



REMUNERATION TRIBUNAL

Explanatory Statement: Remuneration Tribunal Amendment Determination (No. 3) 2019

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.

Infrastructure Australia, Chief Executive Officer

6. In November 2018, the Chair of Infrastructure Australia, Ms Julianne Alroe, wrote to the Tribunal proposing additional remuneration for the proposed appointee to the office of Chief Executive Officer of Infrastructure Australia, Ms Romilly Madew. The Secretary of the then Department of Infrastructure, Regional Development and Cities, Dr Steven Kennedy, also wrote to the Tribunal conveying the Minister's support for the proposal. Ms Alroe subsequently provided the Tribunal with additional information in support of the proposal along with the date of Ms Madew's commencement in the office.

Climate Change Authority, Chief Executive Officer

7. Following advice in April 2019 from the then Department of the Environment and Energy, the Tribunal determined a person-specific superannuation salary for the recently appointed Chief Executive Officer of the Climate Change Authority, Mr Brad Archer, maintaining his superannuation entitlements consistent with the requirements of the Public Sector Superannuation Scheme.

Disability Discrimination Commissioner

8. On 7 May 2019, the Tribunal received a submission from the Attorney - General, the Hon Christian Porter MP, seeking accommodation and reunion fares assistance for the Disability Discrimination Commissioner, Mr Ben Gauntlett. The submission provided information on the office holder's circumstances, consistent with the Tribunal's Relocation Assistance Guidelines.

Productivity Commission, Commissioner

9. In March 2019, the Productivity Commissioner, Mr Michael Brennan, wrote to the Tribunal seeking accommodation and reunion travel assistance for Commissioner Mr Richard Spencer to support relocation of his principal place of residence following a change to the location of his primary work activities. The submission provided information on the office holder's circumstances, consistent with the Tribunal's Relocation Assistance Guidelines. The amendments also remove relocation assistance provisions for Mr Robert Fitzgerald following the cessation of his appointment as Productivity Commissioner on 26 April 2019.

Australian Sports Commission (Sports Australia Board), Member

10. In February 2019, the Tribunal received a request from Senator the Hon Bridget McKenzie in her then role as Minister for Sport, seeking person-specific reduced remuneration for the Hon Hugh Delahunty, as a former member of a state parliament in receipt of a superannuation pension. This reduction will take effect from the commencement of Mr Delahunty's appointment and is in accordance with government policy. The need for this reduction was acknowledged by Mr Delahunty in accepting the appointment.

Retrospectivity

11. 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

12. 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:

13. Section 1 specifies the name of the instrument.
14. Section 2 specifies when the instrument commences.
15. Section 3 specifies the authority for the instrument.
16. Section 4 outlines the effect of instruments specified in a Schedule to the instrument.
17. 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

18. Items 1 and 2 insert person-specific remuneration for Ms Romilly Madew, Chief Executive Officer of Infrastructure Australia.
19. Item 3 inserts a person-specific superannuation salary for Mr Brad Archer, Chief Executive Officer, Climate Change Authority.
20. Item 4 inserts accommodation assistance for Mr Ben Gauntlett, Disability Discrimination Commissioner.
21. Item 5 removes accommodation assistance for Mr Robert Fitzgerald, former Commissioner, Productivity Commission. It also inserts accommodation

assistance for Mr Richard Spencer, Commissioner, Productivity Commission.

22. Item 6 inserts reunion travel assistance for Mr Ben Gauntlett, Disability Discrimination Commissioner.
23. Item 7 removes reunion travel assistance for Mr Robert Fitzgerald, former Commissioner, Productivity Commission.
24. Item 8 sets the commencement dates for the matters specified in Items 1 to 6 of the instrument.

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

25. Items 9 and 10 insert person-specific remuneration for the Hon Hugh Delahunty, as member of the Australian Sports Commission.

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.3) 2019

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 person-specific remuneration for the Chief Executive Officer of Infrastructure Australia, Ms Romilly Madew;
- sets person-specific superannuation salary for the Chief Executive Officer of the Climate Change Authority, Mr Brad Archer;
- sets accommodation and reunion travel assistance for the Disability Discrimination Commissioner, Mr Ben Gauntlett;
- sets accommodation assistance for Mr Richard Spencer, Productivity Commissioner;
- removes accommodation and reunion travel assistance for Mr Robert Fitzgerald, former Commissioner, Productivity Commission; and
- sets a reduced person-specific member fee for the Hon Hugh Delahunty, Member of the Australian Sports Commission, in accordance with government policy and acknowledged by Mr Delahunty in accepting the appointment.

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