



REMUNERATION TRIBUNAL

Explanatory Statement: Determination 2016/12: Remuneration and Allowances for Holders of Public Office

1. The *Remuneration Tribunal Act 1973* (the Act) establishes the Remuneration Tribunal (the Tribunal) as an independent statutory authority responsible for reporting on and determining the remuneration, allowances and entitlements of key Commonwealth office holders. These include members of Parliament, Judges of Federal Courts, most full-time and part-time holders of public offices and Principal Executive Offices.

Consultation

2. Section 11 of the Act advises that in the performance of its functions the Tribunal:
 - may inform itself in such manner as it thinks fit;
 - may receive written or oral statements;
 - is not required to conduct any proceeding in a formal manner; and
 - is not bound by the rules of evidence.
3. The Tribunal normally receives submissions on remuneration from a Portfolio Minister, or a Secretary, Program Manager or Employing Body (in respect of a principal executive office) with responsibility for the relevant office(s). The Tribunal will normally seek the views of the relevant Portfolio Minister prior to determining remuneration for an office.
4. The Tribunal may reach a decision based on the information provided in the submission and other publicly available information such as portfolio budget statements, annual reports, corporate plans, legislation and media releases. On occasion it may wish to meet with relevant parties or seek further information from the relevant Minister or person making the submission.
5. Amongst other relevant matters in deliberating on appropriate remuneration for an office the Tribunal informs itself on:
 - the main functions, responsibilities and accountabilities of the office;
 - the organisational structure, budget and workforce;
 - the requisite characteristics, skills or qualifications required of the office holder(s); and
 - the remuneration of similar, comparator, offices within its jurisdiction.

Deputy Chair and Commissioners, Productivity Commission

6. The Tribunal received a submission from the Chair of the Productivity Commission seeking a review of remuneration for the offices of Deputy Chair and Commissioner, which have not been comprehensively reviewed since 2001. The Tribunal considered updated information on the roles and responsibilities of the offices, and also sought the views of the Treasurer and took those views into account.

Solicitor-General

7. There was no consultation on this matter as the amendments delete conditions applying to an office holder who has resigned from the public office.

Chief Executive Officer, Innovation and Science Australia

8. The Tribunal received a submission from the Minister for Industry, Innovation and Science requesting accommodation and reunion travel allowances for the CEO. The submission provided the information required to consider the request, consistent with the Tribunal's Guidelines on Geographic Relocation of Full-time Office Holders (available on its website www.remtribunal.gov.au).

Disciplinary Appeal Committees under the PE(CT) Regulations 1999

9. Confirmation was obtained from the Merit Protection Commissioner that this committee no longer exists and the reference could be removed from the determination.

Pharmaceutical Benefits Remuneration Tribunal

10. There was no consultation on this matter as the amendment is a technical one only and has no impact on the office holder.

References to Innovation Australia changing to Innovation and Science Australia

11. There was no consultation on this matter as the amendment to the name arose from legislative change following the commencement of the *Industry Research and Development Amendment (Innovation and Science Australia) Act 2016*.

Sustainability Committee

12. Following a review of remuneration arrangements for part-time office holders who receive annual fees for serving on governance boards, the Tribunal established new assessment principles by which to consider sub-committee fees. As a result the Tribunal invited submissions from employing authorities with potentially affected offices in the determination. A submission was received from the Chair of the National Disability Insurance Agency concerning the Board's Sustainability Committee as a result of that invitation. The submission provided information on the contribution of that committee to the financial sustainability of the scheme. The Chair subsequently provided further information, at the request of the Tribunal, on the commitment and responsibilities of the part-time committee members.

Retrospectivity

13. Any retrospective application of this determination is in accordance with subsection 12(2) of the *Legislation Act 2003* as it does not affect the rights of a person (other than the Commonwealth or an authority of the Commonwealth) to that person's disadvantage, nor does it impose any liability on such a person.

PART 1 – FULL-TIME OFFICES

14. Clause 1.1 specifies the Principal Determination (Number 21 of 2015 as amended) for the purposes of Part 1 of the Determination.
15. Clauses 1.2 and 1.3 set increased remuneration for the Deputy Chair and Commissioner of the Productivity Commission.
16. Clause 1.4 sets the commencement date of clauses 1.2 and 1.3.
17. Clause 1.5 and 1.6 removes all reference to the person specific clause relating to the former Solicitor-General Mr Justin Gleeson.
18. Clauses 1.7 and 1.8 set accommodation and reunion travel allowances for the incoming Chief Executive Officer of Innovation and Science Australia.
19. Clause 1.9 sets the commencement date of Clauses 1.7 and 1.8.

PART 2 – PART-TIME OFFICES

20. Clause 2.1 specifies the Principal Determination (Number 20 of 2015 as amended) for the purposes of Part 2 of the Determination.
21. Clause 2.2 removes all reference to the Disciplinary Appeal Committees under *PE(CT) Regulations 1999* as it is no longer constituted.
22. Clause 2.3 removes the term 'Full-time' from the entry against the 'Chair' column of the Pharmaceutical Benefits Remuneration Tribunal as it is not necessary. The Chairperson must be a Deputy President of the Fair Work Commission, a judicial and related office.
23. Clauses 2.4 and 2.5 change the name of the Innovation Australia Board to Innovation and Science Australia Board following the passage of legislation formally establishing Innovation and Science Australia.
24. Clauses 2.6 and 2.7 change the name of Innovation Australia Committee and Innovation Australia Committee – Non Board Member to Innovation and Science Australia Committee and Innovation and Science Australia Committee – Non Board Member following the passage of legislation formally establishing Innovation and Science Australia.
25. Clause 2.8 sets the commencement date for Clauses 2.4 to 2.7.
26. Clause 2.9 sets additional remuneration for the members of the National Disability Insurance Scheme Launch Transition Agency Board (the National Disability Insurance Agency) who also sit on the Board's Sustainability Committee.
27. Clause 2.10 sets the commencement date of Clause 2.9

Authority: Subsections 7(3) and 7(4)
Remuneration Tribunal Act 1973

Statement of Compatibility with Human Rights

*Prepared in accordance with Part 3 of the
Human Rights (Parliamentary Scrutiny) Act 2011*

Remuneration Tribunal Determination 2016/12

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

Overview of the Legislative Instrument

This Determination amends Principal Tribunal Determinations:

2015/21: Remuneration and Allowances for Holders of Full-Time Public Office;
2015/20: Remuneration and Allowances for Holders of Part-Time Public Office.

The Determination sets:

- increased remuneration for the Deputy Chair and Commissioner of the Productivity Commission in recognition of the broadening of the Commission's roles and responsibilities since the Tribunal's last consideration of these offices;
- accommodation and reunion allowances for the incoming Chief Executive Officer of Innovation and Science Australia, Dr Charlie Day; and
- annual fees for members of the NDIA Board who also sit on an additional governance subcommittee, the Sustainability Committee, in recognition of the additional responsibilities and commitment required.

The Determination removes:

- references to the 'Disciplinary Appeal Committees under PE(CT) Regulations 1999' as this committee is no longer constituted;
- the term 'full-time' against the entry for the chair of the Pharmaceutical Benefits Remuneration Tribunal. This is a technical amendment to remove an irrelevant reference; and
- all personal provisions for the former Solicitor-General Mr Justin Gleeson following his resignation from this public office.

In addition, the Determination changes references to Innovation Australia following changes to that body with the commencement of the *Industry Research and Development Amendment (Innovation and Science Australia) Act 2016*. It is now Innovation and Science Australia.

The instrument maintains the principle of fair, and current, remuneration for work performed.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

Remuneration Tribunal