



## REMUNERATION TRIBUNAL

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### **Explanatory Statement: Remuneration Tribunal Amendment Determination (No. 4) 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.

*Aged Care Quality and Safety Commission and Advisory Council*

6. In June 2018 the Tribunal received a letter from the Minister for Aged Care and Indigenous Health, the Hon Ken Wyatt AM MP, requesting indicative remuneration for the offices of the proposed Aged Care Quality and Safety Commission and offices of the Chair and Member of the Advisory Group. The letter was accompanied by a submission on the roles and responsibilities of the offices, which will come into effect on 1 January 2019 following proclamation of the *Aged Care Quality and Safety Commission Act 2018*.
7. The submission outlined that the Aged Care Quality and Safety Commission will subsume and integrate the offices and functions of the Australian Aged Care Quality Agency and Aged Care Complaints Commissioner. The offices of Chair and Member of the Aged Care Quality Advisory Council will be replaced by equivalent offices in the new Aged Care Quality and Safety Advisory Council from 1 January 2019.

*Cancer Australia, Chief Executive Officer*

8. In October 2018, at the request of the Minister for Health, the Hon Greg Hunt MP, and in consultation with the Tribunal, the Minister for Finance and the Public Service, Senator the Hon Mathias Cormann, revoked the Principal Executive Office status of the office of Chief Executive Officer of Cancer Australia. The effect of the revocation is to return the office to the Tribunal's determinative jurisdiction with effect from the date of revocation, 5 December 2018. Minister Hunt provided a submission with detailed and updated information on the roles and responsibilities of the office.

*Director of National Parks*

9. In November 2018, the Tribunal received a submission from the Minister for the Environment, the Hon Melissa Price MP, proposing a review of remuneration for the office of Director of National Parks and providing information about the expanded role and responsibilities of the office.
10. The Tribunal was also provided with detail on the superannuation arrangements of the appointee to the office and determined a person-specific superannuation salary for Dr James Findlay, maintaining his superannuation salary arrangements consistent with the requirements of the Public Sector Superannuation Scheme and to ensure the value of the superannuation benefit is properly accounted for in the composition of his total remuneration package.

*Asbestos Safety and Eradication Agency, Chief Executive Officer*

11. In November 2018, the Tribunal received a letter from the Minister for Jobs and Industrial Relations, the Hon Kelly O'Dwyer MP, requesting the determination of a personal superannuation salary for the recently appointed Chief Executive Officer of the Asbestos Safety and Eradication Agency, Ms Justine Ross. The Tribunal determined a person-specific

superannuation salary for Ms Ross maintaining her superannuation salary arrangements consistent with the requirements of the Public Sector Superannuation Scheme and to ensure the value of the superannuation benefit is properly accounted for in the composition of her total remuneration package.

*Australian Institute of Health and Welfare, Deputy Chair*

12. In May 2018, the Tribunal received a letter from the Minister for Health, the Hon Greg Hunt MP, seeking a determination of remuneration for the then proposed office of Deputy Chair of the Australian Institute of Health and Welfare. The letter provided information about the roles and responsibilities of the office in the new structure, which came into effect on 27 November 2018 following the commencement of the *Australian Institute of Health and Welfare Amendment Act 2018*.

*Commonwealth Science Council*

13. In November 2018, the Tribunal received advice from the Department of Industry, Innovation and Science that the Government had renamed the Commonwealth Science Council as the National Science and Technology Council. The Department also advised that the change in title would not have a significant impact on either the scope or scale of responsibilities of the members of the 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**

### **Part 1—Repeals of items that are being replaced**

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

21. Item 1 removes superseded remuneration provisions for the office of Director of National Parks.

### **Part 2—Main amendments**

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

22. Item 2 inserts remuneration and the travel tier for the new office of the Australian Aged Care Quality and Safety Commissioner.
23. Item 3 sets remuneration and the travel tier for the office of Chief Executive Officer of Cancer Australia.
24. Item 4 removes the remuneration provisions for the former office of the Chief Executive Officer of the Australian Aged Care Quality Agency.
25. Item 5 removes the remuneration provisions for the former office of the Aged Care Complaints Commissioner.
26. Item 6 sets new remuneration and the travel tier for the office of the Director of National Parks.
27. Item 7 sets a person-specific superannuation salary for Dr James Findlay, the Director of National Parks.
28. Item 8 sets a person-specific superannuation salary for Ms Justine Ross, Chief Executive Officer of the Asbestos Safety and Eradication Agency.
29. Items 9 and 10 remove the accommodation and reunion travel assistance provisions for Mr Nick Ryan, the former Chief Executive Officer of the Australian Aged Care Quality Agency.
30. Item 11 sets the commencement dates for the matters specified in Items 1 to 10 of the instrument.

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

31. Items 12 and 13 set remuneration and the travel tier for the new office of Deputy Chair of the Australian Institute of Health and Welfare.
32. Item 14 renames the Commonwealth Science Council the National Science and Technology Council.
33. Item 15 sets remuneration and the travel tier for the offices of Chair and Member of the Aged Care Quality and Safety Advisory Council.
34. Item 16 removes the remuneration provisions for the offices of the former Aged Care Quality Advisory Council.
35. Item 17 sets the commencement dates for the matters specified in Items 12 to 16 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.4) 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 offices of the Aged Care Quality and Safety Commission and the Aged Care Quality and Safety Advisory Council;
- sets new remuneration and the travel tier for the office of Chief Executive Officer of Cancer Australia;
- sets new remuneration for the office of the Director of National Parks;
- sets a person specific superannuation salary for Dr James Findley, Director of National Parks;
- sets a person specific superannuation salary for Ms Justine Ross, Chief Executive Officer of the Asbestos Safety and Eradication Agency;
- sets an annual fee for the new office of Deputy Chair of Australian Institute of Health and Welfare;
- changes references to the Commonwealth Science Council to National Science and Technology Council; and
- removes a number of obsolete provisions.

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**