



## REMUNERATION TRIBUNAL

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### **Explanatory Statement: Remuneration Tribunal Amendment Determination (No. 2) 2020**

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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.

### *National Sports Tribunal, Chief Executive Officer*

6. On 16 August 2019, Senator the Hon Richard Colbeck, Minister for Youth and Sport, wrote to the Tribunal seeking an indicative determination of remuneration and travel tier for the proposed full-time office of the Chief Executive Officer (CEO) of the National Sports Tribunal, to be established by the *National Sports Tribunal Act 2019* (the Act). The submission provided information on the role and responsibilities of the office of CEO. The Act commenced on 19 March 2020.

### *Superannuation amendments*

7. Amendments have been made to the *Superannuation Guarantee (Administration) Act 1992* (SG Act) by the *Treasury Laws Amendment (2018 Superannuation Measures No. 1) Act 2019*, that allow for a person with multiple employers to opt out of the superannuation guarantee requirements in respect of a particular employer, and instead negotiate additional remuneration. The Department of the Treasury, Department of Finance and the Australian Government Solicitor were consulted as part of the Tribunal's consideration of this matter.

### *National Water Grid Advisory Body, Chair and Member*

8. On 18 February 2020, the Hon Michael McCormack MP, Minister for Infrastructure, Transport and Regional Development, wrote to the Hon Greg Hunt MP, Minister Assisting the Prime Minister for the Public Service and Cabinet seeking his agreement to refer the part-time offices of Chair and Member of the National Water Grid Advisory Body (Advisory Body) into the Tribunal's jurisdiction, and requesting the Tribunal determine remuneration for the Advisory Body. On 24 February 2020, Minister Hunt wrote to the Tribunal advising the office of Chair and Member of the Advisory Body are offices to which the provisions of the *Remuneration Tribunal Act 1973* should apply, with effect from 1 March 2020. Minister Hunt attached a submission from Minister McCormack which provided information on the roles and responsibilities of the offices.

### *Defence Reserves Support Council, National Executive and State and Territory Chairs*

9. In March 2020, the Tribunal received advice from the Department of Defence that the Defence Reserves Support Council (DRSC) had been dissolved. The Minister for Defence Personnel, the Hon Darren Chester MP, approved the dissolution of the DRSC with effect from 31 December 2019.

### *Anti-Doping Rule Violation Panel, Chair and Member*

10. In February 2020, the Anti-Doping Rule Violation Panel (the Panel) was removed from the *Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2019* in error. The Department of Health was consulted in relation to this error. Remuneration for the panel has not changed.

### **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**

### **Part 1—Main amendments**

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

18. Item 1 sets remuneration and travel tier for the office of the Chief Executive Officer of the National Sports Tribunal.
19. Item 2 inserts the date from which remuneration applies for the office of the Chief Executive Officer of the National Sports Tribunal.

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

20. Item 3 inserts various definitions in relation to superannuation schemes.
21. Item 4 provides an increase in remuneration for an office holder in receipt of an employer shortfall exemption certification, in certain circumstances.
22. Item 5 sets remuneration and travel tier for the offices of Chair and Member of the National Water Grid Advisory Body.
23. Item 6 removes the Defence Reserves Support Council National Executive.
24. Item 7 inserts remuneration and travel tier for the offices of Chair and Member of the Anti-Doping Rule Violation Panel.
25. Item 8 removes the Defence Reserves Support Council – State and Territory Chairs.
26. Item 9 inserts the application and transitional provisions for the office of the Chief Executive Officer of the National Sports Tribunal and the offices of Chair and Member of the Anti-Doping Rule Violation Panel.

**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) 2020**

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 the remuneration and travel tier for the office of Chief Executive Officer of the National Sports Tribunal in the full-time office jurisdiction;
- inserts various definitions in relation to superannuation schemes into the part-time office determination;
- provides an increase in remuneration for an office holder in receipt of an employer shortfall exemption certificate issued under the *Superannuation Guarantee (Administration) Act 1992*, in certain circumstances, in the part-time office jurisdiction;
- sets the remuneration and travel tier for the offices of Chair and Member of the National Water Grid Advisory Body in the part-time office jurisdiction;
- removes all reference to the Defence Reserves Support Council National Executive and the Defence Reserves Support Council – State and Territory Chairs from the part-time office jurisdiction;
- reinserts remuneration and travel tier for the offices of Chair and Member of the Anti-doping Rule Violation Panel in the part-time office jurisdiction.

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**