



REMUNERATION TRIBUNAL

Explanatory Statement: Determination 2018/02: Remuneration and Allowances for Holders of Public Office

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 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.

Climate Change Authority (CCA), Chief Executive Officer, Chair, Member and Associate Member

6. The Tribunal received a submission from the Minister for the Environment and Energy, the Hon Josh Frydenberg MP, seeking a review of remuneration for the full-time and part-time offices of the Climate Change Authority. The submission detailed changes to the responsibilities of the offices.

Old Parliament House (OPH), Director and Board

7. The Tribunal received a submission from the Minister for Communications and the Arts, Senator the Hon Mitch Fifield, seeking determination of remuneration for the full-time and part-time offices of Old Parliament House. The submission provided updated information on the functions, workload and responsibilities of the offices.

Merit Protection Commissioner (MPC)

8. There was no consultation on this matter as the amendment removes the person specific remuneration provisions relating to an office holder who resigned from the office.

National Capital Authority (NCA), Chief Executive

9. The Tribunal received a submission from the Secretary of the Department of Infrastructure and Regional Development (now Department of Infrastructure, Regional Development and Cities), Dr Steven Kennedy PSM, seeking personal remuneration for the incoming Chief Executive, Ms Sally Barnes.

Infrastructure Australia (IA), Chief Executive Officer

10. The Tribunal received submissions from the Minister for Urban Infrastructure (now Minister for Urban Infrastructure and Cities), the Hon Paul Fletcher MP, seeking a review of remuneration for the office. The submissions provided updated information on the responsibilities of the office.

Digital Transformation Agency (DTA), Chief Executive Officer

11. There was no consultation on this matter as the amendment corrects an error in the end date of the term of appointment of the current office holder.

Clean Energy Regulator (CER), Member

12. The Tribunal received a submission from the Minister for the Environment and Energy, the Hon Josh Frydenberg MP, seeking a review of remuneration for the part-time office of Member of the Clean Energy Regulator. The submission provided updated information on the roles and responsibilities of the office.

Retrospectivity

13. 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

14. 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

15. Clause 1.1 specifies the Principal Determination (Number 11 of 2017 as amended) for the purposes of Part 1 of the Determination.
16. Clause 1.2 sets new remuneration for the office of Chief Executive Officer, Climate Change Authority.
17. Clause 1.3 sets Tier 2 Travel for the office of Director, Old Parliament House.
18. Clause 1.4 maintains Tier 1 Travel for Ms Daryl Karp, Director, Old Parliament House, for the term of her current appointment.
19. Clause 1.5 sets the commencement date of clauses 1.2 to 1.4.
20. Clause 1.6 removes the person specific remuneration for Ms Annwyn Godwin, the former Merit Protection Commissioner, who resigned from the office.
21. Clauses 1.7 and 1.8 set person specific remuneration for Ms Sally Barnes, Chief Executive, National Capital Authority, for the term of her initial appointment.
22. Clause 1.9 sets the commencement date of clauses 1.6 to 1.8.
23. Clauses 1.10 and 1.11 set person specific remuneration for Mr Philip Davies, Chief Executive Officer, Infrastructure Australia, for the remainder of the term of his current appointment.
24. Clause 1.12 sets the commencement date of clauses 1.10 to 1.11.
25. Clause 1.13 corrects the end date of Mr Gavin Slater's term of appointment as Chief Executive Officer, Digital Transformation Agency.
26. Clause 1.14 sets the commencement date of clause 1.13.

PART 2 – PART-TIME OFFICES

27. Clause 2.1 specifies the Principal Determination (Number 10 of 2017 as amended) for the purposes of Part 2 of the Determination.
28. Clause 2.2 sets remuneration for the offices of Chair, Deputy Chair and Member, Old Parliament House.
29. Clauses 2.3, 2.4 and 2.5 set an annual fee in place of the base and meeting fee for the office of Member of the Clean Energy Regulator.
30. Clauses 2.6, 2.7, 2.8 and 2.9 set an annual fee in place of the base and meeting fee for the offices of Chair and Member of the Climate Change Authority, while maintaining current remuneration arrangements for current office holders.
31. Clauses 2.10 and 2.11 set new remuneration for the office of Associate Member, Climate Change Authority, while maintaining current remuneration arrangements for current office holders.
32. Clause 2.12 sets the commencement date of clauses 2.2 to 2.11.

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 2018/02

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.

The determination:

- sets new remuneration for the offices of Chief Executive Officer, Chair, Member and Associate Member of the Climate Change Authority, while maintaining existing remuneration for office holders appointed prior to 12 February 2018;
- sets Tier 2 Travel for the office of Director, Old Parliament House, while maintaining existing Tier 1 Travel for Ms Daryl Karp for the term of her current appointment to the office;
- removes all reference to the person specific clause relating to the former Merit Protection Commissioner, Ms Annwyn Godwin, who resigned from the office;
- sets person specific remuneration for Ms Sally Barnes, the incoming Chief Executive, National Capital Authority, for the term of her initial appointment;
- sets person specific remuneration for Mr Philip Davies, Chief Executive Officer, Infrastructure Australia, for the remainder of the term of his current appointment;
- corrects the end date of Mr Gavin Slater's term of appointment as Chief Executive Officer, Digital Transformation Agency;
- sets remuneration for the new offices of Chair, Deputy Chair, and Member, Old Parliament House; and
- sets an annual fee in place of the base and meeting fee for the office of Member, Clean Energy Regulator.

This 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