



Ruling 01/2025 – Section 37 of the *Parliamentary Business Resources Act 2017*

Ruling

The independent Parliamentary Expenses Authority (IPEA) determines that the travel resources accessed by former Senator Dr Sam McMahon:

- for travel within Queensland from 29 June 2021 to 15 July 2021; and
- for travel between Cairns and Darwin on 15 July 2021

were not incurred for the dominant purpose of conducting parliamentary business and that this use of public resources contravened section 26 of the Parliamentary Business Resources Act 2017 (PBR Act).

Background

On 28 September 2021, IPEA commenced an assurance review of travel by parliamentarians to Queensland during the period 1 April to 31 July 2021. The review was an element of IPEA's ongoing assurance activities focussed on travel associated with school holiday periods and travel to desirable destinations. Five parliamentarians were found to have travel falling within scope of the review. Then Senator for Northern Territory, Dr Sam McMahon, was one of these parliamentarians, having travelled to and within Queensland during the period 27 June to 15 July 2021.

Assessment

During the course of the review, IPEA wrote to Dr McMahon on four occasions seeking information in relation to the dominant purpose of her travel and of the parliamentary business she was undertaking in Queensland. Dr McMahon did not respond to any of IPEA's correspondence. Accordingly, on 6 May 2022, IPEA wrote again to Dr McMahon advising that invoices had been raised to recover the cost of the relevant travel, including 25% penalty loading in accordance with section 38 of the PBR Act.

On 13 July 2022, IPEA received its first response from Dr McMahon. She advised that:

"Travel to QLD during the period June/July was part of my NCET committee travel to Norfolk Island for hearings. After arriving in Brisbane in transit for the trip, COVID had broken out in QLD and the travel was cancelled. A travel ban was then in place for Brisbane and parts of QLD so I could not return to the NT and was forced to travel through various regions of QLD until I was cleared to return to the NT. I was told at the time by IPEA that all travel and allowances would be covered."

Upon receipt of this response, IPEA sought further information from Dr McMahon in relation to her travel and the advice she claimed to have received from IPEA. Dr McMahon's response referenced generic emails circulated by IPEA and advised that this had been confirmed to her in a phone call. An extensive search of records has found no evidence of phone or email contact with Dr McMahon on this matter. Generic Covid-related advice circulated to all parliamentarians did not touch upon Dr McMahon's circumstances and cannot be construed to cover them.

In response to further requests for information, Dr McMahon advised that she did not immediately return to the Northern Territory upon cancellation of her planned parliamentary business in Queensland because Brisbane had been declared a Covid hotspot and she would have been required to enter mandatory quarantine on return. She advised that she *"needed to remain out of any other hot spot areas or the time would have been extended. I attempted to find other areas that were outside areas of outbreaks. This required constant monitoring and being prepared to move quickly if it looked like an area was likely to go into quarantine. This is why I relocated a couple of times"*.

While in later correspondence Dr McMahon provided non-specific claims of a visit to a Bundaberg electorate office, if this had been parliamentary business it was clearly not the dominant purpose of her travel throughout Queensland from 29 June 2021. Dr McMahon advised that while in Queensland she continued to conduct parliamentary business, maintain contact with her office and constituents, reading emails and documents and preparing for the next parliamentary sitting dates. IPEA notes that each of these elements of parliamentary business conducted at various locations in Queensland could have been conducted equally as well from within home quarantine in the Northern Territory.

Accordingly, IPEA has concluded that from the date that Dr McMahon was advised that her parliamentary committee business had been cancelled, her subsequent travel expenses were incurred for personal reasons – to avoid the requirement for home quarantine in the Northern Territory. Dr McMahon's travel within Queensland from 29 June to 15 July 2021 and from Cairns to Darwin on 15 July 2021 was not for the dominant purpose of parliamentary business.

Subsection 37(1) of the PBR Act provides that IPEA may make a ruling that:

... conduct engaged in by a particular member or any other person in relation to travel expenses of, or travel allowances for, the member, was not in accordance with this Act and as a result of the conduct, the member contravenes section 26, 27 or 28.

IPEA therefore determines that the travel expenses incurred by the former Senator from 29 June 2021 to 15 July 2021 were not incurred for the dominant purpose of parliamentary business and that her use of public resources contravened section 26 of the PBR Act.

Loading penalty

The total value of expenses that were found to be inconsistent with the relevant legislative provisions, is \$2,976.75. Subsection 38(4) of the PBR Act provides that if the Commonwealth provides public resources to a member and the member contravenes section 26, 27 or 28 in relation to the resources, then:

The member is liable to pay the Commonwealth, by way of penalty for the contravention of section 26, 27 or 28, an amount equal to 25% of the amount to which this section applies.

IPEA has no discretion whether to apply this loading as it arises automatically as a result of the operation of section 38. Dr McMahon is therefore liable to pay the Commonwealth 25% of the expenses that have been found to be inconsistent with the relevant legislative provisions, that is 25% of \$2,976.75 or \$744.19.

Amount due to the Commonwealth

The total amount that Dr McMahon is required to repay to the Commonwealth is the amount of \$3,720.94.