



REMUNERATION TRIBUNAL

Explanatory Statement: Remuneration Tribunal Amendment Determination (No. 2) 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.

National Native Title Tribunal

6. The Tribunal received advice in July 2018 from the Federal Court that confirmed that special (non-standard) superannuation arrangements for the offices of President (non-judicial) and Deputy President of the National Native Title Tribunal were no longer required.

Australian Criminal Intelligence Commission, Chief Executive Officer

7. The Tribunal received a submission in July 2018 from the Secretary of the Department of Home Affairs, Mr Michael Pezzullo, seeking a review of remuneration for the office of Chief Executive Officer, Australian Criminal Intelligence Commission. The submission provided updated information about the roles and responsibilities of this office.
8. The submission also advised that the organisation is known formally as the Australian Criminal Intelligence Commission and the office of Chief Executive Officer is known as the Chief Executive Officer, Australian Criminal Intelligence Commission. Regulation 3A of the Australian Crime Commission Regulations 2002 provides that for the purposes of subsection 7(1A) of the *Australian Crime Commission Act 2002* 'Australian Criminal Intelligence Commission' is specified.

Australian Criminal Intelligence Commission, Examiner

9. Consistent with the advice referenced in paragraph 8 above, the Tribunal noted the full-time and part-time offices of Examiner, Australian Crime Commission are known as Examiner, Australian Criminal Intelligence Commission.

Infrastructure Australia, Chief Executive Officer

10. There was no consultation on this matter as the amendments remove the person specific provisions for Mr Philip Davies whose appointment as Chief Executive Officer ceased in August 2018.

Regional Investment Corporation, Chief Executive Officer

11. The Tribunal received a submission from the Shareholder Ministers for the Regional Investment Corporation, together with a request from the Chair of the Regional Investment Corporation, for the office of Chief Executive Officer to be declared a Principal Executive Office (PEO). Following advice from the Tribunal, the Minister for Finance and the Public Service, Senator the Hon Mathias Cormann, in his role as Minister responsible for the *Remuneration Tribunal Act 1973*, declared the office to be a PEO. The office ceased to be a public office as a result of the declaration, effective from 17 September 2018.

Australian Skills Quality Authority, Commissioner

12. The Tribunal received a submission in August 2018 from the then Assistant Minister for Vocational Education and Skills, the Hon Karen Andrews MP, seeking consideration of accommodation and reunion travel assistance for the Commissioner of the Australian Skills Quality Authority, Dr Irene Ioannakis. The submission provided information on the office holder's circumstances, consistent with the Tribunal's Guidelines on Geographic Relocation of Full-time Office Holders.

Australian Rail Track Corporation, Board Members

13. The Tribunal received a request from the Shareholder Ministers for the Australian Rail Track Corporation, the Deputy Prime Minister and the Minister for Infrastructure, the Hon Michael McCormack MP, and the Minister for Finance, Senator the Hon Matthias Cormann, to review remuneration for the offices of the Australian Rail Track Corporation (ARTC). A comprehensive submission from the ARTC Board was included with the request. The submission provided updated information about the roles and responsibilities of these offices.

Cancer Australia Advisory Council, Member

14. The Tribunal received a request in August 2018 from the Department of Health seeking a person specific reduced member fee for the Hon Jillian Skinner, as a former member of a state parliament in receipt of a superannuation pension. This reduction will take effect from the commencement of Ms Skinner's appointment and is in accordance with government policy. The need for this reduction was acknowledged by Ms Skinner in accepting the appointment.

Regional and Small Publishers Jobs and Innovation Fund Advisory Committee, Chair and Member

15. The Tribunal received a submission in August 2018 from the Minister for Communications and the Arts, Senator the Hon Mitch Fifield, seeking a determination of remuneration for the offices of the recently established Regional and Small Publishers Jobs and Innovation Fund Advisory Committee. The submission provided information on the roles and responsibilities of the new offices of the committee.

Retrospectivity

16. 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

17. 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:

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

SCHEDULE 1 – AMENDMENTS

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

23. Item 1 removes the special superannuation salaries for the offices of President (non-judicial) and Deputy President, National Native Title Tribunal.

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

24. Item 2 replaces the reference to “Chief Executive Officer, Australian Crime Commission” with “Chief Executive Officer, Australian Criminal Intelligence Commission” and sets new remuneration for the office.
25. Item 3 replaces the reference to “Australian Crime Commission” with “Australian Criminal Intelligence Commission”.
26. Items 4 and 6 remove the person specific remuneration provisions for the former Chief Executive Officer, Infrastructure Australia.
27. Item 5 removes the office of Chief Executive Officer, Regional Investment Corporation.
28. Item 7 inserts accommodation assistance provisions for Dr Irene Ioannakis, Commissioner, Australian Skills Quality Authority.
29. Item 8 inserts reunion travel assistance provisions for Dr Irene Ioannakis, Commissioner, Australian Skills Quality Authority.
30. Item 9 sets the commencement dates for the matters specified in Items 2, 7 and 8 of the instrument.

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

31. Item 10 inserts the new remuneration for the offices of Chair and Member of the Australian Rail Track Corporation.
32. Item 11 removes the superseded remuneration provisions for the offices of Chair and Member of the Australian Rail Track Corporation.
33. Items 12 and 13 insert a special remuneration provision for the Hon Jillian Skinner, Member, Cancer Australia Advisory Council.
34. Item 14 replaces the reference to “Australian Crime Commission” with “Australian Criminal Intelligence Commission”.
35. Item 15 sets remuneration for the offices of the Chair and Member, Regional and Small Publishers Jobs and Innovation Fund Advisory Committee.
36. Item 16 replaces the reference to “Australian Crime Commission” with “Australian Criminal Intelligence Commission”.
37. Item 17 sets the commencement dates for the matters specified in Items 10 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.2) 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 (Judicial and Related Offices—Remuneration and Allowances) Determination 2018;*
- *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:

- removes the special superannuation salaries for the offices of President (non-judicial) and Deputy President, National Native Title Tribunal;
- sets new remuneration for the office of Chief Executive Officer, Australian Criminal Intelligence Commission;
- updates the titles of the full-time and part-time offices of the Australian Criminal Intelligence Commission (previously known as the Australian Crime Commission);
- removes the person specific remuneration provisions for the former Chief Executive Officer, Infrastructure Australia;
- removes the office of Chief Executive Officer, Regional Investment Corporation;
- sets accommodation and reunion travel assistance provisions for Dr Irene Ioannakis, Commissioner, Australian Skills Quality Authority;
- sets the new remuneration for the offices of the Chair and Member of the Australian Rail Track Corporation;
- sets a reduced person specific member fee for the Hon Jillian Skinner, Member, Cancer Australia Advisory Council in accordance with government policy; acknowledged by Ms Skinner in accepting the appointment; and
- sets remuneration for the offices of the Chair and Member of the Regional and Small Publishers Jobs and Innovation Fund Advisory Committee.

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