



REMUNERATION TRIBUNAL

Explanatory Statement: Remuneration Tribunal Amendment Determination (No. 1) 2018

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.

Australian Signals Directorate, Director-General

6. The Tribunal received a submission in June 2018 from Senator the Hon Marise Payne, former Minister for Defence, seeking a determination of remuneration for the office of the Director-General,

Australian Signals Directorate. The submission provided detailed information about the role and responsibilities of this new office.

Digital Transformation Agency, Chief Executive Officer

7. There was no consultation on this matter as the amendments remove the person specific provisions for Mr Gavin Slater whose appointment as the Chief Executive Officer ceased in June 2018.

National Housing Finance and Investment Corporation, Chief Executive Officer and Board

8. The Tribunal decided indicative remuneration for these offices in February 2018 after receiving a comprehensive submission from the Hon Scott Morrison MP, in his former capacity as Treasurer. A further submission from the former Treasurer was received in July 2018 providing updated information on the role of the Chief Executive Officer and requesting the determination of remuneration for all offices of this new Corporation.

Fair Work Ombudsman

9. On receipt of advice in May 2018 from Senator the Hon Michaelia Cash, former Minister for Jobs and Innovation, the Tribunal determined a person specific superannuation salary for the recently appointed Fair Work Ombudsman, Ms Sandra Parker PSM, maintaining her superannuation salary arrangements consistent with the requirements of the Public Sector Superannuation Scheme.

Administrative Appeals Tribunal (former senior member, Social Security Appeals Tribunal)

10. The Tribunal received advice from the Administrative Appeals Tribunal (AAT) in June 2018 that the office of AAT (former senior member of the Social Security Appeals Tribunal) would be vacated from August 2018 and that there would be no further appointments to the office. The amendments remove all entries relating to this office.

Export Finance and Insurance Corporation, Board Members

11. The Tribunal received a submission in May 2018 from the Hon Steven Ciobo MP, former Minister for Trade, Tourism and Investment, seeking a review of remuneration for the offices of Chair, Deputy Chair and Member of the Export Finance and Insurance Corporation. The submission provided updated information on the roles and responsibilities of these offices.

Australian Technical Advisory Group on Immunisation, Co-Chairs

12. The Tribunal received a submission in July 2018 from the Hon Greg Hunt MP, Minister for Health, seeking revised remuneration arrangements for the part-time office of Chair of the Australian Technical Advisory Group on Immunisation. The Minister advised that the responsibilities of Chair are to be shared by two office holders on a Co-Chair basis and requested that the current remuneration for the office be shared equally between the Co-Chairs.

Australian National Preventative Health Agency Advisory Council

13. The Tribunal received advice from the Department of Health in July 2018 that the Australian National Preventative Health Agency Advisory Council has been abolished. The amendments remove all entries for the offices of this Council.

Retrospectivity

14. 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

15. 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:

16. Section 1 specifies the name of the instrument.
17. Section 2 specifies when the instrument commences.
18. Section 3 specifies the authority for the instrument.
19. Section 4 outlines the effect of instruments specified in a Schedule to the instrument.
20. Schedule 1 sets out the amendments made to the instruments specified in Schedule 1.

SCHEDULE 1 – AMENDMENTS

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

21. Item 1 inserts a definition of Table 22A (application and transitional provisions).
22. Item 2 sets remuneration and the travel tier for the office of the Director-General, Australian Signals Directorate.
23. Item 3 removes the reference to a special provision that applied to the former Chief Executive Officer, Digital Transformation Agency.
24. Item 4 sets remuneration and the travel tier for the office of the Chief Executive Officer, National Housing Finance and Investment Corporation.
25. Item 5 removes the entry for the office of the AAT (former senior member, Social Security Appeals Tribunal).

26. Item 6 removes the remuneration loading that applied to the former Chief Executive Officer, Digital Transformation Agency.
27. Item 7 removes the special provisions that applied to the office of AAT (former senior member, Social Security Appeals Tribunal).
28. Item 8 sets a person specific superannuation salary for Ms Sandra Parker, Fair Work Ombudsman.
29. Item 9 removes the accommodation assistance provision for the former Chief Executive Officer, Digital Transformation Agency.
30. Item 10 removes the reunion travel assistance provision for the former Chief Executive Officer, Digital Transformation Agency.
31. Item 11 inserts *Part 6—Application and transitional provisions* including section 22 which states the purpose of Table 22A. Table 22A is inserted. The table sets the commencement dates for the matters specified in Items 1, 4 and 8 of the instrument.

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

32. Item 12 inserts a definition of Table 8A (application and transitional provisions).
33. Item 13 sets new remuneration for the offices of Chair, Deputy Chair and Member of the Export Finance and Insurance Corporation.
34. Item 14 removes the entry specifying the remuneration applying to the offices of the Export Finance and Insurance Corporation immediately before the commencement of Item 13.
35. Item 15 sets remuneration and the travel tier for the offices of Chair and Member of the National Housing Finance and Investment Corporation and audit committee fees.
36. Item 16 inserts a reference to a special provision applying to Co-Chair arrangements for the office of Chair of the Australian Technical Advisory Group on Immunisation.
37. Item 17 sets remuneration arrangements for the Co-Chairs of the Australian Technical Advisory Group on Immunisation.
38. Item 18 removes the entry for to the Australian National Preventative Health Agency Advisory Council.
39. Item 19 inserts *Part 8—Application and transitional provisions* including section 45 which states the purpose of Table 8A. Table 8A is inserted. The table sets the commencement dates for the matters specified in Items 13 and 15 of the instrument.

Authority: subsections 7(3) 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 Determination (No.1) 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 determination amends Principal Determinations:

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

The determination:

- sets remuneration and the travel tier for the new office of the Director-General, Australian Signals Directorate;
- removes all person-specific provisions relating to the former Chief Executive Officer, Digital Transformation Agency who ceased in June 2018;
- sets a person specific superannuation salary for Ms Sandra Parker PSM, Fair Work Ombudsman;
- sets remuneration and the travel tier for the new office of the Chief Executive Officer, National Housing Finance and Investment Corporation;
- removes all provisions relating to the former office of AAT (former senior member, Social Security Appeals Tribunal);
- sets new remuneration for the offices of Chair, Deputy Chair and Member of the Export Finance and Insurance Corporation;
- sets remuneration and the travel tier for the new offices of Chair and Member of the National Housing Finance and Investment Corporation;
- sets remuneration arrangements for the Co-Chairs of the Australian Technical Advisory Group on Immunisation; and
- removes all provisions relating to the Australian National Preventative Health Agency Advisory Council that has been abolished.

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