



REMUNERATION TRIBUNAL

Explanatory Statement: Determination 2017/14: Remuneration and Allowances for Holders of Public Office and Judicial and Related Offices

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.

National Rural Health Commissioner

6. The Tribunal decided indicative remuneration for this office in March 2017 following a submission from the Assistant Minister for Health, the Hon Dr David Gillespie MP. Following the passage of the *Health Insurance Amendment (National Rural Health Commissioner) Bill 2017* which received Royal Assent in late June 2017, the Assistant Minister for Health, the Hon Dr David Gillespie MP, provided updated information on the functions and responsibilities of the office.

Australian Human Rights Commission, President

7. The Tribunal received a submission from the Attorney-General, Senator the Hon George Brandis QC, seeking personal remuneration for Emeritus Professor Rosalind Croucher, to maintain Professor Croucher's remuneration at its current level.

Parliamentary Budget Officer

8. The Tribunal received advice from the President of the Senate, the Hon Stephen Parry and the Speaker of the House of Representatives, the Hon Tony Smith MP in March 2017 confirming the end of the office holder's term of appointment, on 22 July 2017.

Infrastructure Australia, Chief Executive Officer

9. There was no consultation on this matter as the amendment removes all reference to the person specific remuneration provision that ceased to apply on 30 June 2017.

Classification Board (clause 2.2.3)

10. There was no consultation on this matter as the amendment removes the reference to the person specific remuneration provision that ceased to apply on 24 July 2017.

Member, Registration and Disciplinary Committees (Schedule 2 to the Bankruptcy Act 1966)

11. The Tribunal received a submission from the Attorney-General, Senator the Hon George Brandis QC, seeking determination of remuneration for the office of Member of this newly established Committee. The submission provided details of the roles and responsibilities of the office.

National Portrait Gallery of Australia, Deputy Chair

12. The Tribunal received a request from the Department of Communication and the Arts requesting that the Tribunal specify the fee for the Deputy Chair, which was determined by the Tribunal in 2013. The fee for the Deputy Chair is the same as the Member fee. The Tribunal's original decision was informed by a submission from the then Minister for the Arts, the Hon Simon Crean MP.

Australian Naval Infrastructure Pty Ltd, Chair and Member

13. There was no consultation on this matter as the amendment removes the reference to remuneration for the offices of Chair and Member, which ceased to apply on 30 June 2017.

Independent Hospital Pricing Authority, Chair and Member

14. There was no consultation on this matter as the amendment removes the reference to remuneration for the offices of Chair and Member, which ceased to apply on 30 June 2017.

Financial Adviser Standards and Ethics Authority, Director and Chair

15. There was no consultation on these matters as the amendments remove the references to remuneration for the offices of Director and Chair, which ceased to apply on 30 June 2017.

Major-General Ian Westwood AM, Chief Judge Advocate

16. There was no consultation on this matter as the amendment rectifies an incorrect date of effect for Major Westwood's Base Salary. The amendment reflects that an increase to Base Salary as a result of the 2017 Annual Review was effective from 1 July 2017, rather than 4 March 2017.

Retrospectivity

17. 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

18. 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

19. Clause 1.1 specifies the Principal Determination (Number 11 of 2017) for the purposes of Part 1 of the Determination.
20. Clause 1.2 sets remuneration for the new office of National Rural Health Commissioner.
21. Clause 1.3 sets the commencement date of Clause 1.2.
22. Clauses 1.4 and 1.5 remove all reference to person specific remuneration to the Parliamentary Budget Officer whose term of appointment has ended.
23. Clauses 1.6 and 1.7 set person specific remuneration for the incoming President, Australian Human Rights Commission, Emeritus Professor Rosalind Croucher for the initial term of her appointment.
24. Clauses 1.8 and 1.9 remove all reference to a clause that ceased to apply on 30 June 2017.
25. Clause 1.10 removes all reference to person specific remuneration that ceased to apply on 24 July 2017.

PART 2 – PART-TIME OFFICES

26. Clause 2.1 specifies the Principal Determination (Number 10 of 2017) for the purposes of Part 2 of the Determination.
27. Clause 2.2 sets remuneration for the new office of Member, Registration and Disciplinary Committees (Schedule 2 to the *Bankruptcy Act 1966*).
28. Clause 2.3 sets the commencement date of Clause 2.2
29. Clause 2.4 clarifies the Deputy Chair's remuneration by including the entry in the 'Deputy' column of the Determination.
30. Clause 2.5 sets the commencement date of Clause 2.4
31. Clauses 2.6 to 2.12 remove all references to clauses that ceased to apply on 30 June 2017.

PART 3 – JUDICIAL AND RELATED OFFICES

32. Clause 3.1 specifies the Principal Determination (Number 09 of 2017) for the purposes of Part 3 of the Determination.
33. Clause 3.2 amends an incorrect date in Clause 3 of Table 3 relating to Base Salary commencement for Major-General Ian Westwood AM, Chief Judge Advocate.

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 2017/14

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:

2017/11: Remuneration and Allowances for Holders of Full-Time Public Office;
2017/10: Remuneration and Allowances for Holders of Part-Time Public Office;
2017/09: Judicial and Related Offices – Remuneration and Allowances.

The determination sets remuneration for the new offices of:

- National Rural Health Commissioner;
- Member, Registration and Disciplinary Committees, (Schedule 2 to the *Bankruptcy Act 1966*).

The determination removes all reference to specific clauses for the following as they ceased to be effective on 30 June 2017:

- Classification Board, Deputy Director;
- Infrastructure Australia Chief Executive Officer;
- Australian Naval Infrastructure Pty Ltd;
- Independent Hospital Pricing Authority;
- Financial Adviser Standards and Ethics Authority, Director and Chair.

The determination also:

- Sets person specific remuneration for the incoming President, Australian Human Rights Commission;
- Clarifies the remuneration payable to the Deputy Chair of the National Portrait Gallery of Australia;
- Removes all reference to the person specific clauses applicable to the Parliamentary Budget Officer who retired on 22 July 2017;
- Amends the date of effect for Base Salary for Major-General Ian Westwood AM, Chief Judge Advocate.

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