



REMUNERATION TRIBUNAL

Explanatory Statement: Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 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.

Review of Remuneration for Holders of Public Office

6. The Tribunal's obligations, under sub-sections 7(3) and 8(1)(b) of the Act are to make determinations in respect of remuneration for various offices within its jurisdiction at periods of not more than one year. To meet these obligations, the Tribunal issued determinations on 21 June 2019 and at that time included a general adjustment of 2 per cent to remuneration for all offices in its jurisdiction.
7. In complying with its obligations to make new determinations the Tribunal takes the opportunity to consider whether any general increase to remuneration for offices might be warranted. In conducting this review the Tribunal takes account of economic conditions in Australia, past and projected movements in remuneration in the public and private sectors (including the Australian Public Service), as well as the outcomes of reviews of public offices completed by the Tribunal. In order to inform its conclusions the Tribunal draws upon authoritative external sources such as the published material available from the Government, the Reserve Bank of Australia and the Australian Bureau of Statistics as well as trends in public and private sector remuneration. The Tribunal is also obliged by the Act to consider the Annual Wage Reviews of the Fair Work Commission. The Commission's 2020 decision was not available at the time the Tribunal concluded its deliberations.
8. The Tribunal also considered a joint request from the Minister for Finance, Senator the Hon Mathias Cormann and the Minister Assisting the Prime Minister for the Public Service and Cabinet, the Hon Greg Hunt MP, to institute stay on increases to remuneration, entitlements and allowances for all office holders in the Tribunal's jurisdiction.
9. On 11 June 2020 the Tribunal notified its decision to determine no adjustment to remuneration for public offices in its jurisdiction with effect from 1 July 2020. A statement setting out the Tribunal's reasons for decision is available at www.remtribunal.gov.au.
10. *Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2020* formalises the Tribunal's decision for Part-time Public Offices.
11. Consultation on this outcome was considered unnecessary given the matters considered by the Tribunal in making its decision.

Sport Integrity Australia Advisory Council, Chair and Member

12. On 4 November 2019, Senator the Hon Richard Colbeck, Minister for Youth and Sport wrote to the Tribunal seeking indicative remuneration for the proposed part-time offices of Chair and Member of the Sport Integrity Australia Advisory Council, to be established by the *Australian Sports Anti-Doping Authority Amendment (Sport Integrity Australia) Act 2020*. The letter was accompanied by a submission detailing the roles and responsibilities of the offices, the functions of the Authority and the skills and qualifications required of the office holders. The relevant legislation received Royal Assent on 6 March 2020, formally establishing the offices from 1 July 2020.

13. The Tribunal has taken the opportunity to clarify the application of an earlier decision, which provides an additional fee for the Medical Practitioner Member of the Determining Authority. The amendment specifies that the additional fee applies to a person appointed under section 106ZPA(1)(c) of the *Health Insurance Act 1973* who is a medical practitioner (within the meaning of that Act), without reference to the office holder by name. The amount of remuneration has not changed. The Professional Services Review Agency was consulted on this change.

Retrospectivity

14. 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

15. 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:

PART 1 – PRELIMINARY

16. Part 1 specifies the authority for and the commencement date of the determination and supersedes the previous principal *Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2019* (as amended) applying to the offices covered by this determination. This Part also contains definitions of certain words used in the determination.

PART 2 – GENERAL PROVISIONS

17. Part 2 sets the general provisions and other related matters.

18. The provisions of this Part remain unchanged from those contained in Part 2 of the previous determination.

PART 3 – ANNUAL FEES

19. Part 3 sets out the remuneration for offices on annual fees and other related matters (such as special provisions for certain offices) effective from 1 July 2020.

20. The provisions of this Part remain unchanged from those contained in Part 3 of the previous determination.

PART 4 – DAILY FEES

21. Part 4 sets out the remuneration for offices on daily fees, conditions of payment for the daily fees and other related matters for specific offices (such as special provisions for certain offices) effective from 1 July 2020.
22. Daily fees and Travel Tier have been established for the offices of Chair and Member of Sport Integrity Australia Advisory Council.
23. Special provisions applicable to the office of Medical Practitioner Member of the Professional Services Review Determining Authority have been amended for clarity, with no change to the rate of remuneration.
24. The provisions of this Part otherwise remain unchanged from those contained in Part 4 of the previous determination.

PART 5 – ANNUAL MEETING FEES AND ADDITIONAL DAILY FEES

25. Part 5 sets out remuneration for offices on this fee structure, conditions of payment for the annual meeting and additional fees and other related matters for specific offices (such as special provisions for certain offices) effective from 1 July 2020.
26. The provisions of this Part remain unchanged from those contained in Part 5 of the previous determination.

PART 6 – BASE FEES AND MEETING FEES

27. Part 6 sets out the remuneration for offices on this fee structure, conditions of payment for the base fee and meeting fees and other related matters for specific offices (such as special provisions for certain offices) effective from 1 July 2020.
28. Special provisions applicable to the office of Medical Practitioner Member of the Professional Services Review Determining Authority have been amended for clarity, with no change to the rate of remuneration.
29. The provisions of this Part otherwise remain unchanged from those contained in Part 6 of the previous determination.

PART 7 – ABORIGINAL LAND COUNCILS FEES

30. Part 7 sets out the conditions of payment for fees to the Aboriginal Land Councils and other related matters (such as special provisions for certain offices) effective from 1 July 2020.
31. The provisions of this Part remain unchanged from those contained in Part 7 of the previous determination.

SCHEDULE 1 – REPEALS

32. Schedule 1 specifies instruments which have been amended or repealed.

Authority: Sub-sections 7(3) and 7(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 (Remuneration and Allowances for Holders of Part-time Public Office) Determination 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

The legislative instrument, or determination, formalises the Tribunal's review decision to determine no adjustment to remuneration for Part-time Public Offices from 1 July 2020.

The determination supersedes the previous *Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2019* (as amended).

The decision follows a review of remuneration (and significantly related matters) carried out by the Tribunal consistent with sub-section 7(3) of the *Remuneration Tribunal Act 1973*.

In addition to formalising the Tribunal's review decision, the determination:

- sets remuneration and travel tier for the offices of Chair and Member of the Sport Integrity Australia Advisory Council; and
- amends the special provisions applicable to the Medical Practitioner Member of the Professional Services Review Determining Authority for clarity, with no change to the rate of remuneration.

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