

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**THE PRESIDENT OF THE SENATE**

**THE SPEAKER OF THE HOUSE OF REPRESENTATIVES**

**AND**

**INDEPENDENT PARLIAMENTARY EXPENSES AUTHORITY**

**Memorandum of Understanding**  
**relating to the process for information-gathering powers under the**  
***Independent Parliamentary Expenses Authority Act 2017* and claims for**  
**parliamentary privilege**

**Between**

**President of the Senate**

**Speaker of the House of Representatives**

**Chief Executive Officer, Independent Parliamentary Expenses Authority**

**Background**

- A. The Independent Parliamentary Expenses Authority (**IPEA**) has certain information-gathering powers under section 53 of the *Independent Parliamentary Expenses Authority Act 2017* (**Act**) to require persons to give to IPEA information or documents that are relevant to performance of functions conferred on IPEA under the Act. IPEA can serve a notice on any person, including parliamentarians and parliamentary officials, where it has reason to believe that the person has information or a document that is relevant to the performance of particular functions. This MOU sets out the process to be followed where an information-gathering notice is issued on a parliamentarian. Nothing in this MOU is intended to prevent IPEA from seeking information and/or issuing a notice under section 53 of the Act consistent with its legislative functions and powers under the Act.
- B. To exercise its power under section 53, IPEA may by written notice (**Section 53 Notice**) require the parliamentarian to give information, produce documents or make and produce copies of documents, to IPEA within the period and in the manner specified in the Notice. The period specified in the Section 53 Notice must not be shorter than fourteen days after the notice is given to the parliamentarian.
- C. The exercise of this power is limited by laws of the Commonwealth relating to the powers, privileges and immunities of each House of Parliament, the members of each House of Parliament, the committees of each House of the Parliament and joint committees of both Houses of the Parliament. Section 58 confirms that the information gathering powers of IPEA are subject to those limitations.
- D. Parliamentary privilege refers to laws relating to the immunities of the Houses of Parliament and the powers of the Houses to protect the integrity of their processes. Its purpose is to enable each House to carry out its responsibilities effectively. It means in particular that ‘proceedings in Parliament’ are protected from being questioned in any court or tribunal and that a House may punish a person who interferes improperly with the work of a House or committee or member.
- E. Parliamentary privilege will not usually be engaged where information or documents relate to parliamentary expenses, because examination of records of expenditure will not usually amount to ‘questioning’ of parliamentary proceedings. However, the Clerk of the Senate and the Clerk of the House of Representatives can advise parliamentarians on possible claims of parliamentary privilege.
- F. The Department of Parliamentary Services (**DPS**) manages the Parliamentary Computing Network (**PCN**) and maintains that each parliamentarian owns the information and documents on the PCN relating to their affairs. As a result, the parties acknowledge for the purposes of this MOU that a parliamentarian ‘has information or a document’ (within the meaning of s 53 of the Act) where the information or document is on the PCN and relates to the parliamentarian’s affairs.

- G. This Memorandum of Understanding (MOU) records the understanding of the President of the Senate, the Speaker of the House of Representatives and the Chief Executive Officer of IPEA on the matters outlined below.

**The parties agree as follows:**

**Purpose of this MOU**

1. The purpose of this MOU is to outline the process the parties agree will be followed when IPEA exercises its information-gathering powers under section 53 of the Act (subject to the limitations on those powers identified in section 58 of the Act in recognition of parliamentary privilege laws and practice). This will ensure IPEA's powers are exercised in a way that affords parliamentarians an opportunity to raise claims of parliamentary privilege and to safeguard the relevant information and documents while the claims of parliamentary privilege are being considered.

**Process**

2. When IPEA issues a Section 53 Notice to a parliamentarian, it will also provide the following procedural information to assist the parliamentarian to comply with the Section 53 Notice:
  - a. in most cases, the parliamentarian should directly provide the information or documents to IPEA;
  - b. the parliamentarian may contact DPS for assistance to identify and locate any documents subject to the Section 53 Notice that are on the PCN;
  - c. there may be circumstances where the parliamentarian considers the information or documents sought are protected by parliamentary privilege or wishes to seek advice from the Clerk of the Senate or the House of Representatives on this issue;
  - d. if the parliamentarian wishes to make a claim of parliamentary privilege over the information or documents subject to the Section 53 Notice, prior to the expiry of the notice, the parliamentarian should:
    - i. advise the relevant Clerk accordingly and identify the basis on which the claim of parliamentary privilege is being made; and
    - ii. lodge the information or documents with the Clerk until the claim of privilege is determined by the relevant House.
3. Where IPEA issues a section 53 notice to a person other than a parliamentarian, IPEA will notify the parliamentarian to whom the notice relates, unless IPEA considers that such notification would compromise the conduct of the audit or assurance activity, in which case IPEA will seek the advice of the relevant Clerk regarding the likelihood of the proposed action improperly interfering with parliamentary functions. Should a parliamentarian be notified about a notice and wish to make a claim of privilege, the protocols set out in 2(d) apply.
4. The relevant Clerk will inform IPEA and the Presiding Officer in writing as soon as practicable if the Clerk is advised by a parliamentarian that he or she wishes to make a claim of parliamentary privilege. If the information or documents are lodged with the Clerk he or she will retain them until the claim of privilege is determined by the relevant House, and will release the information or documents in accordance with the resolution of the House.
5. DPS will, upon request from a parliamentarian, assist him or her to identify and locate information and documents that are on the PCN. DPS may also, upon request from the parliamentarian, copy the information or documents from the PCN onto a storage medium which DPS can reasonably accommodate, which will be provided to the parliamentarian to enable production to IPEA.

**Parliamentary Privilege acknowledgement**

- 6. IPEA acknowledges that, consistent with the limitation in section 58 of the Act, where a parliamentarian maintains that a claim of parliamentary privilege applies, the claim must be determined by the relevant House and the information and documents should be held by the relevant Clerk until the claim is determined.
- 7. If a claim of parliamentary privilege is made by a person other than a parliamentarian then IPEA will seek to follow the processes set out in this MOU as far as they are applicable.

**General**

- 8. This MOU will continue until any further memorandum of understanding on the information-gathering powers under the Act is agreed to by the parties or until the MOU otherwise ceases to be relevant including by reason of machinery of government changes, amendment or cessation of the Act.
- 9. The parties can amend this MOU at any time by written agreement.
- 10. Any party may revoke their agreement to this MOU by written notice to the other parties.
- 11. The parties will review operation of this MOU as soon as practicable within three years of signing the MOU.

**SIGNATURES**

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Senator the Hon Sue Lines

President of the Senate

Date: 4 / 11 / 2024

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The Hon Milton Dick MP

Speaker of the House of Representatives

Date: 4 / 11 / 2024

.....  
Ms Nicole Pearson  
Acting Chief Executive Officer  
Independent Parliamentary Expenses Authority

Date: 7 / 11 / 2024