



REMUNERATION TRIBUNAL

Explanatory Statement: Determination 2017/18: 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 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.

Infrastructure and Project Financing Agency, Chief Executive Officer

6. The Tribunal decided indicative remuneration for this office in June 2017 following a submission from the Prime Minister, the Hon Malcolm Turnbull MP. The Tribunal received confirmation from the Infrastructure and Project Financing Agency that the Executive Agency had been formally established in July 2017.

Australian Hearing Services, Member

7. The Tribunal received advice from Australian Hearing Services that the person specific clause relating to the Hon Michael Knight AO, could be removed as his term of appointment ceased on 29 August 2017.

Infrastructure Australia, Chair

8. The Tribunal received advice from Infrastructure Australia that the person specific clause relating to the Hon Mark Birrell, could be removed as his term of appointment ceased on 31 August 2017.

National School Resourcing Board, Chair, Deputy Chair and Member

9. The Tribunal received a submission from Senator the Hon Simon Birmingham, Minister for Education and Training seeking remuneration for the Chair, Deputy Chair and Member of this new Board established under the *Australian Education Act 2013* (the Act). The submission provided details of the roles and responsibilities of the office.

High Court of Australia, Chief Executive Officer and Principal Registrar

10. The Tribunal received a submission from the Hon Robert French AC, then Chief Justice of the High Court of Australia, seeking a review of remuneration for the office of Chief Executive and Principal Registrar of the Court. This followed an invitation from the Tribunal as part of its Review of Remuneration for Judicial and Related Offices. The Tribunal met also with the new Chief Justice, the Hon Susan Kiefel AC, to discuss the roles and responsibilities of the office prior to reaching a decision on this matter.

Retrospectivity

11. 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

12. 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

13. Clause 1.1 specifies the Principal Determination (Number 11 of 2017 as amended) for the purposes of Part 1 of the Determination.
14. Clause 1.2 sets remuneration for the new office of Chief Executive Officer, Infrastructure and Project Financing Agency.
15. Clause 1.3 sets the commencement date of Clause 1.2.

PART 2 – PART-TIME OFFICES

16. Clause 2.1 specifies the Principal Determination (Number 10 of 2017 as amended) for the purposes of Part 2 of the Determination.
17. Clause 2.2 removes the person specific clause relating to the Hon. Michael Knight AO whose term of appointment has ended.
18. Clauses 2.3 and 2.4 remove all references to the person specific clause relating to the Hon. Mark Birrell whose term of appointment has ended.
19. Clause 2.5 sets the commencement date of Clauses 2.2 to 2.4.

20. Clauses 2.6 to 2.8 set remuneration for the new offices of the Chair, Deputy Chair and Member of the National School Resourcing Board.
21. Clause 2.9 sets the commencement date of Clauses 2.6 to 2.8.

PART 3 – JUDICIAL AND RELATED OFFICES

22. Clause 3.1 specifies the Principal Determination (Number 09 of 2017 as amended) for the purposes of Part 3 of the Determination.
23. Clause 3.2 sets increased remuneration for the Chief Executive and Principal Registrar of the High Court of Australia.
24. Clause 3.3 sets the commencement date of Clause 3.2.

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 2017/18

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:

- Chief Executive Officer, Infrastructure and Project Financing Agency;
- Chair, Deputy Chair and Member of the National School Resourcing Board.

The determination removes all reference to specific clauses for:

- The Hon. Michael Knight AO, Member, Australian Hearing Services, whose term of appointment has ended;
- The Hon. Mark Birrell, Chair, Infrastructure Australia, whose term of appointment has ended.

The determination also:

- Sets increased remuneration for the Chief Executive and Principal Registrar of the High Court of Australia.

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