



REMUNERATION TRIBUNAL

Explanatory Statement: Remuneration Tribunal Amendment Determination (No. 6) 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 9 September 2019 the Chairman of the National Disability Insurance Scheme wrote to the Tribunal requesting the determination of person specific remuneration for the proposed appointee to the Office of Chief Executive Officer of the National Disability Insurance Scheme Launch Transition Agency, operating as the National Disability Insurance Agency (NDIA).
7. On 17 September 2019, the Hon Stuart Robert MP, Minister for the National Disability Insurance Scheme wrote to the Tribunal supporting the proposal and noting the requirement for the NDIA to have the highest calibre of leadership.
8. The Minister wrote again in October 2019 providing details on the background and experience of the appointee, Mr Martin Hoffman and confirming his appointment to the office for a term of three years, with the appointment taking effect from 4 November 2019.

Workplace Gender Equality, Director

9. In October 2019, at the request of Senator the Hon Marise Payne, Minister for Women, and in consultation with the Tribunal, the Minister Assisting the Prime Minister for the Public Service and Cabinet, the Hon Greg Hunt MP, revoked the Principal Executive Office status of the office of the Director of Workplace Gender Equality. The effect of the revocation is to return the office to the Tribunal's determinative jurisdiction with effect from the date of revocation, 21 October 2019.
10. Minister Payne sought also the continuation of the current office holder, Ms Libby Lyons', accommodation and reunion travel assistance.

Torres Strait Regional Authority, Chief Executive Officer

11. In September 2019, at the request of the Minister for Indigenous Australians, the Hon Ken Wyatt AM MP, and in consultation with the Tribunal, the Minister Assisting the Prime Minister for the Public Service and Cabinet, the Hon Greg Hunt MP, revoked the Principal Executive Office status of the office of Chief Executive Officer of the Torres Strait Regional Authority. The effect of the revocation is to return the office to the Tribunal's determinative jurisdiction with effect from the date of revocation, 21 October 2019. Remuneration for the office was not changed.

Aboriginal Hostels Limited, Chief Executive Officer

12. On 17 October 2019, Aboriginal Hostels Limited informed the Tribunal that they would not be seeking to extend the accommodation assistance and reunion travel assistance for the Chief Executive Officer of Aboriginal Hostels Limited, Mr Tony Usher, beyond the term of his original appointment. Accommodation assistance and reunion travel assistance for Mr Usher have been removed from the determination.

Australian War Memorial

13. On 19 September 2019 a letter from the Hon Darren Chester MP, Minister for Veterans and Defence Personnel was received by the Tribunal in support of a submission from the Chair of the Australian War Memorial Council. The submission sought additional remuneration for Council members during the significant redevelopment project that has increased time commitment and governance expectations on Council members.

Commonwealth Scientific and Industrial Relations, Chair, Deputy Chair and Members

14. On 22 July 2019 and 9 September 2019 the Tribunal received submissions from the Chairman of the Commonwealth Scientific and Industrial Relations, Mr David Thodey AO, seeking a review of remuneration for the office of Deputy Chair, the Chair of the People and Safety Committee and the Chair of the Science Excellence Committee.
15. The submission provided updated information on the role of the Deputy Chair. The submission also detailed the additional responsibilities of members appointed as Chair of the People and Safety or Science and Excellence committees and the roles and responsibilities of these sub-committees.

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

Part 1—Main amendments

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

23. Item 1 inserts a reference to a special provision applying to the Chief Executive Officer of the National Disability Insurance Scheme Launch Transition Agency.
24. Item 2 inserts the office of the Director of Workplace Gender Equality and sets the remuneration and travel tier for this office.
25. Item 3 inserts the office of the Chief Executive Officer, Torres Strait Regional Authority and sets the remuneration and travel tier for this office.
26. Item 4 sets a person-specific fixed annual loading for Mr Martin Hoffman, Chief Executive Officer of the National Disability Insurance Scheme Launch Transition Agency.
27. Item 5 sets accommodation assistance of \$40,000 for Ms Libby Lyons, Director of Workplace Gender Equity.
28. Item 6 removes the accommodation assistance for Mr Tony Usher, the Chief Executive Officer of Aboriginal Hostels Limited.
29. Item 7 sets reunion travel assistance for Ms Libby Lyons, the Director of Workplace Gender Equality.
30. Item 8 removes the reunion travel assistance for Mr Tony Usher, the Chief Executive Officer of Aboriginal Hostels Limited.
31. Item 9 sets the commencement data for the matters specified in items 2, 3, 5 and 7.

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

32. Item 10 amends the Deputy Chair fee for the Commonwealth Scientific and Industrial Research Organisation.
33. Item 11 adds special provisions applying to the Commonwealth Scientific and Industrial Research Organisation.
34. Item 12 inserts a special provision for the Australian War Memorial Council.
35. Item 13 inserts additional fees for the chairs of the Commonwealth Scientific and Industrial Research Organisation's People and Safety Committee and Science Excellence Committee; a person-specific annual fee for Ms Shirley In't Veld, the Deputy Chair of the Commonwealth Scientific and Industrial Research Organisation; and additional fees for the chair and the members of the Australian War Memorial Council.

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. 6) 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:

- sets person-specific remuneration for Mr Martin Hoffman, Chief Executive Officer of the National Disability Insurance Scheme Launch Transition Agency;
- sets the remuneration and travel tier for the office of Director of Workplace Gender Equality;
- sets the remuneration and travel tier for the office of Chief Executive Officer of the Torres Strait Regional Authority;
- sets accommodation assistance and reunion travel assistance for Ms Libby Lyons, Director of Workplace Gender Equality;
- removes accommodation assistance and reunion travel assistance for Mr Tony Usher, Chief Executive Officer of Aboriginal Hostels Limited;
- sets additional fees for the chairs of the Commonwealth Scientific and Industrial Research Organisation's People and Safety Committee and Science Excellence Committee;
- sets a new fee for the Deputy Chair of the Commonwealth Scientific and Industrial Research Organisation;
- sets a person-specific annual fee for Ms Shirley In't Veld, the current Deputy Chair of the Commonwealth Scientific and Industrial Research Organisation; and
- sets additional fees for the chair and members of the Australian War Memorial Council.

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 reduction in annual fee for the Deputy Chair of the Commonwealth Scientific and Industrial Research Organisation does not result in a pay reduction for this members, as a personal remuneration rate has been set for the duration of the current term.

Conclusion

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

The Remuneration Tribunal