



## REMUNERATION TRIBUNAL

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### **Explanatory Statement: Remuneration Tribunal Amendment (Official Travel) Determination 2018**

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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 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.

#### *Implementation of Review of Travel and Motor Vehicle Allowances*

6. There was no consultation on this matter as it is the Tribunal's practice to review, each year, the travel and motor vehicle allowances applicable to office holders for which it determines remuneration. *Remuneration Tribunal (Official Travel) Determination 2018* applied the majority of the Tribunal's decisions arising from its review. This determination details the consequential amendments to apply the Tribunal's decisions to Principal Executive Offices; Judicial and Related Offices; Full-time Public Offices; Part-time Public Offices and Specified Statutory Offices.

## *Decisions Specific to Judicial Offices*

7. This determination also implements travel-related decisions of the Tribunal peculiar to judicial offices.
8. The official travel to Canberra Allowance is a payment made in lieu of travel allowance to Justices of the High Court who do not establish a place of residence in Canberra. The Tribunal has adjusted this amount consistent with the Canberra rate of travel specified in the Australian Taxation Office's (ATO) *Determination TD 2018/11: Income tax: what are the reasonable travel and overtime meal allowance expense amounts for the 2018–19 income year?* (TD 2018/11).
9. Amongst other things TD 2018/11 sets out the amounts that the ATO Commissioner considers are reasonable for the substantiation exception in Subdivision 900-B of the *Income Tax Assessment Act 1997* for the 2018–19 income year in relation to claims made by employees for domestic travel expenses and overseas travel expenses.
10. Taxation Determination TD 2018/11 (excluding appendixes) is a public ruling for the purposes of the *Taxation Administration Act 1953*. The Determination is available online for free at <https://www.ato.gov.au/law/view/pdf/pbr/td2018-011.pdf>.
11. The private vehicle running costs cap, that is a cap for reimbursement of costs that may be paid to judges who elect not to be provided with a private plated vehicle, has been adjusted taking into account the transportation component of the Consumer Price Index between March 2017 and March 2018.

### **Retrospectivity**

12. 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**

13. 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 – NAME**

14. Part 1 specifies the name of the instrument.

#### **PART 2 – COMMENCEMENT**

15. Part 2 specifies the commencement date of the instrument.

#### **PART 3 – AUTHORITY**

16. Part 3 specifies the authority for the instrument.

#### **PART 4 – SCHEDULES**

17. Part 4 outlines the effect of instruments specified in a Schedule to the instrument.

## **SCHEDULE 1 – AMENDMENTS**

18. Section 1 amends the wording in clause 4.1 of *Determination 2018/07: Principal Executive Office – Classification Structure and Terms and Conditions* by omitting:
- "Determination 2017/15 – Official Travel by Office Holders (or any Determination that supersedes 2017/15)"*
- and substituting it with;
- "the Remuneration Tribunal (Official Travel) Determination 2018 (or any determination that supersedes that determination)"*.
19. Section 2 amends the wording in clause 4.2 of *Determination 2018/07: Principal Executive Office – Classification Structure and Terms and Conditions* by omitting:
- "2017/15 (or any Determination that supersedes 2015)"*
- and substituting it with;
- "the Remuneration Tribunal (Official Travel) Determination 2018 (or any determination that supersedes that determination)"*.
20. Section 3 amends the wording in section 6 (definition of official travel determination) of the *Remuneration Tribunal (Judicial and Related Offices – Remuneration and Allowances) Determination 2018* by omitting:
- "Determination 2017/15: Official Travel by Office Holders"*
- and substituting it with;
- "the Remuneration Tribunal (Official Travel) Determination 2018"*.
21. Section 4 increases the private vehicle running costs cap by amending paragraphs 12(1)(b), 12(2)(b) and 12(3)(b) of the *Remuneration Tribunal (Judicial and Related Offices – Remuneration and Allowances) Determination 2018* by omitting:
- "\$10,850"*
- and substituting it with;
- "\$11,165"*.
22. Section 5 increases the official travel to Canberra allowance by amending subsection 40(1) of the *Remuneration Tribunal (Judicial and Related Offices – Remuneration and Allowances) Determination 2018* by omitting:
- "\$34,160"*
- and substituting it with;
- "\$34,400"*.
23. Section 6 amends the wording in section 6 (definition of official travel determination) of the *Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination 2018* by omitting:
- "Determination 2017/15: Official Travel by Office Holders"*
- and substituting it with;
- "the Remuneration Tribunal (Official Travel) Determination 2018"*.

24. Section 7 amends the wording in section 7 (definition of official travel determination) of the *Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2018* by omitting:

*“Determination 2017/15: Official Travel by Office Holders”*

and substituting it with;

*“the Remuneration Tribunal (Official Travel) Determination 2018”.*

25. Section 8 amends the wording in section 6 (definition of official travel determination) of the *Remuneration Tribunal (Specified Statutory Offices – Remuneration and Allowances) Determination 2018* by omitting:

*“Determination 2017/15: Official Travel by Office Holders”*

and substituting it with;

*“the Remuneration Tribunal (Official Travel) Determination 2018”.*

**Authority:** Subsections 5(2A) and 7(3), (3D) and (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 Amendment (Official Travel) Determination 2018**

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 Principal Determinations:

*Determination 2018/07: Principal Executive Office - Classification Structure and Terms and Conditions;*

*Remuneration Tribunal (Judicial and Related Offices—Remuneration and Allowances) Determination 2018;*

*Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination 2018;*

*Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2018; and*

*Remuneration Tribunal (Specified Statutory Offices—Remuneration and Allowances) Determination 2018.*

The determination applies certain aspects of the Tribunal's 2018 travel and motor vehicle allowance review decision from 26 August 2018.

The major purpose of the determination is to adjust specific travel allowance and motor vehicle expense amounts for certain judicial offices and to make consequential amendments to a number of Tribunal principal determinations to reflect the commencement of *Remuneration Tribunal (Official Travel) Determination 2018*.

The adjustment to the official travel to Canberra Allowance for Justices of the High Court reflects movements in the amounts determined by the Australian Taxation Office as reasonable travel expense amounts for Canberra in *Taxation Determination TD 2018/11: Income tax: what are the reasonable travel and overtime meal allowance expense amounts for the 2018-19 income year?*

The adjustment to the cap for reimbursement for private vehicle running costs, for judicial offices, reflects movements in the transportation component of the Consumer Price Index between March 2017 and March 2018.

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.

**The Remuneration Tribunal**