



REMUNERATION TRIBUNAL

Explanatory Statement: Remuneration Tribunal Amendment Determination (No. 3) 2020

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.

Australian Institute of Family Studies, Director

6. On 7 April 2020, Senator the Hon Anne Ruston, Minister for Families and Social Services, wrote to the Hon Greg Hunt MP, Minister Assisting the Prime Minister for the Public Service and Cabinet requesting the Minister revoke the Principal Executive Office (PEO) declaration for the office of the Director of the Australian Institute of Family Studies (AIFS), and transfer the office into the Tribunal's full time determinative jurisdiction. On 5 May 2020, the Hon Ben Morton MP, Assistant Minister to the Prime Minister and Cabinet wrote to the Tribunal advising he had exercised his powers under the *Remuneration Tribunal Act 1973* to revoke the declaration of the office of the Director of AIFS as a PEO, with effect from 18 May 2020.

North Queensland Water Infrastructure Authority, Chief Executive Officer

7. On 17 March 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 full-time office of Chief Executive Officer of the North Queensland Water Infrastructure Authority (the Authority) into the Tribunal's jurisdiction, and requesting the Tribunal determine remuneration for the office. On 22 April 2020, the Hon Ben Morton MP, Assistant Minister to the Prime Minister and Cabinet wrote to the Tribunal advising the office of Chief Executive Officer of the Authority is an office to which the provisions of the *Remuneration Tribunal Act 1973* should apply, with effect from 1 May 2020. Minister Morton attached a submission from Minister McCormack which provided information on the role and responsibilities of the office.

Australian Human Rights Commission, Disability Discrimination Commissioner

8. The Tribunal received advice from officials in the Australian Human Rights Commission that accommodation and reunion travel assistance would no longer be required for the Disability Discrimination Commissioner, Mr Ben Gauntlett. The amendments remove accommodation and reunion travel assistance for Mr Gauntlett.

Australia Post, Chair, Deputy Chair and Member

9. On 31 March 2020, Mr Lucio de Bartolomeo, Chair of Australia Post wrote to the Tribunal requesting the Tribunal's agreement to a 20 per cent reduction in fees to be paid to the Board of Australia Post for the period 16 April 2020 to 8 July 2020. The Tribunal consulted with the Department of Infrastructure, Transport, Regional Development and Communications on this change.

Superannuation amendments

10. There was no consultation on this matter. The amendment corrects the commencement date for superannuation amendments in respect of an increase in remuneration for an officeholder in receipt of an employer shortfall exemption certificate, in certain circumstances.

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 Director of the Australian Institute of Family Studies.
19. Item 2 sets remuneration and travel tier for the office of the Chief Executive Officer of the North Queensland Water Infrastructure Authority.
20. Item 3 removes accommodation assistance for the Disability Discrimination Commissioner, Australian Human Rights Commission, Mr Ben Gauntlett.
21. Item 4 removes reunion travel assistance for the Disability Discrimination Commissioner, Australian Human Rights Commission, Mr Ben Gauntlett.
22. Item 5 inserts the application and transitional provisions for the office of the Director of the Australian Institute of Family Studies, and the office of the Chief Executive Officer of the North Queensland Water Infrastructure Authority.

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

23. Item 6 inserts a reference to the application and transitional provisions for an employer shortfall exemption certificate.

24. Item 7 inserts special provisions for the offices of Chair, Deputy Chair and Member of Australia Post.
25. Item 8 reduces annual fees by 20 per cent for the period beginning on 16 April 2020 and ending on 8 July 2020 for the offices of Chair, Deputy Chair and Member of Australia Post.
26. Item 9 amends the application date for an employer shortfall exemption certificate.

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 the Director of the Australian Institute of Family Studies, in the full-time office jurisdiction;
- sets the remuneration and travel tier for the office of the Chief Executive Officer of the North Queensland Water Infrastructure Authority, in the full-time office jurisdiction;
- removes all reference to accommodation and reunion fares assistance for Mr Ben Gauntlett, Disability Discrimination Commissioner, Australian Human Rights Commissioner, in the full-time office jurisdiction;
- temporarily reduces remuneration for the offices of Chair, Deputy Chair and Member of Australia Post, in the part-time office jurisdiction;
- amends the application date for an earlier decision of the Tribunal relating to 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.

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