



REMUNERATION TRIBUNAL

Explanatory Statement: Determination 2018/03: 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 Judges of Federal Courts and most full-time and part-time holders of public offices, including Specified Statutory Offices. An additional function of the Tribunal is to determine a classification structure for Principal Executive Offices and the terms and conditions applicable to each classification within the structure.

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.

Old Parliament House (OPH), Director

6. There was no consultation on this matter as the amendment removes the person specific travel tier for Ms Daryl Karp which ceased to have effect on 31 March 2018.

National Health Funding Body (NHFB), Chief Executive Officer

7. The Tribunal received a submission from the Minister for Health, the Hon Greg Hunt MP, seeking a review of remuneration for the office. The submission provided updated information on the current roles and responsibilities of the office.

Regional Investment Corporation (RIC), Chief Executive Officer, Chair and Member

8. The Tribunal decided indicative remuneration for these offices in September 2017 following a submission from the then Minister for Agriculture and Water Resources, the Hon Barnaby Joyce MP, and the Minister for Finance, Senator the Hon Mathias Cormann. The Tribunal received confirmation from the Department of Agriculture and Water Resources that the legislation establishing the offices of the RIC received Royal Assent in February 2018 (the *Regional Investment Corporation Act 2018*), and of the date of commencement of the RIC's operations.

Private Health Insurance Administration Council, Chair and Member

9. There was no consultation on this matter as the amendment removes the offices of the Council which ceased to operate as a separate body in 2015, due to changes effected by the *Private Health Insurance (Prudential Supervision) Act 2015*.

Oil Stewardship Advisory Council, Chair and Member

10. The Tribunal received confirmation from the Department of the Environment and Energy that the Council was abolished under the *Statute Update (Smaller Government) Act 2018*.

Central Trades Committee, Member

11. The Tribunal received confirmation from the Department of Education and Training that the Committee's associated legislation, the *Tradespersons' Rights Regulation Act 1946*, has been repealed and the Committee no longer exists.

Local Trades Committee, Member

12. The Tribunal received confirmation from the Department of Education and Training that the Committee's associated legislation, the *Tradespersons' Rights Regulation Act 1946*, has been repealed and the Committee no longer exists.

Family Court of Australia, Chief Executive Officer

13. The amendments reflect the timing of changes to the administration of the Courts effected by the *Courts Administration Amendment Act 2016*. The amendments increase remuneration for the combined office of Chief Executive Officer/Principal Registrar of the Family Court of Australia established by that Act with effect from 1 January 2018. The Remuneration increase was decided by the Tribunal in April 2016, to take effect from 1 January 2018 when the office was established, following consultation with the Attorney-General. The amendments also remove the temporary person specific remuneration provisions for Ms Patricia Christie, that were determined by the Tribunal following a submission from the Chief Justice of the Family Court of Australia, and ceased on 31 December 2017.

Military Justice System, Chief Judge Advocate

14. There was no consultation on this matter as the amendment removes the person specific remuneration provisions for Major-General Ian Westwood AM whose term of appointment has now ceased. The Tribunal received confirmation from the Department of Defence that Major-General Westwood's appointment has ceased.

Retrospectivity

15. 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

16. 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

17. Clause 1.1 specifies the Principal Determination (Number 11 of 2017 as amended) for the purposes of Part 1 of the Determination.
18. Clauses 1.2 and 1.3 remove all reference to the person specific clause for Ms Daryl Karp, Director, Old Parliament House, which is no longer in effect.
19. Clause 1.4 sets new remuneration for the office of the Chief Executive Officer, National Health Funding Body.
20. Clause 1.5 sets the commencement date of Clause 1.4.
21. Clause 1.6 sets remuneration for the new office of the Chief Executive Officer, Regional Investment Corporation.
22. Clause 1.7 sets the commencement date of Clause 1.6.

PART 2 – PART-TIME OFFICES

23. Clause 2.1 specifies the Principal Determination (Number 10 of 2017 as amended) for the purposes of Part 2 of the Determination.
24. Clause 2.2 removes the entry for the Private Health Insurance Administration Council as the offices have been abolished.
25. Clause 2.3 removes the entries for the Oil Stewardship Advisory Council, Central Trades Committee and Local Trades Committee as the offices have been abolished.
26. Clauses 2.4 and 2.5 set remuneration for the new offices of the Chair and Member, Regional Investment Corporation, and provide an additional loading for the first 12 months of the Board's operations.
27. Clause 2.6 sets the commencement date of Clauses 2.2 to 2.5.

PART 3 – JUDICIAL AND RELATED OFFICES

28. Clause 3.1 specifies the Principal Determination (Number 9 of 2017 as amended) for the purposes of Part 2 of the Determination.
29. Clause 3.2 sets revised remuneration for the office of the Chief Executive Officer, Family Court of Australia.
30. Clause 3.3 sets the commencement date of Clause 3.2.
31. Clauses 3.4 and 3.5 remove all reference to the person specific clause for Major-General Ian Westwood AM, Chief Judge Advocate, Military Justice System, whose term of appointment has ceased.
32. Clause 3.5 also removes all reference to the person specific clause for Ms Patricia Christie, Chief Executive Officer, Family Court of Australia, which is no longer in effect.

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 2018/03

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:

- removes the person specific travel provision relating to Ms Daryl Karp, Director, Old Parliament House as the provision ceased to have effect on 31 March 2018;
- sets increased remuneration for the office of Chief Executive Officer, National Health Funding Body;
- sets remuneration for the new offices of Chief Executive Officer, Chair and Member, Regional Investment Corporation;
- sets revised remuneration for the office of the Chief Executive Officer, Family Court of Australia to take effect from 1 January 2018 when the office was established
- removes the person specific remuneration provision for Ms Patricia Christie, Chief Executive Officer, Family Court of Australia which ceased on 31 December 2017; and
- removes the person specific remuneration provision for Major-General Ian Westwood AM, Chief Judge Advocate, Military Justice System as his appointment has ended.

The determination also:

- removes the Private Health Insurance Administration Council which ceased to operate as a separate body in 2015; and
- removes the Oil Stewardship Advisory Council, the Central Trades Committee and the Local Trades Committee which have been abolished.

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