed in a given financial year, the entitlement lapses for that year.

### Railways of Australia Gold Pass

Former MPs who had served the following qualifying periods are eligible for a Gold Pass over the Railways of Australia (a Railways of Australia Gold Pass):

- Premier – one year in office
- Minister – three years in office
- Speaker – three years in office
- Leader of the Opposition – six years in office
- MP – 20 years of service.

### Queensland Rail Gold Pass

Former MPs who have not qualified for the Railways of Australia Gold Pass but who have served the following qualifying periods are entitled to a Gold Pass over Queensland Railways (Queensland Rail Gold Pass):

- Minister (including Premier and Deputy Premier), Speaker and Leader of the Opposition – three years in office or one term of Parliament, whichever is the lesser
- MP – seven years' service or three terms of Parliament, whichever is the lesser.

Additionally, these former MPs are entitled to four return interstate rail trips per year.

#### Spouse rail travel

The widow, widower or spouse of either the former MP qualifying for the Railways of Australia Gold Pass or the Queensland Rail Gold Pass is entitled to the issue of an annual Queensland Rail first class pass and four return interstate rail trips per year. Rail travel may be taken independent of the former MP.

#### Food and beverage costs

On rail services where food and beverages are available, such costs are met personally by the former MP, widow, widower or spouse and are not covered by either of the Gold Passes.

#### Reporting of former MP travel

In 1978 the Auditor-General conducted a special audit following public allegations of inappropriate claims for travel and expenses of both current and former MPs. The Auditor General's report outlined, among other matters, issues with accounting controls and processes.<sup>3</sup>

In 1991 the Criminal Justice Commission (CJC) conducted an investigation into misuse of travel entitlements following a report in the Courier Mail. The CJC recommended changes to the system including:

- reviewing the *Members' Entitlements Booklet*
- improving procedures and accountability for travel claims
- publishing any changes to entitlements in the Government Gazette
- tabling daily travel allowance claims annually.<sup>4</sup>

A Bill was subsequently introduced to Parliament however lapsed prior to the measures being passed. When introducing the Bill, the then Premier, the Honourable Wayne Goss MP indicated that many issues raised by the CJC had been addressed in the *Members' Salaries, Allowances and Services Handbook* which provided that an annual report be tabled each year containing information about MPs' travel, including the dates, purpose and cost of the travel.

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<sup>3</sup> A. J. Peel, *Special Report by the Auditor-General on an Audit of the Expenditure of Appropriations to Defray the Contingencies "Air Transport of Members" and "Allowances to Members" (Travelling) In Connection with the Legislative Assembly* (1978) Queensland Parliament, 1  
<<http://www.parliament.qld.gov.au/documents/tableOffice/TabledPapers/1978/4201T571.pdf>>.

<sup>4</sup> Sir Max Bingham QC, *Report on an Investigation into Possible Misuse of Parliamentary Travel Entitlements by Members of the 1986-1989 Queensland Legislative Assembly* (December 1991) Queensland Parliament  
<<http://www.parliament.qld.gov.au/documents/tableOffice/TabledPapers/1991/4691T1188.pdf>>.

In July 2010 the Governor in Council approved that the Clerk of the Parliament provide an annual report to Parliament which contained the name of each former MP who had accessed travel entitlements and the cost incurred by the Parliament for each former MP including where applicable spouse travel costs. The Clerk is still required to provide this annual report to Parliament.

## 1.5 Cessation of entitlements provided to former MPs

### Severance arrangements

The Resettlement Allowance ceases after the one-off payment of three (or six) months' base salary. If an MP were to involuntarily leave Parliament and then be re-elected at a later date, it follows that as long as the eligibility criteria were met for the second term following re-election, then the MP could be paid the Resettlement Allowance a second time.

In accordance with the entitlement, severance travel ceases two weeks after the return of the relevant election writ.

### Travel entitlements

Figure 1.1 provides a summary of the cessation of the various travel entitlements.

**Figure 1.1 – Travel Entitlements**

Benefit	Eligible Former Member	Eligible Spouse	Eligible Widow/Widower
<b>Air Travel</b>	Entitlement ends: <ul style="list-style-type: none"> <li>upon death</li> <li>suspended upon ceasing to be former Member (i.e. re-elected as Member), or</li> <li>where entitlement forfeited</li> </ul>	Entitlement ends: <ul style="list-style-type: none"> <li>upon death of former member</li> <li>upon change to spouse status (e.g. former Member advises of new partner), or</li> <li>upon suspension or forfeiture of former Member's entitlement</li> </ul>	No entitlement passed on to widow or widower
<b>Rail Travel</b>	Entitlement ends: <ul style="list-style-type: none"> <li>upon death</li> <li>suspended upon ceasing to be former Member (i.e. re-elected as Member), or</li> <li>where entitlement forfeited</li> </ul>	Entitlement ends: <ul style="list-style-type: none"> <li>upon death of former member</li> <li>upon change to spouse status (e.g. former Member advises of new partner), or</li> <li>upon suspension or forfeiture of former Member's entitlement</li> </ul>	Entitlement ends upon death of widow or widower (cannot be transferred to other parties)

### Forfeiture of entitlements

Where a former MP has been convicted of an offence which is a crime under the Criminal Code, *Criminal Code Act 1899* or under the *Drugs Misuse Act 1986* (Drugs Act) or is convicted of an offence against the laws of the Commonwealth or of another State or Territory equivalent to a crime under the Criminal Code or the Drugs Act, the former MP and

anyone claiming by, through or under them automatically forfeits all entitlements. This applies whether the offence was committed or the conviction was recorded while the former MP was an MP, before they became an MP or after they ceased to be an MP.

The forfeiture of entitlements does not apply where upon appeal the conviction is quashed. A forfeiture of entitlements continues to apply notwithstanding anything contained in the *Criminal Law (Rehabilitation of Offenders) Act 1986* or any similar legislation of another State, the Commonwealth or a Territory.



# Chapter 2 – History of severance arrangements

Chapter two provides the philosophy, history and rationale for severance arrangements, including the Resettlement Allowance and severance travel. A discussion regarding considerations of other jurisdictions is also included.

## 2.1 Resettlement Allowance - history

In March 2007 a Resettlement Allowance for MPs was introduced in Queensland based on the same conditions as the Commonwealth Resettlement Allowance. The Commonwealth Resettlement Allowance had recently been introduced for Commonwealth MPs under *Determination 2006/23: Remuneration and Allowances for Holders of Public Office and Members of Parliament*.<sup>5</sup> This Determination provided that, if an MP was eligible, they were paid the Resettlement Allowance being 12 weeks' base salary.

The 2010 *Report of the Committee for the Review of Parliamentary Entitlements* (the Belcher Report) recommended changes to the Commonwealth Resettlement Allowance to provide a payment of one month's salary per year of service up to a maximum of six months' base salary in addition to the 12 weeks' base salary for an MP who has served three years or more. The Belcher Report also recommended a career transition allowance of up to \$5,000.<sup>6</sup>

Subsequently, in October 2011, the Commonwealth Remuneration Tribunal (Cth Tribunal) decided that:

...the previous single level of allowance was inadequate and was inconsistent with outside employment standards, representing a relatively small amount for parliamentarians who have served more than one term in the Parliament.<sup>7</sup>

As such, the Commonwealth Remuneration Tribunal determined a two-tiered approach to the Resettlement Allowance being, three months' base salary for MPs serving a single term and six months' base salary for an MP who served more than one term.<sup>8</sup> Given the way that Queensland's Resettlement Allowance provisions were drafted, these changes immediately applied to Queensland MPs and have remained unchanged since this time.

<sup>5</sup> Remuneration Tribunal, *Determination 2006/23: Remuneration and Allowances for Holders of Public Office and Members of Parliament* (22 December 2006) Remuneration Tribunal <[http://remtribunal.gov.au/\\_\\_data/assets/pdf\\_file/0012/23502/2006-23-Determination.pdf](http://remtribunal.gov.au/__data/assets/pdf_file/0012/23502/2006-23-Determination.pdf)>.

<sup>6</sup> Committee for the Review of Parliamentary Entitlements, Australian Government, *Review of Parliamentary Entitlements* (9 April 2010) <<http://www.finance.gov.au/publications/review-of-parliamentary-entitlements-committee-report/docs/review-of-parliamentary-entitlements-committee-report.pdf>> (Belcher Report).

<sup>7</sup> Remuneration Tribunal, *Members of Parliament Charter and Resettlement Allowances Reasons for Determination* (17 October 2011) Remuneration Tribunal <[http://remtribunal.gov.au/\\_\\_data/assets/pdf\\_file/0004/24871/Determination-2011-20-Statement-17.10.11.pdf](http://remtribunal.gov.au/__data/assets/pdf_file/0004/24871/Determination-2011-20-Statement-17.10.11.pdf)>.

<sup>8</sup> Remuneration Tribunal, *Determination 2011/20: Members of Parliament – Entitlements* (15 September 2011) Remuneration Tribunal <[http://remtribunal.gov.au/\\_\\_data/assets/pdf\\_file/0012/20235/2011-20-Determination.pdf](http://remtribunal.gov.au/__data/assets/pdf_file/0012/20235/2011-20-Determination.pdf)>.

## 2.2 Rationale for the Resettlement Allowance

A number of jurisdictions have provided detailed rationale and justification for a Resettlement Allowance. These discussions are outlined below.

### Commonwealth

As outlined in section 2.1, the Commonwealth Remuneration Tribunal relied on the Belcher Report when varying the terms of its Resettlement Allowance in 2011. The Belcher Report noted that, unlike others in the Australian workforce who also have to re-establish themselves in employment, MPs do not accrue recreation or long service leave. As such, an MP is unable to accumulate leave to meet new expenses associated with departure from Parliament.<sup>9</sup>

In addition the Belcher Report recommended that MPs who had access to the defined benefits superannuation scheme, that is those automatically entitled to access their superannuation on leaving parliament, be excluded from a Resettlement Allowance as the superannuation scheme provided this group of MPs with capacity to make their own transitional financial arrangements.<sup>10</sup>

The Commonwealth Remuneration Tribunal Determination 2012/04 outlines the eligibility requirements for a Commonwealth MP:

Eligibility: A senator or member will be paid a Resettlement Allowance if the senator or member:

(a) retires involuntarily from the Parliament, meaning retirement through:

- (i) electing not to stand for re-election following loss of party endorsement, for reasons other than misconduct; or
- (ii) defeat at an election (including defeat at an election where he or she has campaigned to be elected to represent a different electoral division or to the other House of the Parliament);

(b) and was:

- (i) first elected before 9 October 2004, and whose retiring allowance under the *Parliamentary Contributory Superannuation Act 1948* is not payable immediately on retirement because of the deferral provisions of that Act; or
- (ii) first elected on or after 9 October 2004, and declares in writing to the Clerk of the relevant House of Parliament that it is his or her intention to seek employment on leaving Parliament.<sup>11</sup>

### United Kingdom

In December 2013 the United Kingdom's Independent Parliamentary Standards Authority (IPSA) released its *MPs' Pay and Pensions Final Report*. IPSA removed the resettlement payments (formerly up to a year's salary) and introduced an interim arrangement where an MP who voluntarily stands down receives no payment and an MP who is defeated at an election may receive one month's salary for each year served, up to a maximum of six

<sup>9</sup> Committee for the Review of Parliamentary Entitlements, above n 6, 63.

<sup>10</sup> Ibid.

<sup>11</sup> Remuneration Tribunal, *Determination 2012/04: Members of Parliament – Entitlements* (12 March 2012) Remuneration Tribunal <[http://remtribunal.gov.au/media/documents/2012/2012-determinations/2012-04\\*-determination-members-of-parliament-entitlements-as-made/2012-04-Determination.pdf](http://remtribunal.gov.au/media/documents/2012/2012-determinations/2012-04*-determination-members-of-parliament-entitlements-as-made/2012-04-Determination.pdf)>.

months' salary.<sup>12</sup> It is important to note that this system is in place for the next election after which the system will be reviewed.

When IPSA consulted the community on a recommendation for 'a payment equal to double the statutory redundancy' responses varied with some feeling that MPs were contractors for five years and should not be entitled to a payment while others raised the fact that when a person is voted out they are being told by voters that they did not perform while in the role. Alternatively, a previous Committee argued that the difficulties with re-entering a career after at least five years away would make Parliament a less attractive alternative.<sup>13</sup>

In relation to those who leave voluntarily, the IPSA noted the parallel that members of the public who resign generally do not receive payments for doing so.

IPSA also renamed the Resettlement Allowance to a 'Loss of Office Payment'.<sup>14</sup>

### Western Australia

In Western Australia, where an MP ceases to be an MP after serving two terms or less, the MP is entitled to three months of base salary. Where an MP serves more than two terms but not more than three terms the MP is entitled to two months of base salary. If an MP serves more than three terms they are not entitled to a Resettlement Entitlement.<sup>15</sup>

Western Australia's arrangements appear at odds when compared with the Commonwealth and Queensland. That is, in Western Australia, the amount of the Resettlement Entitlement reduces with the length of service. The justification for this is provided in the 2011 Determination where the Resettlement Entitlement was introduced as follows:

The departure from public life gives rise to unique circumstances, particularly when it is involuntary. For Members who have held office for a limited period, the dislocation can be severe. For many, unable to return to previous employment, they must re-establish themselves in the community and the workforce. Where the Member leaves the Parliament after a lengthy career in public life the transition to private life is not as dramatic.

The Tribunal considers that the provision of an allowance which assists in meeting the expenses associated with finalising matters as an elected representative and in re-establishing the Member in the community should address only those instances where the Member has not been able to establish a long term Parliamentary career. On this basis the availability of a Resettlement Entitlement would decrease with time spent in Parliament and cease when a Member has served more than three terms.<sup>16</sup>

<sup>12</sup> Independent Parliamentary Standards Authority, *Reviewing MPs' Pay and Pensions: Final Report* (December 2013) Independent Parliamentary Standards Authority, 24  
<<http://parliamentarystandards.org.uk/payandpensions/Documents/IPSA%20final%20report.pdf>>.

<sup>13</sup> Ibid 25.

<sup>14</sup> Ibid 26.

<sup>15</sup> Salaries and Allowances Tribunal, *Western Australia Salaries and Allowances Act 1975 Determination of the Salaries and Allowances Tribunal on Remuneration of Members of Parliament* (9 August 2013) Determinations for Members of Parliament, 28  
<<http://www.sat.wa.gov.au/MembersOfParliament/Documents/Determination%20on%20Remuneration%20of%20MPs%20Final%2009-8-13.pdf>>.

<sup>16</sup> Salaries and Allowances Tribunal, *Western Australia Salaries and Allowances Act 1975 Determination of the Salaries and Allowances Tribunal on Remuneration of Members of Parliament* (10 August 2011)

Like other jurisdictions, the payment in Western Australia is intended to assist an MP in transitioning from public office to private life and to cover costs such as financial counselling, re-employment counselling, educational and training expenses.<sup>17</sup>

## Victoria

Following the *Independent Review of Victorian MPs' Salary Entitlements, Allowances and Other Arrangements* (the Hazell Report) the *Parliamentary Salaries and Superannuation Act 1968* was amended to provide for a Resettlement Allowance.

If an MP is not part of the superannuation scheme established under the *Emergency Services Superannuation Act 1968* and ceases to be an MP after a general election held after 2013 because they did not seek re-election as a result of not being endorsed by a registered political party (other than for corrupt conduct), or is defeated at the general election, they are entitled to a Resettlement Allowance.<sup>18</sup>

If a person served as an MP immediately prior to the general election, an amount of three months' base salary is payable to the MP, or if a person has served as an MP for more than one consecutive Parliament immediately prior to the general election, an amount equivalent to six months' of the base salary is payable.

The Hazell Report notes that the defined benefit superannuation scheme closed in 2004 providing an inequity in the total remuneration package of MPs elected post-2004. To assist in bridging the difference Mr Hazell recommended the payment of a Resettlement Allowance on the following grounds:

- MPs no longer have access to a pension upon leaving office;
- a Resettlement Allowance is akin to a redundancy payment, which accords with the experience and expectations of most in the community;
- it can be difficult for MPs to re-establish themselves in professional or business life or the workforce;
- MPs need some time to complete their responsibilities after losing their seat; and
- such an allowance is paid in most other Australian jurisdictions, although the quantum and eligibility criteria vary.<sup>19</sup>

## South Australia

In South Australia the Resettlement Allowance is known as an involuntary retirement payment. An eligible MP who retires involuntarily is entitled to the payment equal to 12 weeks' of base salary. This entitlement is provided for in the *Parliamentary Remuneration Act 1990* (PRA Act) section 5A.

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Determinations for Members of Parliament, 10

<<http://www.sat.wa.gov.au/MembersOfParliament/Documents/Determination%20on%20Remuneration%20of%20MPs%20Final%20Version%204.pdf>>.

<sup>17</sup> Salaries and Allowances Tribunal, above n 15, 28.

<sup>18</sup> *Parliamentary Salaries and Superannuation Act 1968* (Vic) 7E.

<sup>19</sup> Malcolm Hazell CVO AM, *Independent Review of Victorian MPs' Salary Entitlements, Allowances and Other Arrangements* (5 February 2013) State Government Victoria Department of the Premier and Cabinet, 32 <[http://www.dpc.vic.gov.au/images/documents/dpc\\_resources/Independent-Review-Of-Victorian-MPs-Salary-Entitlements-Allowances-and-Other-Arrangements.pdf](http://www.dpc.vic.gov.au/images/documents/dpc_resources/Independent-Review-Of-Victorian-MPs-Salary-Entitlements-Allowances-and-Other-Arrangements.pdf)>.

Involuntary retirement means a former MP's term of office expires, or they resign and a judge is satisfied that upon so ceasing to be an MP the former MP:

- genuinely sought to be elected at an election for the Parliament of South Australia, another State or the Commonwealth but
  - having stood as a candidate was defeated
  - failed to be a candidate due to:
    - failure to secure support of a political party from which they reasonably sought support
    - expulsion from the political party
    - ill health, or
    - any other good and sufficient reason.

Additionally, the former MP is taken to have retired involuntarily if at the conclusion of their last term of office the former MP stood as a candidate for re-election to the same House at the ensuing election but was defeated and both at the time of their election for the preceding term of office and at the ensuing election the former member was:

- endorsed by the same political party, or
- an independent candidate.

Further where a MP ceases to be an MP by death or on the grounds of invalidity or ill health that prevents the member from being able to carry out the duties of office to a reasonable degree the MP is taken to have retired involuntarily.<sup>20</sup>

### Australian Capital Territory

The Australian Capital Territory Remuneration Tribunal (ACT Tribunal) recently introduced a Resettlement Allowance of two weeks' base salary per year of service to a maximum of twelve weeks' base salary if an MP loses office, retires or resigns. The ACT Tribunal decided that there would not be a requirement for the MP to leave Parliament involuntarily noting that the 'involuntary requirement' may 'instil some perverse incentives' and MPs should not be penalised for making appropriate decisions i.e. if an MP is 'burnt out'.<sup>21</sup>

The ACT Tribunal's justification for the allowance was that while MPs should not assume they will be re-elected, it is arguable that it is much harder for MPs to find immediate employment on the basis that many employers do not want to be associated with those with overt political affiliations. Of note, the largest employers in the ACT are public service entities.<sup>22</sup>

<sup>20</sup> *Parliamentary Superannuation Act 1974* (SA) 6.

<sup>21</sup> Australian Capital Territory Remuneration Tribunal, *Final Report on the Review of Entitlements for Members of the Australian Capital Territory Legislative Assembly* (April 2014) ACT Government Chief Minister, Treasury and Economic Development Directorate, 15  
<[http://www.cmd.act.gov.au/\\_\\_data/assets/pdf\\_file/0005/587381/ACT-Remuneration-Tribunal-Final-Report-on-the-Review-of-Entitlements-for-Members-of-the-ACT-Legislative-Assembly.pdf](http://www.cmd.act.gov.au/__data/assets/pdf_file/0005/587381/ACT-Remuneration-Tribunal-Final-Report-on-the-Review-of-Entitlements-for-Members-of-the-ACT-Legislative-Assembly.pdf)>.

<sup>22</sup> *Ibid.*

## Northern Territory

Where an MP retires involuntarily from the Legislative Assembly such as electing not to stand for re-election following loss of party endorsement for reasons other than misconduct or defeat at an election, and the MP was elected at or after the general election of 2005, and will not be able to access a pension or superannuation benefit related to service in the Assembly immediately after ceasing to be an MP, the MP is entitled to receive payment of 12 weeks' of base salary.<sup>23</sup>

## New South Wales and Tasmania

Currently, neither New South Wales nor Tasmania provide a Resettlement Allowance.

However, in relation to Tasmania, the tribunal established to report on the salary, entitlements and benefits for MPs of the Tasmanian Parliament delivered its *Report of the Parliamentary Salaries and Allowances Tribunal inquiring into basic salary, allowances and benefits provided to Members of the Tasmanian Parliament* to the Premier on 30 May 2014.<sup>24</sup> The Report recommends the introduction of a Resettlement Allowance of 12 weeks' salary to 'assist a defeated member's transition from public office to private life, noting that MPs have no entitlement to redundancy pay or payout of accumulated leave.'<sup>25</sup>

The Tasmanian report notes the following points regarding the resettlement allowance:

- salary and benefits cease immediately with no redundancy payment
- a seat in Parliament may be considered similar to a fixed-term contract
- if defeat does occur... 'the sudden loss of income will likely be exacerbated by a substantial financial outlay on what turned out to be an unsuccessful election campaign'
- 'Employees who are terminated are entitled to a severance payment...'<sup>26</sup>

The Government of Tasmania has deferred any decision on the report for 12 months to allow for public debate.

### 2.3 Severance travel – Queensland history

In October 1992, provision was included in the then *Members' Salaries Allowances and Services Handbook* to provide that certain regional MPs defeated at an election are entitled to undertake up to two return trips between their electorate and Brisbane during the period up to two weeks after the return of the relevant election writ. The reason for this travel is to

<sup>23</sup> Legislative Assembly of the Northern Territory, *Guide to Members' Entitlements* (March 2013) Northern Territory Government, 13 <[http://www.nt.gov.au/lant/members-of-parliament/Guide\\_to\\_Members\\_Entitlements.pdf](http://www.nt.gov.au/lant/members-of-parliament/Guide_to_Members_Entitlements.pdf)>.

<sup>24</sup> Timothy John Abey, Nicole Mary Wells and Barbara Deegan, *Report of the Parliamentary Salaries and Allowances Tribunal Inquiring Into Basic Salary, Allowances and Benefits Provided to Members of the Tasmanian Parliament* (30 May 2014) Tasmanian Industrial Commission <[http://www.tic.tas.gov.au/\\_data/assets/pdf\\_file/0010/285076/Report\\_of\\_The\\_Parliamentary\\_Salaries\\_and\\_Allowances\\_Tribunal\\_-\\_30\\_May\\_2014.pdf](http://www.tic.tas.gov.au/_data/assets/pdf_file/0010/285076/Report_of_The_Parliamentary_Salaries_and_Allowances_Tribunal_-_30_May_2014.pdf)>.

<sup>25</sup> Ibid, 8.

<sup>26</sup> Ibid, 54 – 56.

enable the defeated MP to finalise any parliamentary business following the election, e.g. clean out their office and other accommodation at Parliament House.

The terms of this entitlement have remained unchanged since 1992.

#### 2.4 Severance travel – jurisdictional comparison

The Commonwealth currently provides severance travel to MPs who are not eligible for the Gold Pass. In such cases, a former MP can receive a maximum of five return trips from their home base to either Canberra or a location where the MP had a publicly funded electorate office within the first six months after retirement from the Parliament.<sup>27</sup>

The Belcher Report recommended that the Gold Pass and severance travel provisions for Commonwealth MPs be abolished as ‘they could not be considered essential elements of a parliamentarian’s employment arrangements.’<sup>28</sup> When the Belcher Report was written the Commonwealth severance travel entitlements provided for a Federal MP to receive up to 25 return trips within Australia per annum over five years.

The Tribunal is not aware of any other Australian jurisdiction that provides severance travel to former MPs.

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<sup>27</sup> Remuneration Tribunal, *Determination 2012/04: Members of Parliament – Entitlements* (2014) Remuneration Tribunal <<http://www.remtribunal.gov.au/media/documents/2015/compilations/members-of-parliament/2012-04-determination-members-of-parliament-entitlements-current-consolidation-as-at-25-february-2014/2012-04-MPs-Entitlements-Determination-25.2.2014.pdf>>.

<sup>28</sup> Committee for the Review of Parliamentary Entitlements, above n 6, 83.



## Chapter 3 – Consultation process

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Chapter three outlines the consultation processes undertaken regarding former MP entitlements and provides a high level introduction to the issues that emerged from these consultation processes. These issues are then analysed in chapter four.

### 3.1 *Public consultation*

Between 23 August and 10 September 2013 the Tribunal undertook a public consultation process. As part of this process the Tribunal wrote to current and former MPs inviting them to make written submissions on the remuneration system.

A total of 2,568 written submissions were received by the Tribunal including 26 submissions from former MPs.

There were divergent opinions expressed. Many of the former MPs who responded requested that no changes be made to former MP entitlements. In contrast, several members of the public expressed views that there should be no entitlements provided to former MPs or that former MPs should only be entitled to what a standard worker would receive.

A number of submissions argued that the Tribunal should not make any changes to the current arrangements for former MPs on the basis that MPs held certain expectations based on what they were entitled to when they left Parliament. A sample of these submissions is outlined below.

Benefits to former MP's (and spouses or associated recipients) relating to travel entitlements, for example, are modest compared to other jurisdictions and in my view should be retained... I would therefore urge that no changes be made to the current arrangements relating to existing former Members of the Queensland Parliament and that if changes are to be made in this area they take effect only in respect of MP's who are elected from the date of the next General Election.<sup>29</sup>

Since being elected the rail travel pass for former members, as I have been advised, has been restricted since the Commonwealth sold off their rail network. Members and former members in some jurisdictions were compensated for that loss but not here in Queensland; and most members accepted that decision... I am more than happy for the current travel entitlements to continue and in no way do I seek to have them expanded.<sup>30</sup>

My view is that as a Member of Parliament certain conditions were granted to members upon their retirement and as such these conditions should not be changed to those members affected.<sup>31</sup>

I firmly believe that the status quo should not be altered, we feel this is a written deal and in my case accepted in full in 1974 when entering the Queensland Parliament.<sup>32</sup>

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<sup>29</sup> Submission No 8 to the Queensland Independent Remuneration Tribunal, 26 August 2013.

<sup>30</sup> Submission No 9 to the Queensland Independent Remuneration Tribunal, 26 August 2013.

<sup>31</sup> Submission No 12 to the Queensland Independent Remuneration Tribunal, 29 August 2013.

<sup>32</sup> Submission No 13 to the Queensland Independent Remuneration Tribunal, 29 August 2013.

In my own case I was aware of the remuneration, including entitlements, for Members and former Members and had an expectation that these formed part of my "employment contract" with the people of Queensland through the parliament.<sup>33</sup>

I consider that I should continue to receive such travel in spite of the fact that many rail lines and passenger services have been privatized by various Governments. Secondly, because of my service I received an annual business class air pass for my wife and me to any destination in Australia, New Zealand or Papua New Guinea. This too I believe should remain for those such as I who have qualified for the pass... I regard these conditions as my retirement package and do not believe that any subsequent Government should be able to change any of them.<sup>34</sup>

However it would be entirely unreasonable to take any course of action which undermined or reduced the benefits to former members after the conclusion of their service. This would amount to a retrospective change to entitlements accrued during service and would not be acceptable in relation to any other form of employment or public service and is not acceptable in this case.<sup>35</sup>

Should changes be made to former Members entitlements which include superannuation, an air fare each year and a Queensland rail pass, which are prudent compared to the Commonwealth or some States, then they should commence only in respect to Members of Parliament who are elected from the date of the next General Election. This has always been the situation in other jurisdictions of which I am aware. Therefore, I strenuously oppose any changes being made to the current arrangements for former Members of Parliament and any new proposals only take effect for Members upon defeat or retirement from the next General Election.<sup>36</sup>

- It is usual for the family of an MP to be evaluated and stereotyped through the perspective of: "... as the spouse/child of an MP, ....". In many ways, it is the MP's family members who pay the higher price for the MP holding public office.
- Having left the Parliament, former member remains public figures. This loss of privacy and the loss of anonymity remains a permanent condition.
- Having been an MP can, in a number of circumstances, be an impediment to gaining employment post-Parliament.<sup>37</sup>

Alternatively, some submitters held strong views that upon ceasing to be an MP all benefits should end. A sample of these views is provided below.

...I would also assert that Politicians seek to remove, reduce entitlements afforded on cessation of public office and reduce their travel allowances. Unlike Politicians, the rest of the public service do not receive ongoing benefits following the cessation of their employment.<sup>38</sup>

One of my pet aversions is seeing MPs retiring on benefits. Once they cease to be an MP there should be no ongoing costs to Qld whether they are premier or MP or

<sup>33</sup> Submission No 203 to the Queensland Independent Remuneration Tribunal, 30 August 2013.

<sup>34</sup> Submission No 250 to the Queensland Independent Remuneration Tribunal, 3 September 2013.

<sup>35</sup> Submission No 1017 to the Queensland Independent Remuneration Tribunal, 6 September 2013.

<sup>36</sup> Submission No 1020 to the Queensland Independent Remuneration Tribunal, 6 September 2013.

<sup>37</sup> Submission No 1601 to the Queensland Independent Remuneration Tribunal, 10 September 2013.

<sup>38</sup> Submission No 38 to the Queensland Independent Remuneration Tribunal, 29 August 2013.

whatever. They should be treated as if they are in private industry - no longer working in the job, no entitlements.<sup>39</sup>

I can see no reason former Members should be granted allowances<sup>40</sup>

As for previously serving MP's, consideration needs to be given to make it law that MPs do not get both a superannuation and an annual salary. They should not be entitled to both... No other worker is entitled to continue being paid after they leave as well as get access to superannuation.<sup>41</sup>

### 3.2 *Direct consultation with former MPs*

The Tribunal wrote to all living former MPs on 16 June 2014 requesting their feedback on the matter of former MP entitlements, noting the proposed changes to the Commonwealth system for former MPs outlined in the 2014/15 Commonwealth Budget (further detail on Commonwealth changes can be found elsewhere in this Determination).

Responses from former MPs were overwhelmingly of the view that there existed a moral contract or agreement entered into at the time of initial election to Parliament and any changes to entitlements would be considered as a breach of faith. Respondents expressed this as follows:

... I have a very strong belief that it would be not only a breach of faith but a breach of the contractual [sic] remuneration package to which an elected Member of the Legislative Assembly is entitled if any element in that package was altered retrospectively; and of course that package includes the benefits pertaining at the time of election...but that was part of my employment package and in my opinion it would be, as I have said, a breach of both faith and contract if it was to be withdrawn retrospectively by the government.<sup>42</sup>

The basis for a member's entitlement was advocated when the person was elected, there was an expectation that the entitlement would be maintained. It could be considered as recompense for the uncertainty of tenure for the unusual characteristics of the occupation, which at times impacts on the member as they face difficult positions when advocating confronting decisions with legislation.<sup>43</sup>

Former MP's retired or left office under a certain set of employment conditions and to consider changes years after the fact would be bad public policy that would not be acceptable in other spheres of employment.<sup>44</sup>

During my time as an MP and Minister, this included certain benefits when MPs ultimately leave the Legislative Assembly. To me, these benefits are part of the 'employment' agreement.

I am firmly of the view that at the point of ceasing to be an MP, those former MP benefits 'crystallise' and not be subject to summary removal or diminution by a thousand cuts in reviews such as the one the tribunal is currently undertaking. If

<sup>39</sup> Submission No 1357 to the Queensland Independent Remuneration Tribunal, 9 September 2013.

<sup>40</sup> Submission No 223 to the Queensland Independent Remuneration Tribunal, 31 August 2013.

<sup>41</sup> Submission No 81 to the Queensland Independent Remuneration Tribunal, 29 August 2013.

<sup>42</sup> Response received 23 June 2014.

<sup>43</sup> Response received 30 June 2014.

<sup>44</sup> Response received 25 June 2014.

anything, these benefits should only be revised to ensure they continue to have the same 'value' as they did at the point of crystallisation.<sup>45</sup>

Irrespective of the moral arguments, a strong view was expressed that retrospective legislation goes against fundamental legislative principles. For instance:

That does not mean that changes may not be made but simply that any such changes should not be retrospective. If changes are to occur that fact should be made clear prior to an election so that every potential candidate in that election, including sitting Members seeking re-election, is aware of what his or her employment conditions would be before nominating for election.<sup>46</sup>

I consider that there is a matter of principle that must be taken into account in respect of any changes that the tribunal may consider in relation to former Members of Parliament. Legislation when changed is not made retrospective, except in exceptional circumstances, for very good reason. Even changes to the Queensland Criminal Code are not made retrospective. Therefore, I fail to see why there could be any consideration given to such a proposition.<sup>47</sup>

If any changes were to be considered such a policy change should not be made retrospective.<sup>48</sup>

Having met that qualifying [sic] criteria, an MP must surely have the right to expect that the benefits current at retirement are honoured.

To repudiate that contract would require retrospective change which in any form sets a precedent and is fraught with untold implications.

Change to retirement benefits should become effective only after a general election of State Parliament and apply to MP's newly elected at that election.<sup>49</sup>

Queensland's *Fundamental Legislative Principles* [FLP] seek to protect the citizens from adverse retrospectivity.

Any determination by the Tribunal that lessened or removed entitlements currently available to former MPs, and in time to those serving MPs who have qualifying service, would be contrary to the FLPs and in the language of Scrutiny Committees everywhere, repugnant.<sup>50</sup>

We were always told retrospective legislation and changes were dangerous contrary [sic] to good Government.<sup>51</sup>

Further, some respondents made the observation that whilst the travel entitlements do not have substantial monetary value, and are therefore not a significant cost to Government, nonetheless former MPs in receipt of such entitlements do 'value' them. For example, some respondents claimed that travel entitlements are used to visit medical specialists, family

<sup>45</sup> Response received 8 July 2014.

<sup>46</sup> Response received 23 June 2014.

<sup>47</sup> Response received 27 June 2014.

<sup>48</sup> Response received 25 June 2014.

<sup>49</sup> Response received 8 July 2014.

<sup>50</sup> Response received 8 July 2014.

<sup>51</sup> Response received 8 July 2014.

located elsewhere across Australia and can be considered recognition for service to the community.

The Tribunal also met in person with representatives from the Former Members Association who expressed a consistent view to that of the respondents above, that is, the terms and conditions upon entering and leaving Parliament should be maintained.

The Tribunal notes that former MPs may be considered to have a vested interest in maintaining the status quo. Notwithstanding, a counterview was expressed by a minority of former MPs who were opposed to the continuation of any travel entitlements:

I did want to put on record, and I expect it to be a lonely voice amongst ex MPs, that there is absolutely no justification for any allowances for ex MPs (except perhaps some secretarial assistance for one year for an ex Premier - to deal with excessive correspondence etc). If someone can mount a plausible public interest argument in defence of ongoing allowances funded by ordinary taxpayers, many of whom have less means than the ex MP, then I would be interested in hearing it - and more interested in testing it in the court of public opinion.

I don't know what severance allowances are, but I imagine I would oppose them! As for travel and spouse travel I can't for the life of me see how it is justified. For the record I haven't accessed any of these allowances for 20 years - I simply woke up one day and said, mate, how can you do this with a clear conscience?<sup>52</sup>

At a time when many of our fellow citizens have financial challenges in life, I believe it is time that the Travel Allowance for former MP's be discontinued.

Members of Parliament are well remunerated these days, so I believe the same policies should apply.<sup>53</sup>

In summary, the Tribunal notes the message from the community that their expectations are that MPs upon leaving Parliament should be entitled to the same general conditions as workers and that ongoing travel entitlements are no longer considered acceptable. Alternatively, the Tribunal notes that former MPs are largely opposed to any changes to the current system of entitlements.

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<sup>52</sup> Response received 8 July 2014.

<sup>53</sup> Response received 15 July 2014.



## Chapter 4 – Severance arrangements

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Chapter four provides a discussion regarding the severance arrangements currently provided to MPs, being the Resettlement Allowance and severance travel.

### 4.1 Resettlement Allowance

The Tribunal has considered varying views about the Resettlement Allowance and its ongoing relevance for MPs as outlined in Chapters two and three.

Some key points emerge that support the provision of a Resettlement Allowance:

- the majority of current MPs and all future new MPs are not eligible to access a pension or superannuation benefit (related to their service in the Parliament) immediately upon ceasing to be a Member of Parliament
- an MP does not receive leave entitlements, or the cash equivalent to assist in the transition from public life to private life
- there may be difficulties in obtaining employment, or re-employment following a term/terms in Parliament
- a redundancy/severance payment is generally provided to employees, when their 'employment' is involuntarily terminated
- an MP may need time to finalise their MP responsibilities given the 'immediate' nature of the 'dismissal'
- while under law there can be no discrimination against a former MP on grounds of political belief or activity, an MP departing Parliament may find it difficult to find employment in certain industries if the exclusions of genuine occupational requirements apply<sup>54</sup>
- the loss of income following an election defeat may be exacerbated by the financial costs to an MP in undertaking an unsuccessful election campaign
- most jurisdictions in Australia provide a Resettlement Allowance or equivalent.

Alternatively, there are arguments against the provision of a Resettlement Allowance:

- a term in Parliament is akin to a fixed term contract, with no benefits provided at the end of the contract
- if an MP is voted out of office then this is because voters believe they or their party have not performed to an acceptable level of competence
- MPs particularly Ministers have an opportunity to grow their professional network while in Parliament and this network can lead to new ventures upon exit from Parliament
- in light of pre-polling an MP may have time prior to the election to arrange for the transition to private life.

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<sup>54</sup> See *Anti-Discrimination Act 1991* (Qld).

Figure 4.1 provides a list of occupations held by MPs prior to entering Parliament over the last few Parliamentary terms. As can be seen from Figure 4.1, MPs come from a wide range of occupations and it is difficult to find commonalities in skills, qualifications and experiences that would enable generalisations to be drawn. As such, it is difficult to define the types of necessary expenditures that a departing MP would incur in relation to re-training, education, re-settlement and the like.

**Figure 4.1 - Occupation of Queensland MPs prior to election at 51<sup>st</sup> to 54<sup>th</sup> Parliaments (as at September 2014)**

Occupation prior to election	Parliament Number			
	51 <sup>st</sup>	52 <sup>nd</sup>	53 <sup>rd</sup>	54 <sup>th</sup>
Accountant	2	3	2	2
Administration	4	4	4	2
Agriculture	9	9	9	11
Armed forces	1	1	2	7
Business <sup>55</sup>	11	12	17	38
Communications	4	7	5	10
Education	19	15	12	3
Electorate officer	2	4	4	2
Engineer	2	1	1	1
Fire fighter	-	-	1	-
Health professional	7	5	7	7
Legal professional	13	14	13	9
Local government	14	10	9	9
Ministerial advisor	2	4	5	3
NGO employee	3	2	2	-
Police	1	3	1	3
Public service	7	7	9	9
Trade	4	3	3	5
Union employee	10	10	10	1

Note: Compiled from information provided by the Queensland Parliamentary Library and Research Service. In some cases, members listed more than one occupation in their biographical pages. All stated occupations are counted in the table.

<sup>55</sup> 'Business' category includes owner, employee and manager.

## 4.2 Jurisdictional comparisons of the Resettlement Allowance

As outlined in Chapter two, most jurisdictions provide for a Resettlement Allowance or equivalent payment. Figure 4.2 provides a summary of the Resettlement Allowance across Australian jurisdictions.

**Figure 4.2 – Resettlement Allowance – jurisdictional comparison**

	Allowance	Eligible Term of service	Requirements
Cth	<u>Resettlement Allowance</u> 3 months' base salary 6 months' base salary	One term More than one term (term is three years)	<ul style="list-style-type: none"> <li>- Involuntary retirement from Parliament (loss of party endorsement, defeat at an election)</li> <li>- Elected before 9 October 2004 and is not entitled to a retiring allowance payable immediately on retirement</li> <li>- If elected after 2004, advises of intention to seek employment on leaving Parliament</li> </ul>
Qld	<u>Resettlement Allowance</u> 3 months' base salary 6 months' base salary	One term More than one term (term is three years)	<ul style="list-style-type: none"> <li>- Involuntary retirement from Parliament (loss of party-pre-selection, defeat at an election)</li> <li>- Elected or returned to Parliament at or since the September 2006 election</li> <li>- Are not able to access a pension or superannuation benefit related to service in the Parliament immediately upon ceasing to be an MP</li> </ul>
NSW	Nil		
Vic	<u>Resettlement Allowance</u> 3 months' base salary  6 months' base salary	<p>If person has served as an MP prior to the general election</p> <p>If more than one consecutive Parliaments prior to the general election</p> <p>Note: a person elected at a by-election is taken to have been elected for the duration of the Parliament during which the vacancy occurred</p>	<ul style="list-style-type: none"> <li>- Not part of a certain superannuation scheme</li> <li>- Not endorsed by a registered political party (other than for corrupt conduct)</li> <li>- Ceases to be an MP after an election held in 2013 because they were not endorsed by a registered political party or defeated at the general election or declared not elected</li> </ul>

# Queensland Independent Remuneration Tribunal

Determination 5/2014

	Allowance	Eligible Term of service	Requirements
WA	<u>Resettlement Entitlement</u> 3 months' base salary  2 months' base salary  No entitlement	Two terms or less More than two terms but not more than three terms More than three terms (term is four years)	<ul style="list-style-type: none"> <li>- Not eligible if MP resigns for the purpose of nominating as a candidate of another House of Parliament and is subsequently elected</li> <li>- Not eligible if disqualified for membership of the Legislature</li> </ul>
SA	<u>Involuntary Retirement Payment</u> 12 weeks' base salary	Not specified	<ul style="list-style-type: none"> <li>- Retired involuntarily (genuinely sought election and was defeated, failed to be a candidate due to a failure to secure support of a political party, was expelled from a political party, ill health, any other good and sufficient reason, death or invalidity or ill health preventing the MP from performing duties of office.</li> <li>- Cannot seek to be elected and be elected at an election for the Parliament of another State or the Commonwealth</li> </ul>
Tas	Nil – note recommendation in Abey Report for a Resettlement Allowance of 12 weeks' base salary	At least one full term of Parliament.  Note: MPs elected at a by-election or a recount will not be eligible until they have served one full term.	Report recommendations: <ul style="list-style-type: none"> <li>- Defeated</li> <li>- Lose party endorsement</li> <li>- Choose not to stand at election</li> <li>- Move House or Electorate and are defeated</li> </ul>
ACT	<u>Resettlement Allowance</u> 2 weeks' base salary per year of service to a maximum of 12 weeks' base salary	Calculated per year of service	<ul style="list-style-type: none"> <li>- Lose office</li> <li>- Retire</li> <li>- Resign</li> </ul>
NT	<u>Resettlement Allowance</u> 12 weeks' base salary	Payable on the date at which the MP is taken to have retired involuntarily. Term is not specified.	<ul style="list-style-type: none"> <li>- Retired involuntarily (losing party endorsement, defeat at an election)</li> <li>- Elected after the election of 2005</li> <li>- Not able to access a pension or superannuation benefit related to service immediately after ceasing to be an MP</li> </ul>

Alternative benchmark comparisons include provisions under the National Employment Standards (NES), the *Fair Work Act 2009* (Cth) (FW Act) and the core public service and Senior Executive Services in Queensland. The Tribunal notes that the NES and FW Act only

cover employers and employees and consistent with Determination 1/2013 an MP is not considered to be an employee. However, the NES and FW Act may provide a benchmark when considering the quantum of the Resettlement Allowance.

The NES redundancy pay is based on the 'base salary'. Figure 4.3 outlines the minimum redundancy entitlements under the NES.

**Figure 4.3 – Minimum redundancy entitlements under the NES<sup>56</sup>**

Employee's period of continuous service with the employer on termination		Redundancy pay period
At least	but less than	
1 year	2 years	4 weeks
2 years	3 years	6 weeks
3 years	4 years	7 weeks
4 years	5 years	8 weeks
5 years	6 years	10 weeks
6 years	7 years	11 weeks
7 years	8 years	13 weeks
8 years	9 years	14 weeks
9 years	10 years	16 weeks
10 years	-	12 weeks

Note: the lesser redundancy entitlements for an employee serving 10 years or more recognises the addition of a long service entitlement after 10 years.

The NES provides that when an employee is made redundant, the employee is entitled to receive and their employer is required to pay outstanding wages, accrued annual leave and leave loading entitlements, accrued/pro-rata long service leave, in addition to redundancy pay entitlements.<sup>57</sup>

Figure 4.4 provides the relevant notice periods under the NES. In some instances an employer can pay out the notice period to the employee. In comparison, if an MP loses an election they are effectively terminated immediately without notice. However, the election period (the period covering a Saturday not less than 26 and not more than 56 days after the issue of the relevant election writ and the election)<sup>58</sup> could be regarded as effectively a notice period.

<sup>56</sup> Fair Work Ombudsman, *Redundancy Pay & Entitlements*, Australian Government Fair Work Ombudsman <<http://www.fairwork.gov.au/Ending-employment/Redundancy/redundancy-pay-and-entitlements#>>.

<sup>57</sup> Fair Work Ombudsman, *Final Pay*, Australian Government Fair Work Ombudsman <<http://www.fairwork.gov.au/ending-employment/notice-and-final-pay/final-pay#2020-2022-136-0>>.

<sup>58</sup> *Electoral Act 1992* (Qld) 84.

**Figure 4.4 – NES minimum notice periods<sup>59</sup>**

Period of continuous service	Notice period
Not more than 1 year	1 week
More than 1 year, but not more than 3 years	2 weeks
More than 3 years, but not more than 5 years	3 weeks
More than 5 years	4 weeks

Note: If the employee is over 45 years of age and has completed at least two years' continuous service the employee is entitled to an extra week of notice.

In Queensland, eligible public service employees are entitled to receive various exit packages based on the loss of job tenure. An early retirement, retrenchment and redundancy package generally consists of:

- accrued recreation leave
- accrued long service leave for employees who have worked for at least one year
- severance payment of two weeks full time pay per full time equivalent year of service and a proportionate amount for an incomplete year of service at the employee's substantive appointed level. The minimum payment is four weeks' pay and the maximum is 52 weeks' pay.<sup>60</sup>

A redundancy package in the public service may also comprise of an incentive payment.<sup>61</sup>

In comparison with the minimum NES a public service employee in Queensland who has served more than three years receives more generous entitlements.

Senior Executive Service (SES) officers in the Queensland public service appointed after 2003 receive a separation payment of 20% of the residual contract remuneration and an additional service payment of two weeks for each year of continuous service (based on superannuable salary).<sup>62</sup> If an SES officer's contract is not renewed the contract provides for 12 weeks' superannuable salary. Both these entitlements are in addition to statutory entitlements such as the cash equivalent of any accrued recreation and long service leave.<sup>63</sup>

## 4.3 Quantum of the Transition Allowance

After consideration of the above analysis the Tribunal's view is that a Resettlement Allowance is justified and should be flexible enough to be used by an MP for a range of purposes that will vary according to the individual MP's circumstances. As demonstrated in Figure 4.1, MPs are a diverse group of people and as such, a separation payment needs to provide flexibility.

<sup>59</sup> Fair Work Ombudsman, *Dismissal – how much notice?* Australian Government Fair Work Ombudsman <<http://www.fairwork.gov.au/Ending-employment/notice-and-final-pay/dismissal-how-much-notice>>.

<sup>60</sup> Public Service Commission, *Early retirement, redundancy and retrenchment Directive No. 11/12 September 2012* (12 September 2012) Queensland Government <<http://www.psc.qld.gov.au/publications/directives/assets/2012-11-Early-Retirement-Redundancy-and-Retrenchment.pdf>>.

<sup>61</sup> Ibid.

<sup>62</sup> Public Service Commission, *Contract for new SES officers (appointed after 4/12/03)* Queensland Government, 6 and 12 'separation payment and service payment' <<http://www.psc.qld.gov.au/publications/subject-specific-publications/assets/contract-template-ses-post2003v2.pdf>>.

<sup>63</sup> Ibid 6.

From the analysis above, there are essentially three differing views concerning the relationship between service periods and the quantum of a Resettlement Allowance:

- the longer an MP serves the greater the quantum
- the longer an MP serves the smaller the quantum, or
- the length of service is not considered when setting the quantum.

The first view is that the longer an MP serves in a position the greater the quantum of the payment, which is similar to the position adopted in an employee/employer relationship. For instance, under the NES an employee serving three years is entitled to a redundancy payment of seven weeks' salary and an employee serving six years is entitled to a redundancy payment of eleven weeks' salary (see Figure 4.3).

The Tribunal reiterates however, that as per Determination 1/2013, the role of an MP is not considered to be the same as that of an employee/employer relationship.

Notwithstanding, this view is consistent with the Resettlement Allowance currently provided in Queensland, the Commonwealth, Victoria and the Australian Capital Territory. In all these jurisdictions the longer the term of service the greater the quantum of the Resettlement Allowance.

The second view is that the longer an MP serves the smaller the quantum of the Resettlement Allowance. This view is taken by Western Australia with an MP receiving no payment after three or more terms as an MP.

The Tribunal notes that most MPs would not enter Parliament with a view that they would only serve one term. If an MP was removed from office after one term this would have a significant impact on the MP and their family. Arguably, leaving a career for three years to become an MP and then having to re-establish a career could be a greater adjustment than if a person had an established career as an MP prior to leaving the role. As argued by the WA Tribunal, the longer an MP serves the more connections and contacts will be made.

The third view is that the length of service is not considered when determining the quantum of a Resettlement Allowance with a common payment applying to all MPs. South Australia and the Northern Territory currently provide for 12 weeks' of base salary irrespective of the term served. This approach has also been recommended in Tasmania. The amount of 12 weeks' salary is similar to that which applies to SES officers in the Queensland public sector if their contract is not renewed. Note that in the SES the contract length is not relevant to this payment.

A common payment provides a consistent approach. That is, any MP, regardless of the term served will need to transition back into the workforce and/or to private life.

As such, the Tribunal is of the view that a common payment of 12 weeks' base salary is appropriate. That is, for MPs elected after the date of this Determination, the payment of 12 weeks of base salary applies if the MP has retired involuntarily through loss of party pre-selection for reasons other than misconduct, or through defeat at an election (including where they have campaigned to be elected to represent a different Electoral District). Further

an MP is not entitled to the 12 weeks' base salary if they are eligible to access a pension or superannuation benefit related to their service in the Parliament immediately after ceasing to be an MP.

The Tribunal considers that the term 'Resettlement Allowance' does not accurately reflect the purpose of the payment with many Queensland MPs not needing to geographically resettle themselves following an election. Rather, the purpose of the payment is aligned to the need to assist a departing MP with adjustment into a new career or to re-establish a prior career. Thus the Tribunal adopts the term 'Transition Allowance'.

The Tribunal determines that the Transition Allowance will be paid to any MP serving one or more terms. One term will be defined to include circumstances in which an MP is elected at a by-election and continues through to the next general election, providing that the MP serves at least 12 months.

Current MPs serving at the date of this Determination will be entitled to the Resettlement Allowance provisions that exist prior to this Determination 5/2014. That is, current MP severance entitlements will remain unchanged and the new Transition Allowance provisions will apply to new MPs elected after the date of this Determination.

#### 4.4 Severance travel

The Tribunal notes that following an election where an MP loses their seat it may be necessary for the departing MP to travel to Brisbane to finalise Parliamentary Business. Additionally, regional MPs in particular may also need to travel to clean out personal effects from their bedrooms at the Parliamentary Annexe, a situation unique to the Queensland Parliament as it is the only parliament in Australia to provide on-site overnight accommodation to MPs.

Of the other jurisdictions, only Commonwealth MPs are entitled to severance travel being a maximum of five return trips between Canberra and the former electorate or their home base and their electorate office in the six months following retirement if the MP does not qualify for the Gold Pass.

The Tribunal is of the view that there are some unique circumstances associated with electorates in Queensland that arise because of the relatively de-centralised nature of the State and the large geographical area of the State. In these circumstances, it is appropriate to consider providing some form of travel assistance particularly to MPs from regional electorates.

The Tribunal notes the Parliamentary Service's current practice of restricting the severance travel entitlement to Air Warrant holders (as defined in the *Members' Remuneration Handbook*). The basis of this provision is the long distances between their electorate and Brisbane.

The *Members' Remuneration Handbook* provides a list of electorates entitled to an allocation of Air Warrants to facilitate commercial air travel from the MP's electorate to Brisbane and/or return. Given their distance from Brisbane, these same electorates would benefit from severance travel. Figure 4.5 lists the electorates entitled to an allocation of Air Warrants.

**Figure 4.5 – Electorates entitled to an allocation of Air Warrants**

Electorates entitled to an allocation of Air Warrants			
Barron River	Cook	Keppel	Mundingburra
Bundaberg	Dalrymple	Mackay	Rockhampton
Burdekin	Gladstone	Maryborough	Warrego
Burnett	Gregory	Mirani	Whitsunday
Cairns	Hervey Bay	Mount Isa	
Callide	Hinchinbrook	Mulgrave	

The Tribunal concurs with current practice. As such, severance travel will be provided for those MPs in electorates listed in Table 4.5. Severance travel covers two return flights for only the MP themselves and these flights must be taken within the two weeks following the return of the relevant election writ.



# Chapter 5 – Background to former MP travel entitlements

Chapter five provides the history of former MP travel entitlements, a jurisdictional comparison and the rationale for former MP travel entitlements.

## 5.1 History of travel entitlements

In Queensland MPs who, upon leaving Parliament, have served requisite periods of office become eligible to receive certain ongoing air and rail travel entitlements. These travel entitlements have also extended to a former MP's spouse or approved relative, or in certain cases their widow or widower.

### Rail travel

Since at least the 1950s, rail passes that were issued to all serving MPs became permitted to be retained for life by the MP following the serving of a requisite period in office.

These Gold Passes developed in an era when State governments owned and operated their own railway networks which solely, or in partnership, with other State governments connected the majority of Australia's intrastate and interstate long distance (overnight) passenger trains, known as the 'Railways of Australia' (ROA) network. These rail passes were issued subject to mutual agreement arrived at during Premiers' Conferences.<sup>64</sup> At this time, the ROA was a formal Authority which managed numerous publicly owned railway routes in conjunction with State rail authorities. The expense of travel by former Queensland MPs on Commonwealth Railways was met by the Queensland Government.

However over time there have been significant changes to the ownership and governance of rail networks including:

- the abolition of the formal ROA
- privatisation of many long distance routes such as the Indian Pacific (Sydney to Perth) and the Ghan (Adelaide to Darwin) which no longer accept rail passes
- privatisation (or semi-privatisation) of certain interstate metropolitan networks, which no longer recognise rail passes provided by other jurisdictions
- the gradual reduction in the level of reciprocal recognition of rail passes between various jurisdictions.

<sup>64</sup> Committee of Inquiry, *1961 Queensland Report of Committee of Inquiry appointed to inquire into and report upon the salaries of Members of Parliament, Officials in Parliament, and Ministers of the Crown of the State of Queensland* (1961) Queensland Parliament, 11  
<<http://www.parliament.qld.gov.au/documents/tableOffice/TabledPapers/1961/3601T381.pdf>>.

A report by the Clerk of the Parliament in 1972<sup>65</sup> noted that life passes on Australian railways became available to MPs after the following lengths of service:

1. Gold Pass on Australian Railways available to:
  - Premier who has held office for 1 year
  - Minister who has held office for 3 years
  - Speaker who has held office for 3 years
  - Leader of the Opposition who has held office for 6 years
  - MP after 25 years' service (in 1987 this period was reduced to 20 years following agreement by the Australian Transport Advisory Council).
2. Gold Pass on Queensland Railways available to a MP once they had been elected on three occasions and served for a minimum of seven years.

Railway passes were issued annually to the spouses, widows and approved relatives of former MPs who had met the qualifying conditions for railway passes.

These rail travel arrangements remain largely unchanged in 2014, and are outlined in full in sections 3.3.2 and 3.3.3 of the *Members' Remuneration Handbook*.

## Commercial air travel

In January 1978, the Queensland Government approved that retired or defeated MPs who had been elected on three occasions and served a minimum of seven years, together with the MP's spouse, be entitled to one return flight from their normal domicile each financial year through a warrant issued by the Clerk of the Parliament.

By March 1979, the time period required to be served to receive this entitlement had increased to being elected on four occasions and having served ten years. The provision had also been clarified to provide that the entitlement only applied if the former MP's domicile was in Queensland, and that the travel was to any part of Australia.

At some stage between March 1979 and January 1988, the entitlement was expanded to allow air travel to New Zealand and Papua New Guinea.

In 1988 the then Government approved certain amendments to this provision providing that:

- the qualifying period for the entitlement be election on three occasions and the serving of a minimum of eight years
- a return flight will be available to one destination within Australia with only one break allowed in the journey
- in the event of a former MP making additional breaks in the journey all costs involved in respect of such breaks be the sole responsibility of the former MP
- for a flight outside of Australia a return flight be available to the point of entry of those eligible countries (New Zealand and Papua New Guinea) with no entitlement to internal travel within the countries.

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<sup>65</sup> List of concessions provided to Queensland MPs enclosed as part of a letter dated 21 November 1972, from the Clerk of the Parliament to the Under Secretary of the Premier's Department.

At some stage during the 1990s, the qualifying period for the entitlement was returned to that which initially applied in 1978 (i.e. election on three occasions and the serving of a minimum of seven years). Apart from this change, the commercial air travel entitlement as provided in 1988 remains to this day. The current entitlement is detailed in section 3.3.1 of the *Members' Remuneration Handbook*.

As an aside, in relation to air travel by the spouse of a former MP, the spouse may travel independently to the former MP. In the case of divorce, the former MP would have the option of nominating an approved relative, suspend the spouse travel entitlement, or apply to have it transferred to a new spouse.

### **Removal of travel entitlements from former MPs**

In October 1992 provision was made in the relevant MP allowances Handbook that a former MP automatically forfeit all ongoing travel entitlements if they were to be convicted of a serious criminal offence.

The current arrangements are outlined in section 3.1.1 of the *Members' Remuneration Handbook*.

In short, these provisions provide for automatic forfeiture where a former MP has been convicted upon indictment of an offence which:

- is a crime under the Criminal Code or under the *Drugs Misuse Act 1986*, or
- is an offence against the laws of the Commonwealth or of another State or Territory of the Commonwealth, had the conviction been upon indictment under the laws of Queensland, it would have amounted to an offence under the first point.

These provisions do not apply where upon appeal, a conviction is quashed.

When the forfeiture of entitlements under section 3.1.1 of the *Members' Remuneration Handbook* applies to a former MP, the forfeiture continues to apply notwithstanding anything contained in the *Criminal Law (Rehabilitation of Offenders) Act 1986* or any similar legislation of another State, the Commonwealth or a Territory of the Commonwealth.

These provisions apply in respect of all former, present and future MPs and apply to a former MP whether an offence was committed, or a conviction was recorded, while the former MP was in office, before he or she became an MP, or after he or she ceased to be an MP.

### **Public reporting of travel entitlements of former MPs**

As discussed earlier, in July 2010 the Governor in Council approved that the Clerk of the Parliament provide an annual report to Parliament which contains the name of each former MP who has accessed travel entitlements and the total travel cost incurred by the Parliament for each former MP, including where applicable spouse travel costs.

On 27 October 2011 the Acting Premier (the Honourable Andrew Fraser) tabled the first such report in the Parliament covering the period 2010-11.

## 5.2 Travel entitlements in other jurisdictions

Travel entitlements in other jurisdictions have largely been scaled back or phased out for former MPs, or closed to future MPs. The following section outlines the entitlements that are provided in other jurisdictions.

### Commonwealth

In the Commonwealth, Section 4A of the *Members of Parliament (Life Gold Pass) Act 2002* closed the Gold Pass scheme prospectively to new MPs from 2012 when the *Members of Parliament (Life Gold Pass) and Other Legislation Amendment Bill 2012* received royal assent.

Under this Act, where a former MP is entitled to a Gold Pass (for all travel i.e. air, rail, bus):

- a former Prime Minister is entitled to a maximum of 40 domestic return trips per year
- the spouse of a former PM is also entitled to 40 trips as long as no more than 10 are non-accompanying trips
- a former MP is entitled to a maximum of 10 return trips per year (down from 25) and a spouse is also entitled to a maximum of 10 trips as long as they are accompanying the former MP.

### New South Wales

Since 2009 former MPs in New South Wales are not provided with travel entitlements. MPs elected prior to 2009 are still provided with public transport travel within New South Wales and a Gold Pass (or equivalent). These entitlements are currently under review.

Six former NSW office holders are also entitled to some specified benefits such as car transport services, office support and employee expenses outlined in a report on the 'Cost of Public Support for Former Office Holders'.<sup>66</sup>

### South Australia

In South Australia former MPs are provided with travel entitlements. However further details are not available.

### Western Australia

In 1996 the Western Australian Salaries and Allowances Tribunal (WA Tribunal) removed the lifelong entitlement to rail and other travel and replaced the benefit with a reduced benefit that provides entitlements for either a four-year or eight-year period, depending on when the MP became qualified to receive the entitlement. In 1999 the WA Tribunal removed the four-year entitlement and reduced the eight-year entitlement to four years. As a result of the 1999 reduction of the term of the entitlements, there are currently no post-retirement travel benefits provided to MPs.

<sup>66</sup> Premier and Cabinet, *Cost of Public Support for Former Office Holders* (December 2013) NSW Government  
<[http://www.dpc.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0006/149424/Cost\\_of\\_Public\\_Support\\_for\\_Former\\_Office\\_Holders\\_-\\_December\\_2013\\_as\\_published\\_1\\_April.pdf](http://www.dpc.nsw.gov.au/__data/assets/pdf_file/0006/149424/Cost_of_Public_Support_for_Former_Office_Holders_-_December_2013_as_published_1_April.pdf)>.

## Other jurisdictions

There is no information available in the remaining Australian jurisdictions regarding the provision of travel entitlements to former MPs.

### 5.3 *Rationale for travel entitlements*

The Tribunal surmises that the Queensland MP travel entitlements were originally introduced based on a number of factors including:

- the existence of similar arrangements in other jurisdictions
- the perceived need to recognise the important and enduring contribution made by MPs in their communities
- the fact that MPs did not receive service recognition (e.g. annual or long service leave) or separation (resettlement) payments upon defeat at an election
- the relatively modest costs (at the time) of providing the benefits (e.g. prior to introduction of Fringe Benefits Tax).

Since this time however it is evident that:

- comparisons with other jurisdictions suggest that the Queensland scheme is generous compared to other jurisdictions and most other jurisdictions have reduced or ceased former MP travel entitlements
- over time, post-employment benefits provided to former MPs have become more generous:
  - those former members first elected prior to December 2004 are beneficiaries of a superannuation scheme that allows them to access significant benefits upon leaving Parliament
  - those former members elected since December 2004 receive the standard public sector superannuation benefits plus (in most cases) a resettlement allowance upon severance
  - since July 2013, as for public service employees, frequent flyer points earned during a member's tenure can be retained for their own personal use upon leaving Parliament – a significant benefit in the case of some former MPs
- the administration burden and associated costs to the Parliamentary Service has increased.

There are also a number of limitations and shortcomings with the existing rail travel arrangements for former MPs. Issues common to both (Queensland and Australia) Gold Passes include:

- the Gold Pass systems are not automated pass systems
- the passes are not linked to the Translink ticketing system and cannot be automatically cancelled or disabled in the event of loss or theft
- the passes cannot be disabled in the event that the pass holder is no longer entitled to the benefit
- the current system provides no information on actual usage.

### **Railways of Australia Gold Pass**

Advice received from the Clerk of the Parliament is that the Railways of Australia Gold Pass is somewhat of a misnomer because there are no longer any publicly owned railway networks across Australia that accept any Gold Pass provided to former MPs. For instance, under recent changes, if a former MP wishes to travel from Brisbane to Melbourne the Parliament House Travel Office is required to book the travel directly with the interstate rail network and pay for the full retail cost of the fare as opposed to the cost being directly linked to the Gold Pass.

Every individual Railways of Australia Gold Pass issued costs the Parliament \$300 including GST annually. In addition, interstate rail travel undertaken requires the ticket to be booked and paid for on retail terms by the Parliament House Travel Office. Hence the real cost of each Railways of Australia Gold Pass includes the pass and the individual travel paid for on retail terms.

### **Queensland Gold Pass**

The current Queensland Gold Pass can be used on Brisbane metropolitan services but all other travel is once again booked through the Parliament House Travel Office as pass holders are not permitted to book directly with Queensland Rail. Each Queensland Gold Pass issued costs \$100 including GST (\$91.91 excluding GST) annually.

Thus, intrastate travel in Queensland outside of Brisbane is charged directly to the Parliament. The benefits of the current Gold Pass are now limited to the Brisbane metropolitan service. Given that the actual usage on the Brisbane metropolitan system by former MPs is not recorded, the Tribunal is unable to ascertain the real cost of these benefits.

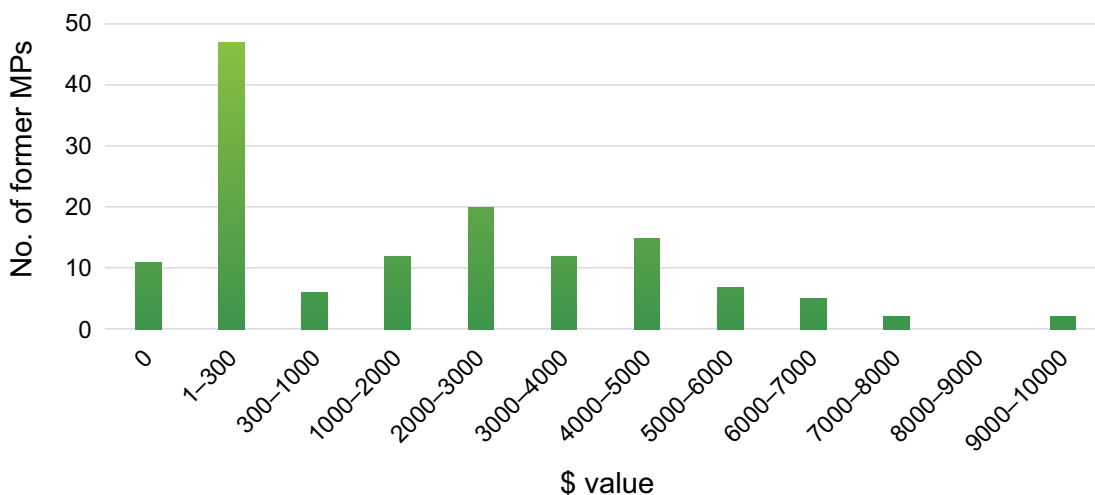
## Chapter 6 – Travel entitlements

Chapter six provides a discussion regarding the travel entitlements currently provided to Former MPs, both commercial air travel and rail travel.

### 6.1 Former MP travel report 2012-13

The *Members' Remuneration Handbook* (formerly the *Members Entitlements' Handbook*) requires the Clerk of the Parliament to prepare and table an Annual Report for the Parliament. From this report an analysis can be undertaken of the costs to the Parliament of travel entitlements. Figure 6.1 provides the distribution of these costs over the past financial year, including where applicable, spouse or approved relative, widow or widower travel costs.

**Figure 6.1 – Cost to the Parliament of travel entitlements 2012-13**



From the data in Figure 6.1 the following points are of note:

- the average cost to the Parliament for former MP travel (commercial air and rail) was \$2,116 excluding GST (based on 138 eligible former MPs)
- 11 eligible former MPs chose not to accept any travel entitlement
- 58 eligible former MPs (or 42%) received travel entitlements where the cost to the Parliament was less than \$300 per individual
- 16 eligible former MPs (or 11%) claimed travel entitlements in excess of \$5,000.

Hence it may be inferred that the cost to the Parliament of travel entitlements is generally low with the exception of a few.

However, as noted above, the cost attributed to the annual rail passes is based on an annual fee charged by Queensland Rail. The actual usage of the annual rail passes on metropolitan services cannot be ascertained as the rail pass is not an automated pass system like a Go Card which reports the number of trips and associated costs. Where former MPs are

provided with an annual rail pass, the fee is payable to Queensland Rail irrespective of whether or not rail travel entitlements are actually accessed. Therefore, the true financial benefit for any individual is not readily ascertainable and will vary depending on the individual's patronage of the rail system.

## 6.2 *Former MP travel*

The matter of former MP travel entitlements is contentious. As noted above, there are varying views between the community and the majority of former MPs. A selection of these views is discussed below.

Some members of the public have expressed the view that former MP travel entitlements are not appropriate and make a salient point that in other work places employees do not receive ongoing travel entitlements upon cessation of their employment. As noted earlier, a minority of former MPs support these views.

Conversely, the majority of former MPs believe that any changes to the existing system should take effect from the date of the next general election and not affect their current entitlements.

Another view expressed by some former MPs is that the use of travel be amended to restrict the use of the travel entitlement to circumstances wherein the MP provides voluntary assistance to the Parliament, Government and the community. However, such a system would be difficult to administer and probably require a pre-authorisation system that would be unwieldy and costly to administer.

Former MPs also raised the role that a spouse undertakes during the individual's time as an MP and after the term in office. For instance, former MPs and their spouse are sometimes called upon to serve the community in a range of activities.

Benchmark comparators such as the National Employment Standards (NES), *Fair Work Act 2009*, the core public service and Senior Executive Service Officers in Queensland do not provide redundancy packages that include ongoing entitlements to travel. Several members of the public and a minority of former MPs have argued that former MP entitlements should be comparable with the general workforce.

The cost to the Parliament for the ongoing travel entitlements scheme cannot be considered significant within the context of the wider budget for Parliamentary Services. The average cost to the Parliament of travel entitlements per former eligible MP is \$2,116 excluding GST. It is difficult however to measure the cost in terms of administration of the system by the Parliamentary Service and the real value of usage of rail passes on the Brisbane metropolitan rail network.

In the recent 2014 Federal Budget, the Commonwealth announced a scaling back of entitlements to former MPs. Other jurisdictions have prospectively closed travel entitlement schemes or scaled back travel entitlements for former MPs.

In consideration of the above analysis, the Tribunal determines that all travel entitlements for former MPs will cease on 31 December 2018. All travel entitlements must be claimed and

used by 31 December 2018 and there will be no further entitlements provided or claimable after this date. This has varying implications for the three categories of MPs:

- current sitting MPs who will not have entitlements vest at the next election (see below section 6.3)
- current sitting MPs who will have entitlements vest at the next election (see below section 6.4)
- former MPs (see below section 6.5).

Spouses, widows and widowers will also be affected. Each of these affected groups is also discussed below.

### *6.3 Current MPs who will not have entitlements vest at the next election*

There are a group of MPs who will not be eligible for travel entitlements at the time of the next general election. For this group of MPs the Tribunal's decision to cease all travel entitlements on 31 December 2018 will have minimal impact. This group of MPs currently have no vested benefits and under this Determination there is no accrual of benefits.

It is conceivable that a sitting MP with no current vested benefits will be re-elected at the next election and then could subsequently meet the eligibility criteria at the general election expected in 2017/18. However, given this Determination, they will enter the next election with the knowledge and certainty of these provisions.

### *6.4 Current MPs whose entitlements vest at the next election*

There is a group of MPs who will be eligible for travel entitlements should they meet the eligibility criteria following the next general election (expected in 2015) and may be entitled to additional travel entitlements at the subsequent general election (expected in 2017/18). Should the MP leave involuntarily at the next general election, these MPs will be able access travel entitlements for approximately four years until 31 December 2018. All travel entitlements must be claimed and used by 31 December 2018 and there will be no further entitlements provided or claimable after this date.

### *6.5 Travel entitlements for former MPs*

The Tribunal acknowledges the views of former MPs in relation to travel entitlements. The Tribunal notes that travel plans may already have been made into the future and advises former MPs that their entitlements will not be amended retrospectively but will have a prospective cessation date of 31 December 2018. All travel entitlements must be claimed and used by 31 December 2018 and there will be no further entitlements provided or claimable after this date.

The Tribunal notes that there have been significant changes to the travel system for former MPs, particularly in relation to the ownership of the rail network throughout Australia, which has affected the ongoing viability of the current system.

As discussed earlier in Chapter five, other jurisdictions have begun the process of phasing out entitlements for former MPs. In line with this trend and taking into account community expectations, the Tribunal has determined to phase out travel entitlements for former MPs.

## *6.6 Spouse, widow and widower entitlements*

Currently the entitlement of a spouse is dependent on the status of the former MP and a spouse receives the entitlement because of their relationship with the MP. Decisions made based on an MP's entitlement to travel will inevitably affect the entitlements of spouses, widows or widowers.

The Tribunal notes and acknowledges the value of the role of a spouse in supporting the MP during their time in office and subsequent demands from their community.

Consistent with the arguments above, spouses, widows and widowers currently entitled to travel entitlements will have these entitlements cease on 31 December 2018.

Spouses, widows and widowers who become eligible for travel entitlements at either the next or subsequent general elections will be able to access these entitlements until 31 December 2018.

## *6.7 Summary of former MP travel entitlements*

The Tribunal notes that since the introduction of former MP travel entitlements in the 1950s, access to the travel system and associated administration, particularly for rail travel, has changed significantly. Moreover, community expectations have changed.

In the interests of fairness to allow former MPs and their spouses to prepare for the cessation of travel entitlements and to make and undertake travel plans with certainty, the Tribunal is of the view that a four-year transition period is sufficient to enable effective forward planning.

A consequence of this Determination is that any person elected following this Determination has no entitlement to, and should hold no expectation of, travel entitlements beyond 31 December 2018. Noting that an MP is currently required to serve a minimum of seven years and be elected on three occasions to receive commercial air travel entitlements, a future MP will not meet the requisite period of service to receive this entitlement as all travel entitlements for former MPs will cease on 31 December 2018.

Additionally, unless the MP serves as Premier, Minister, Speaker or Leader of the Opposition they will also not meet the requisite period of service required to receive rail travel prior to 31 December 2018.

# Determination 5/2014

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## *Preamble*

Determination 5/2014 is issued by the Queensland Independent Remuneration Tribunal (Tribunal) under the *Queensland Independent Remuneration Tribunal Act 2013* (the Act).

Any inconsistencies between Determination 5/2014 and previous Tribunal Determinations are to be resolved in favour of Determination 5/2014. Matters in previous Determinations not addressed in Determination 5/2014 are confirmed by the Tribunal and not amended.

All Tribunal Determinations must be read in the context of the entire report, which provides reasons for the Determination as required under the Act.

## *New severance arrangements*

1. A new severance arrangement called the 'Transition Allowance' is introduced with immediate effect.
2. Upon serving one or more terms of Parliament, a Member of Parliament (MP) is entitled to a Transition Allowance of 12 week's base salary if the MP meets the following criteria:
  - a) is not currently in office and is elected after the date of this Determination
  - b) has retired involuntarily through loss of party pre-selection for reasons other than misconduct, or through defeat at an election (including where they have campaigned to be elected to represent a different Electoral District), and
  - c) is not eligible to access a pension or superannuation benefit (related to their service in the Parliament) immediately upon ceasing to be an MP.
3. For the purposes of determining eligibility for the Transition Allowance, an MP elected at a by-election is taken to have been elected for one term of Parliament at the end of the term of Parliament in which the MP was elected at the by-election provided that they have served at least 12 months at the date of the end of the term of Parliament.

## *Transitional arrangements*

4. An MP who is currently a member of the Legislative Assembly at the date of this Determination remains eligible for the Resettlement Allowance in accordance with the provisions contained in the *Members' Remuneration Handbook* prior to the date of this Determination.

## *Severance travel*

5. MPs who are entitled to an allocation of Air Warrants under the *Members' Remuneration Handbook* are entitled to severance travel which provides for up to two return flights for the MP between the MP's electorate and Brisbane during the period up to two calendar weeks after the return of the relevant election writ to allow finalisation of Parliamentary business following the election.

## *Former MP, spouse, widow and widower's travel*

6. All commercial air travel and rail travel entitlements for former MPs, spouses, widows and widowers must be claimed and used by 31 December 2018 and there will be no further entitlements provided or claimable after 31 December 2018.

## *Forfeiture of entitlements*


7. Existing forfeiture provisions in the Handbook regarding misconduct and/or criminal conduct will continue to apply in relation to all former MP entitlements.

**Date of Determination: 30 September 2014**



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**Professor Tim Brailsford**  
Chair



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**Ms Joanne Jessop**  
Member



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**Mr David Harrison**  
Member



