



REMUNERATION TRIBUNAL

Explanatory Statement: Determination 2017/04: 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 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.

Australian Transactions Reports and Analysis Centre, Chief Executive Officer (CEO)

6. There was no consultation on this matter as the amendment removes the accommodation and reunion travel allowances provisions for the office holder following their resignation from the office.

Australian Sports Anti-Doping Authority, CEO

7. There was no consultation on this matter as the amendment removes the accommodation and reunion travel allowances provisions for the office holder whose term of appointment has ceased.

Digital Transformation Agency, CEO

8. The Tribunal received a submission from the Secretary, Department of the Prime Minister and Cabinet, Dr Martin Parkinson seeking a review of remuneration for the office and consideration of accommodation and reunion fares allowance for the office holder. The submission provided the details of the expanded functions and responsibilities of the office and information on the incoming officer holder's circumstances, consistent with the Tribunal's *Guidelines on Geographic Relocation of Full-time Office Holders* (Geographic Relocation Guidelines).

Administrator of Norfolk Island

9. The Tribunal received a submission from the Minister for Regional Development, Local Government and Territories Senator the Hon Fiona Nash, seeking a reunion fares allowance for the office holder. The submission provided information on the office holder's circumstances consistent with the Geographic Relocation Guidelines.

Registered Organisations Commissioner

10. The Tribunal decided indicative remuneration for this officer in 2014 following a submission from the then Minister for Employment, Senator the Hon Eric Abetz. Following the passage of the legislation in late 2016, the Minister for Employment Senator the Hon Michaelia Cash, provided updated information on the functions and responsibilities of the office. The submission also sought consideration of accommodation and reunion fares allowances for the incoming office holder, providing information on the office holder's circumstances consistent with the Geographic Relocation Guidelines.

Aboriginal and Torres Strait Islander Social Justice Commissioner

11. The Tribunal received a submission from the Attorney-General, Senator the Hon George Brandis QC, seeking accommodation and reunion fares allowances for the office holder, providing information on the office holder's circumstances consistent with the Geographic Relocation Guidelines.

Parliamentary Budget Officer (PBO)

12. The Tribunal received a submission from the Presiding Officers, the Hon Tony Smith MP and Senator the Hon Stephen Parry, seeking a review of remuneration for the office. The submission provided updated information on the functions, responsibilities and increased workload of the office.

Deputy Commonwealth Ombudsman

13. The Tribunal received a submission from the former Commonwealth Ombudsman, Mr Colin Neave in December 2016 seeking a review of the remuneration for the office. The submission detailed new functions and responsibilities for the Office of the Commonwealth Ombudsman as well as the expansion of the operational responsibilities and workload of the office. The Tribunal also sought the views of the Secretary of the Department of the Prime Minister and Cabinet.

Commonwealth Ombudsman

14. The Secretary of the Department of Prime Minister and Cabinet wrote to the Tribunal seeking its approval to maintain the incoming office holder's superannuation salary as an APS employee. Where the office holder is a member of a defined benefits scheme that does not allow the reduction of salary for superannuation purposes, the Tribunal supports this through the determination of a person specific base salary.

Auditing and Assurance Standards Board, Chair

15. The Tribunal received a submission from the then Assistant Treasurer, the Hon Kelly O'Dwyer MP in November 2015 seeking determination of remuneration for this and a number of related offices following legislative change that moved them into the Tribunal's determinative jurisdiction. The submission provided details of the roles and responsibilities of the office. Officials from the Treasury Department were also consulted on the timing and nature of the appointment to this office.

Prostheses List Advisory Committee, Chair

16. The Tribunal received a submission from the Minister for Health, the Hon Greg Hunt MP seeking a review of remuneration for the office on the basis of significant increases in the responsibilities and workload of the office.

Part 3 – Other

17. The Tribunal received advice from the Office of Parliamentary Counsel that Remuneration Tribunal Determinations 2007/07 and 2007/09 has not been formally revoked. Both of these determinations have been superseded and no longer have effect.

Retrospectivity

18. 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.

The power to repeal, rescind and revoke, amend and vary

19. Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

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 remove all references to allowances for Mr Paul Jevtovic, former CEO of the Australian Transaction Reports and Analysis Centre following his resignation. They also remove all reference to allowances for Mr Ben McDevitt, CEO Australian Sports Anti-Doping Authority as his term of appointment has ended.
22. Clauses 1.4 to 1.7 set accommodation and reunion fare allowances for the incoming Chief Executive Officer, Digital Transformation Agency, Mr Gavin Slater. The Determination also sets additional remuneration (a fixed loading of \$127,000) for the initial term of his appointment.
23. Clause 1.8 sets the commencement date of clauses 1.4 to 1.7.
24. Clause 1.9 sets reunion fares allowance for the incoming Administrator of Norfolk Island, Mr Eric Hutchinson.
25. Clause 1.10 sets the commencement date of clause 1.9.
26. Clauses 1.11 to 1.13 set remuneration for the new office of Registered Organisations Commissioner. The Determination also sets accommodation and reunion fare allowances for Mr Mark Bielecki, the incoming Commissioner.
27. Clause 1.14 sets the commencement date of clauses 1.11 to 1.13.

28. Clauses 1.15 and 1.16 set accommodation and reunion fare allowances for Ms June Oscar, the newly appointed Aboriginal and Torres Strait Islander Social Justice Commissioner.
29. Clause 1.17 sets the commencement date of clauses 1.15 and 1.16.
30. Clause 1.18 sets increased remuneration for the Parliamentary Budget Officer, due to changes in the office.
31. Clause 1.19 sets the commencement date of clause 1.18.
32. Clause 1.20 sets increased remuneration for the Deputy Commonwealth Ombudsman, due to the significant increase in responsibilities and workload.
33. Clause 1.21 sets the commencement date of clause 1.20.
34. Clauses 1.22 and 1.23 set the Base Salary for superannuation purposes for the newly appointed Commonwealth Ombudsman, Mr Michael Manthorpe.
35. Clause 1.24 sets the commencement date of clauses 1.22 and 1.23.
36. Clause 1.25 sets remuneration for the Chair of the Auditing and Assurance Standards Board following legislation giving the Tribunal determinative jurisdiction.
37. Clause 1.26 sets the commencement date of clause 1.25.

PART 2 – PART-TIME OFFICES

38. Clause 2.1 specifies the Principal Determination (Number 18 of 2016 as amended) for the purposes of Part 2 of the Determination.
39. Clauses 2.2 and 2.3 change the remuneration arrangements for the Chair, Prostheses List Advisory Committee from an Annual Meeting Fee and Additional Daily Fee to an Annual Fee.
40. Clause 2.4 sets the commencement date of Clauses 2.2 and 2.3.

PART 3 - OTHER

41. Clauses 3.1 and 3.2 revoke two historical determinations that have since been superseded and no longer have effect.

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 2017/04

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.

The determination:

- sets a specific accommodation and reunion travel allowances for:
 - Mr Gavin Slater, CEO, Digital Transformation Agency;
 - Mr Mark Bielecki, Registered Organisations Commissioner;
 - Ms June Oscar, Aboriginal and Torres Strait Islander Social Justice Commissioner.
- sets a reunion travel allowance for Mr Eric Hutchinson, Administrator of Norfolk Island.

In addition, the determination:

- removes all reference to allowances for Mr Paul Jevtovic, the former CEO of the Australian Transaction Reports and Analysis Centre;
 - removes all reference to allowances for Mr Ben McDevitt, the former CEO, Australian Sports Anti-Doping Authority;
 - sets increased remuneration for the incoming CEO of the Digital Transformation Agency due to the expanded responsibilities of the office;
 - sets remuneration for the new office of Registered Organisations Commissioner;
 - sets increased remuneration for the Parliamentary Budget Officer, due to additional responsibilities;
 - sets increased remuneration for the Deputy Commonwealth Ombudsman, due to the significant increase in responsibilities and workload;
 - sets the Base Salary for superannuation purposes for the newly appointed Commonwealth Ombudsman, Mr Michael Manthorpe.
 - Sets remuneration for the office of Chair of the Auditing and Assurance Standards Board, following legislation giving the Tribunal determinative jurisdiction.
- Part 3 of the Determination revokes:
 - Determination 2007/07 which was superseded by Determination 2012/10 on 30 June 2012.
 - Determination 2007/09 which was superseded by Determination 2012/11 on 1 July 2012.

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