



## REMUNERATION TRIBUNAL

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# Explanatory Statement: Determination 2017/10 - 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 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 reasons for decision is available at [www.remtribunal.gov.au](http://www.remtribunal.gov.au).
10. Determination 2017/10 implements the Tribunal's decision for Part-Time Office Holders.
11. Consultation on these amendments was considered unnecessary given the matters considered by the Tribunal in making its decision.

*Financial Adviser Standards and Ethics Authority (FASEA), Chair and Director*

12. The Tribunal provided indicative remuneration options for the new offices of FASEA in March 2017, following a submission from the Minister for Revenue and Financial Services, the Hon Kelly O'Dwyer MP. The Tribunal received advice from the Minister Assisting the Prime Minister for the Public Service, Senator the Hon Michaelia Cash, in May 2017, advising that the offices had been formally established, confirming the preferred remuneration option, and formally referring the offices into the Tribunal's jurisdiction.

*Australian Organ and Tissue Donation and Transplantation Authority, Board*

13. The Tribunal provided indicative remuneration for the Board Chair and Members in February 2017, following a submission from the former Assistant Minister for Health and Aged Care, the Hon Ken Wyatt MP. The submission provided information on the significant changes to the organisation structure, and information on the *Australian Organ and Tissue Donation and Transplantation Authority Amendment (New Governance Arrangements) Act 2016*, which provided for the establishment of the Board. The Tribunal also sought the views of the Secretary of the Department of Health.

*Independent Parliamentary Expenses Authority (IPEA), Chair and Member*

14. The Tribunal received a submission from the Special Minister of State, Senator the Hon Scott Ryan, seeking indicative remuneration for the new offices of IPEA, and detailing their responsibilities. The offices are 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*.

*Independent Hospital Pricing Authority, Chair, Deputy Chair and Member*

15. The Tribunal received a submission from the former Minister for Health, the Hon Sussan Ley MP, seeking a review of remuneration for the offices. The submission provided updated information on the functions and responsibilities. The Tribunal also sought the views of the Secretary of the Department of Health.

*Pharmaceutical Benefits Advisory Committee (PBAC), Member and Executive Member*

16. The Tribunal received a submission from the Minister for Health, the Hon Greg Hunt MP seeking a review of the office, and additional remuneration for members of PBAC who are also members of the PBAC Executive (Advisory) Committee. The submission set out the changes to the functions of the office, its range of responsibilities, and subsequent legislative change. The Tribunal also sought additional information from the Department of Health.

*Australian Naval Infrastructure (ANI) Pty Ltd, Board*

17. The Tribunal received a submission from the Minister for Finance, Senator the Hon Mathias Cormann and the Minister for Defence Industry, the Hon Christopher Pyne MP seeking a determination of remuneration for the new offices of ANI. The submission provided information on the responsibilities of ANI and the Board, to develop and maintain crucial infrastructure to support the construction and maintenance of naval vessels, and associated industries.

## **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 – GENERAL**

20. Part 1 specifies the authority and commencement date of the determination and revokes and supersedes the previous principal Determination 2016/18 (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.
21. The other provisions in Part 1 are unchanged from those contained in Part 1 of the superseded determination.

### **PART 2 – FEES**

22. Part 2 and the related Schedules set out the fees for part-time public offices, including those not specified in the determination. These fees commence on 1 July 2017 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**

23. 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).
24. The general provisions in Part 3 are unchanged from those contained in Part 3 of the superseded determination.

### **SCHEDULE A – ANNUAL FEES**

25. Schedule A sets out the conditions of payment for annual fees and specifies the offices covered by the Schedule. The fees have been increased by 2 per cent (rounded where appropriate).
26. The new offices of Australian Organ and Tissue Donation Transplantation Authority, Independent Parliamentary Expenses Authority, Pharmaceutical Benefits Advisory Committee (PBAC), and Australian Naval Infrastructure (ANI) Pty Ltd have been added to Table A of the Determination. A specific clause has been included regarding the remuneration payable to the ANI Board from 26 June to 30 June 2017.
27. Remuneration for the offices of the Independent Hospital Pricing Authority has been increased. A specific clause has been added for the remuneration payable to the Board from 18 April to 30 June 2017.
28. The fees for the existing offices of Pharmaceutical Benefits Advisory Committee have been increased and an additional fee for PBAC Executive (Advisory) Committee Members has been determined due to changes in responsibility and functions of the office.

29. Other changes in this determination, compared with the superseded determination, include changing the order of certain entries in the Tables (and the associated explanatory clauses) and consolidating changes made over the life of the previous determination.

#### **SCHEDULE B – DAILY FEES**

30. 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.
31. The new office of Financial Adviser Standards and Ethics Authority Director has been added to the Determination, and a specific clause has been included regarding the remuneration payable to the Director from 11 April to 30 June 2017.
32. 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**

33. 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.
34. The new office of Financial Adviser Standards and Ethics Authority Chair has been added to the Determination, and a specific clause has been included regarding the remuneration payable to the Chair from 11 April to 30 June 2017.
35. The other general provisions in Schedule C are unchanged from those contained in Schedule C of the superseded determination.

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

36. 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.
37. The general provisions in Schedule D are unchanged from those contained in Schedule D of the superseded determination.

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

38. Schedule E sets out the conditions of payment for fees to the Aboriginal Land Councils.
39. 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 2017/10**

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 2 per cent remuneration increase (rounded as appropriate) to the Part-Time Public Offices from 1 July 2017.

The determination revokes and supersedes the previous *Determination 2016/18 – Remuneration and Allowances for Holders of Part-Time Public Office* (as amended).

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

The determination also:

- sets remuneration for the new offices of Financial Adviser Standards and Ethics Authority, Chair and Director that was referred into the Tribunal's jurisdiction;
- sets remuneration for the new office of Australian Organ and Tissue Donation and Transplantation Authority Board;
- sets remuneration for the new offices of Independent Parliamentary Expenses Authority under the new governance arrangements;
- sets remuneration for the new office of Australian Naval Infrastructure (ANI) Pty Ltd, Board
- sets increased remuneration for the Independent Hospital Pricing Authority, Chair, Deputy Chair and Member, due to the signification changes to the Authority; and
- sets increased remuneration for the Pharmaceutical Benefits Advisory Committee, Member and an additional fee for members of the PBAC Executive (Advisory Committee), due to due to changes in responsibilities and functions of these offices.

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**