



REMUNERATION TRIBUNAL

Explanatory Statement: Determination 2017/19

Official Travel by Office Holders

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.

Amendment of Clause 3.11

6. There was no consultation on this matter. The Tribunal received advice from the Senate Regulations and Ordinances Committee in relation to the manner in which the Australian Taxation Office's Determination TD 2017/19: *Income tax: what are the reasonable travel and overtime meal allowance expense amounts for the 2017-18 income year?* was incorporated into *Determination 2017/15 – Official Travel by Office Holders*.
7. The Tribunal issued an amended Explanatory Statement for Determination 2017/15 on 31 October 2017 addressing the manner in which the Taxation Determination is incorporated and indicating how it may be obtained.

8. Remuneration Tribunal Determination 2019/17 amends Clause 3.11 of Determination 2017/15 by removing the words "(or its successor)" after the reference to the operative Taxation Determination. This satisfies the requirements of section 14 of the *Legislation Act 2003* by only incorporating a legislative instrument that is in force at the time at the commencement of Determination 2017/15.

Retrospectivity

9. 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

10. 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 – Official Travel by Office Holders

11. Clause 1.1 specifies the Principal Determination (Number 15 of 2017) for the purposes of Part 1 of the Determination.
12. Clause 1.2 is amends clause 3.11 of the Principal Determination.
13. Clause 1.3 sets a date of effect from 27 August 2017.

Authority: Subsections 5(2A), 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 2017/19

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 Legislative Instrument, or Determination, amends the Principal Determination 2017/15 *Official Travel by Office Holders*.

Its major purpose is to amend clause 3.11 of the Principal to remove the words “(or its successor)”. Section 14 of the *Legislation Act 2003* allows legislative instruments to make provision in relation to matters by incorporating Acts and disallowable legislative instruments, either as in force at a particular time or as in force from time to time.

Taxation Determination TD 2017/19: *Income tax: what are the reasonable travel and overtime meal allowance expense amounts for the 2017-18 income year?* is not a disallowable legislative instrument therefore it can only be incorporated as in force at a particular time. Determination 2017/15 is amended to incorporate the TD 2017/19 as in force at the commencement of Determination 2017/15 from 27 August 2017.

The instrument maintains the principle of just and favourable conditions of work.

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