



REMUNERATION TRIBUNAL

Explanatory Statement: Remuneration Tribunal Amendment Determination (No. 5) 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.

National Disability Insurance Scheme Launch Transition Agency, Chief Executive Officer

6. On 30 April 2019, the National Disability Insurance Scheme Launch Transition Agency, operating as the National Disability Insurance Agency, announced that the Chief Executive Officer, Mr Robert De Luca, had resigned from his role effective immediately. The person specific remuneration for Mr De Luca has been removed from the determination.

Australian Security Intelligence Organisation, Director-General of Security

7. On 5 September 2019 the Australian Security Intelligence Organisation, requested the Tribunal determine a person specific superannuation salary for the appointment of Mr Michael Burgess to the office of Director-General of Security on 15 September 2019. The determination maintains his superannuation salary arrangements consistent with the requirements of the Public Sector Superannuation Scheme.

Airservices Australia, Chair, Deputy Chair and Members

8. On 24 July 2019, the Tribunal received a submission from the Chair of the Airservices Australia Board, Mr John Weber, with the support of the Minister for Infrastructure, Transport and Regional Development, the Hon Michael McCormack MP, seeking a review of remuneration for the offices of Chair, Deputy Chair and Member of Airservices Australia. The submission provided details of increased responsibilities and workload for the Committee. The submission sought an increase in Annual Fees that recognised all the responsibilities of members, including their participation on sub-committees.

Retrospectivity

9. 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

10. 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:

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

15. Schedule 1 sets out the amendments made to the instruments specified in Schedule 1.

SCHEDULE 1—AMENDMENTS

Part 1—Item to be replaced

16. Item 1 removes superseded remuneration provisions for the offices of Airservices Australia.

Part 2—Main amendments

Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination 2019

17. Item 2 removes the reference to a special provision applying to the Chief Executive Officer of the National Disability Insurance Scheme Launch Transition Agency.
18. Item 3 removes the person specific remuneration applying for the former Chief Executive Officer of the National Disability Insurance Scheme Launch Transition Agency, who resigned from the office.
19. Item 4 sets a person specific superannuation salary for Mr Michael Burgess, Director-General of Security, Australian Security Intelligence Organisation.
20. Item 5 sets the commencement date for the matter specified in item 4 of the instrument.

Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2019

21. Item 6 inserts remuneration and travel tier for the Chair, Deputy Chair and Member, Airservices Australia.
22. Item 7 sets the commencement date for the matter specified in item 6 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) 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 2019; and*
- *Remuneration Tribunal (Remuneration and Allowances for Holders of Part-Time Public Office) Determination 2019.*

The determination:

- removes the person specific remuneration entry for the former Chief Executive Officer of the National Disability Insurance Scheme Launch Transition Agency;
- sets a person specific superannuation salary for Mr Michael Burgess, Director-General, Australian Security Intelligence Agency;
- sets revised remuneration for the offices of Chair, Deputy Chair and Member of Airservices Australia; and
- removes the payment of Audit fees for members of Airservices Australia.

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.

- The removal of Audit fees for Airservices Australia does not result in a retrospective pay reduction for these members, as they are now paid a higher Annual Fee which incorporates this work.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

The Remuneration Tribunal