



## REMUNERATION TRIBUNAL

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### **Explanatory Statement: Determination 2017/03: Remuneration and Allowances for Holders of Public Office and Judicial and Related Offices**

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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 expenses 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.

#### *Solicitor-General*

6. The Tribunal received a submission from the Senator the Hon George Brandis QC, Attorney-General requesting an accommodation allowance for the current Solicitor-General. The submission detailed the working arrangements of the office and the travel arrangements required of the office holder.

#### *Commonwealth Financial Officer, Norfolk Island*

7. There was no consultation on this matter as the amendment removes recreation leave provisions following abolition of the office.

*CEO, Independent Parliamentary Expenses Authority*

8. The Tribunal received a submission from Senator the Hon Scott Ryan, Special Minister of State, seeking a determination of remuneration for this new office. The office is part of the government's broader reforms into the parliamentary expenses regime and its functions are set out in the *Independent Parliamentary Expenses Authority Act 2017*.

*Administrator, Norfolk Island*

9. There was no consultation on this matter as the amendment removes reunion travel conditions applying to an office holder whose term of appointment has ceased.

*Aboriginal Hostels Limited*

10. This is an administrative change only reflecting the numbering of this clause. The provisions reflect a Tribunal decision that was notified in Determination 2017/01.

*Professional Standards Board for Patent and Trade Marks Attorneys and Patent and Trade Marks Attorney Disciplinary Tribunal*

11. These offices have been deleted from the determination as they have been abolished as a result of changes to the *Intellectual Property Laws Amendment Act 2015*, *Patents Act 1990* and the *Trade Marks Act 1995*.

*Australian Organ and Tissue Donation and Transplantation Authority Advisory Council*

12. The *Australian Organ and Tissue Donation and Transplantation Authority Amendment (New Governance Arrangements) Act 2016* provides for the establishment of the Australian Organ and Tissue Donation and Transplantation Board and as a result of the amendment the Council has been abolished.

*Trans-Tasman IP Attorneys Board, Trans-Tasman IP Attorneys Disciplinary Tribunal*

13. The Tribunal received a submission from the Minister for Industry, Innovation and Science, Senator the Hon Arthur Sinodinos, outlining the responsibilities of these offices and seeking a determination of remuneration.

*Australian Film, Television and Radio School (AFTRS) – Chair of the Academic Board*

14. The Tribunal received a submission from the Chair of AFTRS, Professor Julianne Schultz AM FAHA, outlining the responsibilities of the Board and the office and seeking a determination of remuneration.

*Member, Registration and Disciplinary Committees (Corporate Insolvency Practitioners)*

15. The Tribunal received a submission from the Minister for Revenue and Financial Services, the Hon Kelly O'Dwyer MP, seeking a determination of remuneration for the members of the Registration and Disciplinary Committees formed under Schedule 2 of the *Corporations Act 2001*. Information from the amending legislation and additional information provided by the Department of the Treasury were also considered.

*Australian Organ and Tissue Donation and Transplantation Authority – Vigilance and Surveillance Expert Advisory Committee*

16. The Tribunal received a submission from the Minister for Aged Care and Minister for Indigenous Health, the Hon Ken Wyatt AM MP, outlining the responsibilities of these offices and seeking a determination of remuneration.

### *Companies Auditors Disciplinary Board*

17. The title of the entity formerly known as the "Companies Auditors and Liquidators Disciplinary Board" was changed to the "Companies Auditors Disciplinary Board" as a result of amendments made to the *Corporations Act 2001* by the *Insolvency Law Reform Act 2016*.

### *Military Justice System – Chief Judge Advocate and Registrar Military Justice*

18. The Tribunal received a submission from the Judge Advocate General as part of the Tribunal's review of Judicial and Related Offices in 2016. The roles and responsibilities of these offices were considered as part of the review. The Tribunal met with the Judge Advocate General in relation to these two offices. It also sought and received written comments from the Hon Dan Tehan MP Minister for Defence Personnel.

### **Retrospectivity**

19. 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 – FULL-TIME OFFICES**

20. Clause 1.1 specifies the Principal Determination (Number 19 of 2016 as amended) for the purposes of Part 1 of the Determination.
21. Clauses 1.2 and 1.3 set a Canberra based accommodation allowance for Dr Stephen Donaghue QC the Solicitor-General, as he is required to work in both Melbourne and Canberra.
22. Clause 1.4 deletes an obsolete clause as the office of the Commonwealth Financial Officer, Norfolk Island has been abolished.
23. Clause 1.5 sets remuneration for the new office of Chief Executive Officer, Independent Parliamentary Expenses Authority.
24. Clause 1.6 sets the commencement date of Clause 1.5.
25. Clause 1.7 deletes all reference to The Hon Gary Hardgrave, Administrator, Norfolk Island as his term of appointment has expired.
26. Clause 1.8 inserts 'Clause 3.3' against the existing entry for the Aboriginal Hostels Limited clause.

#### **PART 2 – PART-TIME OFFICES**

27. Clause 2.1 specifies the Principal Determination (Number 18 of 2016 as amended) for the purposes of Part 2 of the Determination.
28. Clause 2.2 removes all reference to the Patent and Trade Marks Attorneys Disciplinary Tribunal, Professional Standards Board for Patent and Trade Marks Attorneys and Australian Organ and Tissue Donation and Transplantation Authority Advisory Council. These offices have been abolished.
29. Clause 2.3 sets remuneration for the new offices of the Trans-Tasman IP Attorneys Board and Trans-Tasman IP Attorneys Disciplinary Tribunal.
30. Clause 2.4 sets the commencement date of Clause 2.3.
31. Clauses 2.5 and 2.6 set remuneration for the Chair of the Australian Film, Television and Radio School's Academic Board.
32. Clause 2.7 sets remuneration for the new office of Member, Registration and Disciplinary Committees (Corporate Insolvency Practitioners).
33. Clause 2.8 sets the commencement date of Clause 2.7.

34. Clause 2.9 sets remuneration for the new office of Australian Organ and Tissue Donation and Transplantation Authority - Vigilance and Surveillance Expert Advisory Committee
35. Clause 2.10 sets the commencement date of Clause 2.9.
36. Clause 2.11 changes the name of the entity "Companies Auditors and Liquidators Disciplinary Board" to "Companies Auditors Disciplinary Board".
37. Clause 2.12 sets the commencement date of Clause 2.11.

### **PART 3 – JUDICIAL AND RELATED OFFICES**

38. Clause 3.1 specifies the Principal Determination (Number 17 of 2016) for the purposes of Part 3 of the Determination.
39. Clause 3.2 and 3.3 set increased remuneration for Chief Judge Advocate and Registrar of Military Justice. The determination also sets specific base salary for the Chief Judge Advocate, Major-General Ian Westwood AM.
40. Clause 3.4 sets the commencement date of Clauses 3.2 and 3.3.

**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 2017/03**

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:

2016/19: Remuneration and Allowances for Holders of Full-Time Public Office;  
2016/18: Remuneration and Allowances for Holders of Part-Time Public Office; and  
2016/17: Judicial and Related Offices – Remuneration and Allowances.

The determination:

- sets a specific accommodation allowance for Dr Stephen Donaghue QC, the Solicitor-General, in Canberra;
- sets remuneration for the new office of Chief Executive Officer, Independent Parliamentary Expenses Authority from the date of its commencement;
- sets remuneration for the new offices of the Trans-Tasman IP Attorneys Board and Trans-Tasman IP Attorneys Disciplinary Tribunal, following changes to the administration and regulation of patent attorney and trade marks attorney professions in Australia;
- sets an additional fee for a member of Australian Film, Television and Radio School (AFTRS) Board who is also appointed as Chair of the Academic Board, a sub-committee of AFTRS;
- sets remuneration for appointees to the Registration and Disciplinary Committees formed under Schedule 2 of the *Corporation Act 2001*;
- sets remuneration for the new office of the Australian Organ and Tissue Donation and Transplantation Authority-Vigilance and Surveillance Expert Advisory Committee; and
- sets increased total remuneration for the Chief Judge Advocate and the Registrar of Military Justice following a review of those offices together with a specific base salary for the Chief Judge Advocate.

In addition, the determination:

- removes all reference to the offices of the following bodies:
  - the Patent and Trade Marks Attorneys Disciplinary Tribunal;
  - the Professional Standards Board for Patent and Trade Marks Attorneys; and
  - the Australian Organ and Tissue Donation and Transplantation Authority Advisory Council,as these offices no longer exist;
- removes an obsolete clause relating to the Commonwealth Financial Officer, Norfolk Island as the office has been abolished;
- removes all reference to allowances for the Hon Gary Hardgrave, Administrator, Norfolk Island as his term of appointment has expired;
- sets a clause number for the accommodation and reunion fares allowances provisions for the Chief Executive Officer, Aboriginal Hostels Limited; and
- renames the Companies Auditors and Liquidators Disciplinary Board as the Companies Auditors Disciplinary Board consistent with changes to the *Corporations Act 2001*.

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**