



## REMUNERATION TRIBUNAL

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### **Explanatory Statement: Determination 2016/18 Remuneration and Allowances for Holders of Part-Time Public Office**

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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 (PEOs).
2. The Tribunal has inquired into the remuneration of public offices in its jurisdiction as it is empowered to do by the Act. Under sub-section 8(1) of the Act the Tribunal is required to issue a determination at an interval of no more than a year. This determination fulfils that obligation. The date of effect of this determination is 8 December 2016, unless otherwise specified.
3. The determination sets remuneration for the office of National Health and Medical Research Council (NHMRC) – Commissioner of Complaints. It makes no other changes to remuneration.

#### **Consultation**

4. 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.

#### *General Adjustments*

5. The Tribunal has decided not to make any general adjustments to remuneration at this time. In accordance with its customary practice in considering general adjustments, the Tribunal took account of a range of economic conditions in Australia, including trends in public and private sector remuneration. In order to inform its conclusions the Tribunal drew upon authoritative external sources such as the published material available from the Government, the Reserve Bank of Australia and the Australian Bureau of Statistics. It is obliged by the Act also to consider the Annual Wage Reviews of the Fair Work Commission. The Tribunal did not conduct formal consultations in making this decision.

#### *Specific offices*

6. When determining remuneration for specific public offices, the Tribunal normally receives submissions on remuneration from a Portfolio Minister, or a Secretary, Program Manager or Employing Body (in respect of a PEO) 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.
7. 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.

8. 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.

*National Health and Medical Research Council – Commissioner of Complaints*

9. The Tribunal received a submission from the Minister for Health and Aged Care seeking determination of a daily fee for this office. The Tribunal considered the information provided by the Minister on the current roles and responsibilities of the office, and the pattern of work involved, as well as other publicly available information.

### **Retrospectivity**

10. 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.

### **Details of the determination are as follows:**

#### **PART 1 – GENERAL**

11. Part 1 specifies the authority for and the date of effect of the determination and revokes and supersedes the previous principal Determination 2015/20 (as amended) applying to the offices covered by this determination. This Part also sets out the structure of the determination and contains definitions of certain words used in the determination.
12. The other provisions in Part 1 are unchanged from those contained in Part 1 of the superseded determination.

#### **PART 2 – FEES**

13. Part 2 and the related Schedules set out the fees for part-time public offices, including those not specified in the determination. These fees are effective on and from 8 December 2016 unless otherwise specified in the schedules. Part 2 also sets out payment conditions for both specified and unspecified rates. These conditions are unchanged from those contained in Part 2 of the superseded determination.

#### **PART 3 – CONDITIONS OF OFFICIAL TRAVEL**

14. Part 3 sets out the entitlements for official travel which are contained in the Principal Determination 2016/07 (or any determination that supersedes 2016/07). The only change to the provisions of this Part from those contained in the superseded determination is the replacement of the reference to the superseded official travel determination with the current determination (Determination 2016/07).
15. The general provisions in Part 3 are unchanged from those contained in Part 3 of the superseded determination.

#### **SCHEDULE A – ANNUAL FEES**

16. Schedule A sets out the conditions of payment for annual fees and specifies the offices covered by the Schedule.
17. The general provisions in Schedule A are unchanged from those contained in Schedule A of the superseded determination.

#### **SCHEDULE B – DAILY FEES**

18. Schedule B sets out the conditions of payment for daily fees on a meeting day and non-meeting day and specifies the offices covered by the Schedule.
19. The determination sets a specified rate for the office of NHMRC – Commissioner of Complaints.
20. Other changes in this Schedule compared to the superseded determination relate to the changing of the order of certain entries in the additional clauses to Table B to take into account amendments made since the superseded determination was made.

#### **SCHEDULE C – ANNUAL MEETING AND ADDITIONAL DAILY FEES**

21. Schedule C sets out the conditions of payment for the annual meeting and additional daily fees. It also specifies the offices covered by the Schedule.
22. The general provisions in Schedule C are unchanged from those contained in Schedule C of the superseded determination.

#### **SCHEDULE D – BASE FEE AND MEETING FEE**

23. Schedule D sets out the conditions of payment for the base (annual) fee and meeting (daily) fee. It also specifies the offices covered by the Schedule.
24. The general provisions in Schedule D are unchanged from those contained in Schedule D of the superseded determination.

#### **SCHEDULE E – ABORIGINAL LAND COUNCILS FEES**

25. Schedule E sets out the conditions of payment for fees to the Aboriginal Land Councils.
26. The general provisions in Schedule E are unchanged from those contained in Schedule E of the superseded determination.

Authority: Sub-sections 7(3) and 7(4) of the *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 2016/18**

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**

The legislative instrument, or determination, fulfils the requirement, under sub-section 8(1) of the *Remuneration Tribunal Act 1973*, for the Remuneration Tribunal to make a determination concerning remuneration at an interval of no more than 12 months.

It does not provide a general adjustment for part-time holders of public office.

The determination revokes and supersedes the previous *Determination 2015/20 – Remuneration and Allowances for Holders of Part-Time Public Office* (as amended).

The determination follows a general review of the remuneration (and significantly related matters) of the part-time public offices carried out by the Tribunal consistent with sub-section 7(3) of the *Remuneration Tribunal Act 1973*.

The determination also sets a daily fee for the office of NHMRC - Commissioner of Complaints following the Tribunal's assessment of the functions, roles and responsibilities and work pattern of the office. Previously this office has been remunerated in accordance with the Tribunal's unspecified rate.

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**