SUPPLEMENT OF CAPPED ENTITLEMENTS IN EXCEPTIONAL CIRCUMSTANCES

- ADMINISTRATIVE PROCEDURES

Advice to Senators and Members on the supplement of capped entitlements in exceptional circumstances

I, GARY GRAY, Special Minister of State, provide these administrative procedures as guidance for Senators and Members on the supplement of capped entitlements in exceptional circumstances as provided under the *Parliamentary Entitlements Regulations* 1997.

Dated 29 November 2012

GARY GRAY
Special Minister of State
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1. Supplement of capped entitlements in exceptional circumstances

1.1 The Parliamentary Entitlements Regulations 1997 (the PE Regulations) provide that Senators and Members whose State or Territory or electorate has been affected by a disaster, as defined by the PE Regulations, and who have expended a substantial part of at least one of their capped entitlements in the financial year that the disaster occurred, may be entitled to supplement their capped entitlements to enable them to conduct their parliamentary and electorate business.

1.2 The Parliamentary Entitlements (Supplement of Capped Entitlements) Determination 2012(No 1), made under the PE Regulations, and Determination 2011/12 Supplement – Relief Staff Budget and Electorate Staff Travel Budget, made under the Members of Parliament (Staff) Act 1984, determine that the following are capped entitlements and relevant determinations (capped entitlements) for the supplement and that the supplement may only be used for the same purpose or purposes for which a capped entitlement can be used:

- the printing and communications entitlement;
- the office requisites and stationery entitlement;
- Australian flags and printed material related to national symbols;
- charter transport within and for the service of the electorate;
- overnight stays in a Senator’s State or Territory or a Member’s electorate;
- relief staff budget; and
- electorate staff travel budget.

For example, if a Senator or Member uses the supplement for the purposes of the printing and communications entitlement to produce a newsletter, the use of the supplement should be in accordance with the conditions set out in subregulation 3AA of the PE Regulations.
1.3 Applications for the supplement of capped entitlements in exceptional circumstances should be made to the Special Minister of State (the Minister). Further information on the application process is outlined at paragraph 3 below.

1.4 If approved, the supplement will be provided, and can only be accessed, in the financial year in which the disaster occurred and cannot be carried over into a subsequent financial year. Any use of the supplement will be recovered from the corresponding entitlement at the beginning of the subsequent financial year unless the Minister agrees otherwise. Further information on the recovery of the supplement from the following financial year’s capped entitlement(s) is outlined at paragraph 5 below.

1.5 The Minister has the discretion to decide that circumstances justify waiving the requirement to recover the amount of the supplement from the following financial year’s capped entitlement(s). This discretion will only be exercised when the Minister is satisfied that a recovery from the following financial year’s capped entitlement(s) would leave a Senator or Member with insufficient resources to address his or her circumstances. Further information on a waiver of the recovery of the supplement is outlined at paragraph 6 below.

1.6 Detailed examples on the application of the supplement entitlement are provided in the Attachment. A pro forma application for the supplement of capped entitlements in exceptional circumstances is also attached to assist Senators and Members in submitting an application.

2. Definition of disaster

2.1 For the purposes of the entitlement to supplement capped entitlements in exceptional circumstances, subregulation 3EA(9) of the PE Regulations defines a disaster to mean:

* a serious disruption to a community or region caused by a rapid onset event that:
  
  (a) threatens or causes death, injury or damage to property or the environment, and
  
  (b) requires significant and coordinated multi-agency and community response.

3. Applications for the supplement

3.1 A Senator or Member whose State or Territory or electorate has been affected by a disaster as defined by the PE Regulations and who considers that he or she has expended a substantial part of at least one of his or her capped entitlements in the financial year that the disaster occurred, should write to the Minister as soon as practicable after the disaster has occurred to request the supplement entitlement as set out in the attached pro forma.
Details to be included in a Senator or Member’s application for the supplement

3.2 As set out in the attached pro forma, a Senator or Member’s application to supplement capped entitlements in exceptional circumstances should advise:

- the scale of the impact of the disaster upon the Senator’s State or Territory or the Member’s electorate;
- the extent to which the Senator or Member has expended his or her capped entitlements in that financial year;
- the nature of the parliamentary or electorate business that the Senator or Member requires a supplement to undertake as a result of the disaster;
- the amount of supplement required;
- the reasons, if any, why the Senator or Member considers that a recovery from his or her corresponding capped entitlement(s) for the following financial year will not sufficiently address the circumstances; and
- any other factors the Senator or Member considers relevant to the application.

Expenditure of a substantial part of at least one capped entitlement

3.3 The term ‘substantial’ is not defined for the purpose of the supplement of capped entitlements in exceptional circumstances. In considering if a Senator or Member has expended a substantial part of at least one of his or her capped entitlements, the Minister will have regard to the proportion of the Senator or Member’s entitlement or entitlements use in relation to the point in time in the financial year that the disaster occurred.

For example, a Senator or Member has spent 70 per cent of his or her printing and communications entitlement and a ‘disaster’ occurs in:

- January. The Minister may decide that a ‘substantial part of the capped entitlement has been expended;
- May. The Minister may decide that a ‘substantial’ part of the capped entitlement has not been expended.

3.4 In the circumstance where the balance of a capped entitlement does not reflect recent commitments, for example a large printing order has been placed but has not yet been invoiced, the Senator or Member may wish to include this information in their application for consideration by the Minister. Information on expenditure on capped entitlements is available in the monthly management reports provided to Senators and Members by the Ministerial and Parliamentary Services (M&PS) Division of the Department of Finance and Deregulation. Updated information on expenditure can be obtained from a Senator or Member’s M&PS Entitlements Manager.

Applications to be submitted as soon as practicable after a disaster has occurred

3.5 Applications for the supplement of capped entitlements should be submitted as soon as practicable after the disaster has occurred. Where possible, applications should be submitted within thirty business days of the disaster occurring.

3.6 If an application for the supplement cannot be submitted to the Minister within thirty business days of the disaster occurring, a Senator or Member should
outline the circumstances which prevented him or her from doing so in his or her application for the supplement.

Applications in a financial year

3.7 Provided the eligibility criteria for the supplement entitlement are met, a Senator or Member can submit more than one application for the entitlement in a financial year, but the total amount of the supplement cannot exceed $20,000 in a financial year. Further information on the amount and use of the supplement is outlined at paragraph 4 below.

For example, following a disaster a Senator or Member is provided with a supplement of $5,000 under subregulation 3EA of the PE Regulations in a financial year and, after expending the full amount of his or her printing and communications entitlement, spends all of it for the purpose of the printing and communications entitlement. A second disaster occurs. The Member can apply in that same financial year for a further supplement of up to $15,000.

4. Amount and use of the supplement

Amount of the Supplement

4.1 The total amount of supplement cannot exceed $20,000 in a financial year. To avoid ‘double-dipping’, the limit of $20,000 in a financial year, includes any amount the Senator or Member is entitled to under Determination 2011/12 Supplement – Relief Staff Budget and Electorate Staff Travel Budget.

4.2 The amount of supplement expended will be reported in the Senator or Member’s monthly management reports and included in the expenditure report published online each six months by the Department of Finance and Deregulation, Parliamentarians’ Expenditure on Entitlements Paid by the Department of Finance and Deregulation.

Use of the supplement

4.3 The use of the supplement by a Senator or Member, determines the purpose of the supplement and the conditions of use which apply.

For example, a Senator or Member seeks a supplement following a disaster to undertake electorate business by engaging a relief employee for the remainder of the financial year and publishing a newsletter. The Minister notes that the Senator or Member has expended a substantial portion of both his or her relief staff budget and printing and communications entitlement and approves the application for the supplement to an amount of $15,000. Following the exhaustion of the Senator or Member’s relief staff budget and printing and communications entitlement, the Senator or Member uses $5,000 of the supplement in accordance with the provisions of Determination 2012/11, Determination Regarding Electorate Employees – Relief Staff Budget to engage a relief employee. The remainder of the supplement is available to be used on other capped entitlements (if these are fully expended) including to produce and distribute a newsletter in accordance with Regulation 3AA of the Parliamentary Entitlements Regulations. 4.4 Once approved by the Minister, a Senator or Member can access the supplement for a particular purpose once he or she has fully expended the corresponding capped entitlement(s), in the financial year in which the disaster occurred.
For example, a Senator or Member entitled to a supplement of $10,000 for the purposes of the printing and communications entitlement, may only draw upon the supplement once he or she has fully expended his or her printing and communications entitlement in the financial year in which the disaster occurred.

5. **Recovery of the amount of the supplement expended**

5.1 If, in the previous financial year, a Senator or Member received a supplement under the PE Regulations or Determination 2011/12 Supplement – Relief Staff Budget and Electorate Staff Travel Budget, the budget of the capped entitlement or entitlements which were supplemented is reduced by the amount of the supplement spent by the Senator or Member.

For example, a Senator or Member is provided with a supplement of $15,000 and expends $10,000 of the supplement for the purposes of the printing and communications entitlement. The Senator or Member does not expend the remaining $5,000 of the supplement and it cannot be carried over to the following financial year. The Senator or Member’s printing and communications entitlement for the following financial year is reduced by $10,000.

5.2 The Minister may, having regard to the particular circumstances of the Senator or Member waive the requirement for the amount of supplement expended to be recovered from the next financial year’s capped entitlement. Further information on the waiver process is outlined at paragraph 6 below.

6. **Waiver of the recovery of the supplement from the corresponding capped entitlement(s) in the following financial year**

6.1 In considering if recovering the amount of any supplement from the following financial year’s capped entitlement will not sufficiently address the Senator or Member’s circumstances, the Minister will have regard to:

- the impact of the disaster on the Senator or Member’s State, Territory or electorate and any expected demands on the Senator or Member’s parliamentary or electorate business;
- any subsequent disasters or events which impact a Senator or Member’s State, Territory or electorate and affect a Senator or Member’s parliamentary or electorate business;
- if a Senator or Member does not have a corresponding capped entitlement in the following financial year from which the supplement could be recovered; and
- any other factors the Minister considers relevant to the Senator or Member’s circumstances.
6.2 The Minister may agree to waive the requirement to recover the amount of the supplement expended for a specific purpose. In this instance, the waiver does not cover all purposes.

For example, the Minister approves a Senator or Member's request to supplement his or her relief staff budget and printing and communications entitlement by a total of $15,000 following a disaster. In doing so, the Minister also approves the Senator or Member's request that the recovery of the amount expended for the purposes of the relief staff budget be waived as the Senator or Member generally expends the full value of the budget in a financial year. In this example, the amount spent by the Senator or Member for the purposes of his or her relief staff budget is not recovered in the following financial year, but the amount spent by the Senator or Member for the purposes of his or her printing and communications entitlement is recovered from the Senator or Member's printing and communications entitlement in the next financial year.

6.3 The Minister may agree to a subsequent request from a Senator or Member to waive the requirement to recover the amount of the supplement in the subsequent financial year.

For example, a Senator or Member requests a supplement to his or her capped entitlements following a disaster. The Minister approves the request and advises the Senator or Member that the amount of the supplement expended will be recovered from his or her capped entitlement(s) in the following financial year. A second disaster occurs in the Senator or Member's State, Territory or electorate and the Senator or Member requests the Minister waive the recovery of the amount of the supplement expended. The Minister agrees that the recovery of the amount of the supplement expended is not required.

6.4 If a Senator or Member does not have a corresponding capped entitlement in the following financial year from which the supplement could be recovered, such as in the following circumstances, a debt is not created and a waiver is not required:

- a Senator whose term of office expires at the end of the current financial year;
- a Senator or Member who has indicated that he or she will not stand for office at the next Federal election; and
- changes to the boundaries of a Member's electorate following a Federal election, that could affect their entitlement(s), such as the entitlement to charter transport in the electorate or overnight stays in the electorate.
Supplement entitlement – examples

Example 1: Supplement of charter entitlement and waiver
The Member for X applies for a benefit under regulation 3EA of the PE Regulations. In his application, the Member notes that:

- he is seeking supplementation of $15,000;
- he has expended a substantial part of the allowance provided to him for charter transport under Remuneration Tribunal Determination 2012/04 (Determination 2012/04) in the current financial year;
- a significant portion of his electorate has been affected by flooding which occurred recently;
- the supplementation will enable him to continue to perform electorate business within his electorate for the remainder of the current financial year;
- he represents a large electorate and requires all of the charter allowance provided by Determination 2012/04 each financial year, as evidenced by his pattern of expenditure in preceding years; and
- he is seeking a waiver of the requirement that expenditure of the supplementation will reduce his entitlement(s) in the following financial year as he will be unable to adequately service his electorate if he is required to recover the cost of charter travel under subregulation 3EA of the PE Regulations from his charter entitlement at the beginning of the following financial year.

The Minister approves supplementation of $15,000, on the basis that he is satisfied that:

- the Member’s electorate has been affected by a disaster, as defined by subregulation 3EA of the PE Regulations;
- the Member has expended a substantial part of at least one of his capped entitlements; and
- because of the disaster, the Member requires supplementation of his capped entitlements to enable him to continue to conduct his parliamentary or electorate business.

In approving the supplement, the Minister waives the requirement for charter travel under the supplement to reduce the Member’s charter entitlement in the following financial year.

The Member totally exhausts his charter allowance provided by Determination 2012/04. He undertakes further travel within and for the service of his electorate to the value of $12,500 during the current financial year, which is funded from the supplementation. There is no offset of this further travel from the Member’s charter transport entitlement in the following financial year.
Example 2: Supplement of two capped entitlements and recovery of expenditure of supplement on one capped entitlement

The Member for Y applies for a benefit under subregulation 3EA of the PE Regulations. In her application, the Member notes that:

- she is seeking supplementation of $20,000;
- she has expended a substantial portion of her relief staff budget in the current financial year;
- a significant portion of her electorate has been affected by a tropical cyclone which occurred recently;
- the supplementation will enable her to engage a relief employee for the remainder of the financial year to enable her office to cope with the increased constituent contact in the wake of the cyclone; and
- the Member notes that she is seeking a waiver of the requirement that expenditure of the supplementation will reduce her relief staff budget in the following financial year as she expects the constituent demand to continue into that year and will be unable to adequately staff her electorate office to cope with this continuing demand if she is required to recover the cost of relief staff under the new regulation 3EA from her relief staff budget at the beginning of the following financial year.

The Minister approves supplementation of $20,000, on the basis that he is satisfied that:

- the Member’s electorate has been affected by a disaster, as defined by subregulation 3EA of the PE Regulations;
- the Member has expended a substantial portion of at least one of her capped entitlements; and
- because of the disaster, the Member requires supplementation of her capped entitlements to enable her to continue to service the needs of her constituents.

In approving supplementation, the Minister waives the requirement for expenditure on relief staff under the supplement to reduce the Member’s relief staff budget in the following financial year.

The Member totally exhausts her remaining relief staff budget by engaging an additional electorate employee. She is able to continue to employ the additional electorate officer until 30 June in the current financial year using the supplementation provided under subregulation 3EA of the PE Regulations at a cost of $14,500.

The Member also totally exhausts her printing and communications entitlement. She prints and distributes a publication at a cost of $3,800 from the remaining entitlement supplementation. As the Minister’s waiver of the requirement that expenditure of the supplementation would reduce the Member’s capped entitlements in the following financial year was limited to expenditure on relief staff, the Member’s printing and communications entitlement for the following financial year is reduced by $3,800.
Example 3: Supplement to capped entitlement to Australian flags
The Member for Z applies for a benefit under subregulation 3EA of the PE Regulations. In her application, the Member notes that:

- she is seeking supplementation of $5,000;
- she has expended a substantial part of her capped entitlement to desktop and hand-waver flags in the current financial year;
- parts of her electorate have been devastated by a bushfire that occurred recently; and
- the supplementation will provide her with the capacity to provide flags to her constituents that have been impacted by the bushfire.

The Minister approves supplementation of $5,000, on the basis that he is satisfied that:

- the Member’s electorate has been affected by a disaster, as defined by subregulation 3EA of the PE Regulations;
- the Member has expended a substantial portion of at least one of her capped entitlements; and
- because of the disaster, the Member requires supplementation of her capped entitlements to enable her to continue to conduct her parliamentary or electorate business.

The Member totally exhausts her remaining flags entitlement. She is able to order further desktop, hand waver and large flags for presentation to her constituents using the supplementation provided under regulation 3EA at a cost of $4,900.

The Member’s capped entitlement to desktop and hand-waver flags is reduced by $4,900 at the start of the following financial year.
Dear Minister

In light of the [disaster: flooding, bushfires etc] that has/have affected the [State/Territory/Electorate of ...] on [date] I wish to draw upon the supplement of capped entitlements available in exceptional circumstances.

[Applications should be made promptly, preferably within 30 days of the disaster occurring. If an application cannot be submitted shortly after the disaster has occurred, the application should outline why it was not possible to do so.]

(i) **Scale of the impact of the disaster:**

   [Senators and Members should outline the impact of the disaster on their State, Territory or Electorate and any other relevant details.]

(ii) **Entitlement(s) for which a supplement is being sought:**

   [Senators and Members should include the amount of the capped entitlement already expended, the nature of the parliamentary or electorate business that the supplement is required to undertake and the amount requested. Latest information on a senator or Members’ capped entitlements is available from the M&PS Entitlements Managers]

   **[Entitlement A]**

   Amount expended as at [date]: $ 
   Purpose of supplement: 
   Amount requested: $

   **[Entitlement B]**

   Amount expended as at [date]: $ 
   Purpose of supplement: 
   Amount requested: $

(iii) **Waiver application:**

   [If relevant, a Senator or and Member should specify why they consider that a recovery from his or her corresponding capped entitlement(s) for the following year will not sufficiently address the circumstances.]

(iv) **Any other factors a Senator or Member considers relevant to the application:**

Yours sincerely

[Signature of Senator or Member]  
[Name of Senator or Member]  
[Date]