



REMUNERATION TRIBUNAL

Explanatory Statement: Determination 2017/08

Principal Executive Office – Classification Structure and Terms and Conditions

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 including Specified Statutory 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.

Annual review

6. The Tribunal has an obligation, under sub-sections 7(1), (2), (3) and 8(1) of the Act to make determinations in respect of remuneration for various offices within its jurisdiction at periods of not more than one year. In meeting this obligation the Tribunal decides whether any general adjustment to remuneration should occur. The Tribunal issued determinations in December 2016 and at that time made no general adjustments to remuneration.

7. In considering whether any general adjustment should occur the Tribunal takes 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 draws 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 Commission's 2017 decision was released on 6 June 2017.
8. The Tribunal did not receive any submissions on this matter.
9. On 22 June 2017 the Tribunal notified its decision to increase remuneration by 2 per cent for public offices in its jurisdiction with effect from 1 July 2017. A statement setting out the Tribunal's reason for decision is available at www.remtribunal.gov.au.
10. Determination 2017/08 implements the Tribunal's decision for the Principal Executive Office Classification Structure and Remuneration Ranges.
11. Consultation on these amendments was considered unnecessary given the matters considered by the Tribunal in making its decision.

Specific Changes

12. *Base Salary* – the Tribunal has removed the Base Salary ranges from the Classification Structure in Schedule A. These values related to superannuation for defined benefits schemes only. Additional wording has been added to clause 2.7 to clarify its application for members of defined benefit funds only. Existing clause 2.8.2 is unchanged and applies to members of accumulation schemes. These changes have no impact on any individual's entitlements.
13. The Tribunal has made a number of minor amendments to improve clarity of the determination as follows:
 - a. amended the employer's superannuation contribution description in the definition of benefits to reflect terminology used elsewhere in the determination
 - b. deleted footnote 7 as it applied to a column in Schedule A that has been removed
 - c. deleted footnote 8 to remove reference to 'normal' 1 July adjustments to remuneration. The footnote has no legal effect and does not reflect recent timing of Tribunal decisions on its Annual Reviews.
14. The Tribunal consulted with the Funds and Superannuation Branch of the Department of Finance on these changes to ensure they complied with legislation covering the respective superannuation schemes.

Retrospectivity

15. 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

16. 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 - GENERAL

17. Part 1 specifies the authority for and commencement date of the determination and revokes and supersedes the previous Principal Determination 2016/15 applying to the Offices covered by this determination. This Part also contains definitions of certain words used in the determination.
18. Clause 1.3 has been amended by deleting the term 'employer Superannuation Support' and replacing with 'Employer's Superannuation Contribution'.
19. The other provisions of this Part remain unchanged from those contained in Part 1 of the previous Determination.

PART 2 – CLASSIFICATION, REMUNERATION AND RELATED MATTERS

20. Clause 2.7 has been amended to include the words 'For members of Commonwealth defined benefits superannuation schemes'.
21. The other provisions of this Part remain unchanged from those contained in Part 2 of the previous Determination.

PARTS 3 – 6

22. Parts 3 to 6 set out the:
 - various allowances that may be determined for a PEO;
 - provisions relating to official travel by reference to Determination 2016/07 (or any determination that supersedes Determination 2016/07);
 - leave provisions; and
 - provisions relating to compensation for early loss of office.
23. The provisions in Parts 3 to 6 remain unchanged.

SCHEDULE A

24. Table A1 of Schedule A specifies rates of remuneration in five broad salary/remuneration bands and the commencement date. These incorporate a 2 per cent increase (rounded as appropriate) commencing on 1 July 2017.
25. Table A1 has also been amended to delete the column 'Superannuation Salary Band Range' and the associated footnote.
26. Footnotes 7 and 8 have been deleted.

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

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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, applies the Tribunal's 2017 annual review decision of a two per cent remuneration increase (rounded as appropriate) to the Classification Structure and Remuneration Ranges for Principal Executive Offices from 1 July 2017.

The determination supersedes and revokes in full the previous Determination 2016/15 *Principal Executive Office – Classification Structure and Terms and Conditions*.

The changes follow a review of remuneration (and significantly related matters) carried out by the Tribunal consistent with sub-section 7(3) of the *Remuneration Tribunal Act 1973*.

Minor amendments have been made to improve clarity in relation to superannuation schemes that have no impact on the entitlements of office holders.

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