



Australian Government

Department of Finance

Ministerial and Parliamentary Services

Debt recovery

Background

1. This guideline sets out the process that is followed for the recovery of debts owed by current or former *Members of Parliament (Staff) Act 1984* (MOP(S) Act) employees to the Commonwealth that are the responsibility of the Department of Finance (the Department) and the Independent Parliamentary Expenses Authority (IPEA).
2. A debt to the Commonwealth can arise in a variety of ways, including:
 - a. overpayment of salary or allowances
 - b. delayed submission of employment variations.
3. In accordance with section 11 of the *Public Government Performance and Accountability Rule 2014*, the Department and IPEA:
 - a. are required to pursue the recovery of debts owed to the Commonwealth for which the Department or IPEA is responsible; or
 - b. may modify the terms and conditions on which an amount owing to the Commonwealth is to be paid.
4. The Department or IPEA may choose not to pursue the recovery of a debt where:
 - a. pursuing recovery of the debt is not economical; or
 - b. the debt is not legally recoverable.

Department - Recovery of debt processes

5. Debts will be recovered in accordance with clause 28 of the Enterprise Agreement.
6. The Department will make reasonable attempts to contact the employee or former employee to advise them that a debt has arisen that is owed to the Commonwealth. This may include:
 - a. calling and/or emailing the employee or former employee to inform them that a debt has arisen based on the Department's records;
 - b. for a former employee, checking with their former employer's office to confirm the former employee's contact details.

7. If there is a dispute regarding a debt, the Department will provide evidence for how a debt has arisen.

Existing employees

8. All efforts to recover the debt from an existing employee will be made in accordance with the requirements of the *Fair Work Act 2009*. The employee must agree to an amount being recovered from their pay.
9. Depending on the debt amount, the Department may agree to enter into debt repayment plans with an existing employee. The Department will consider the quantum of the debt and the employee's financial circumstances before agreeing to a repayment plan. For existing employees, the Department will usually require repayment of 20% of their gross salary to repay the debt. An existing employee may request a repayment plan at a different rate.
10. If MOP(S) Act employment ceases, then any outstanding overpayment will be recovered from the former employee as a debt to the Commonwealth. The Department may offset a debt against an employee's recognised final monies entitlements, including severance benefits, provided that doing so does not result in the employee receiving an amount less than they are entitled to under the National Employment Standards.

Former employees

11. Where a former employee has a debt to the Commonwealth, recovery will be pursued in accordance with the Department's usual debt recovery processes, including regular reminders that a debt is due.

Financial hardship

12. Where an employee or former employee is having financial difficulties in making repayments, they should contact the Department and be prepared to explain and provide relevant documentation of the hardship they are facing in repaying a debt, including financial and personal circumstances. Hardship exists when the amounts of repayments would leave the employee or former employee unable to provide food, accommodation, clothing, medical treatment, education or other necessities for themselves, family, or other people for whom they are responsible.
13. The Department will genuinely consider any claims of hardship and will provide reasons for accepting or not accepting a claim of hardship. Where a claim is not accepted, the employee or former employee may request a review of the decision.

IPEA - Recovery of debt processes

14. Where IPEA has identified an overpayment of either Travelling Allowance or the payment of a travel expense (which has been paid by IPEA), then IPEA will undertake debt recovery action.

15. IPEA will make reasonable attempts to contact the employee or former employee to advise them that a debt has arisen that is owed to the Commonwealth. This may include:
 - a. calling and/or emailing the employee or former employee to inform them that a debt has arisen based on the IPEA's records;
 - b. for a former employee, checking with their former employer's office to confirm the former employee's contact details,
16. If there is a dispute regarding a debt, IPEA will provide evidence for how a debt has arisen.

Existing employees

17. All efforts to recover the debt from an existing employee will be made in accordance with the requirements of the *Fair Work Act 2009*. An employee may choose to have the debt amount deducted from future travel allowances or motor vehicle claims (this option is only available where the future travel is expected within the next 60 days), recovered from their pay, or paid by credit card, direct debit or cheque.
18. Depending on the debt amount, IPEA may agree to enter into debt repayment plans with an existing employee. IPEA will consider the quantum of the debt and the employee's financial circumstances before agreeing to a repayment plan. For existing employees, IPEA will usually require repayment of 20% of their gross salary to repay the debt. An existing employee may request a repayment plan at a different rate.
19. If MOP(S) Act employment ceases, then any outstanding overpayment will be recovered from the former employee as a debt to the Commonwealth. IPEA may offset a debt against an employee's recognised final monies entitlements, including severance benefits, provided that doing so does not result in the employee receiving an amount less than they are entitled to under the National Employment Standards.

Former employees

20. Where a former employee has a debt to the Commonwealth, recovery will be pursued in accordance with IPEA's usual debt recovery processes, including regular reminders that a debt is due.

Other arrangements

21. An employee or former employee may request that a debt not be recovered (also known as a debt 'write off'). A debt may not be pursued where it is considered not economical or a debt is not legally recoverable. A decision to write off a debt does not legally extinguish the debt. For example, if the debtor's circumstances change in the future the debt can be reinstated and pursued.
22. An employee or former employee may request that the Minister for Finance waive the debt in accordance with the Public Governance, Performance and Accountability Act 2013, which means the debt no longer exists. Further information is provided in

RMG 401: Requests for discretionary financial assistance under the Public Governance, Performance and Accountability Act 2013.