



## REMUNERATION TRIBUNAL

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### **Explanatory Statement: Remuneration Tribunal (Remuneration and Allowances for Holders of Full-Time Public Office) Determination 2021**

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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.

### *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 16 June 2020 and at that time determined no adjustment 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 taken into account, as its 2021 decision was not available at the time the Tribunal concluded its deliberations.
8. The Tribunal did not receive any submissions on this matter.
9. On 10 June 2021 the Tribunal notified its decision to determine no adjustment to remuneration for public offices in its jurisdiction with effect from 1 July 2021. A statement setting out the Tribunal's reasons for decision is available at [www.remtribunal.gov.au](http://www.remtribunal.gov.au).
10. *Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination 2021* formalises the Tribunal's decision for Full-time Public Offices.
11. Consultation on this outcome was considered unnecessary given the matters considered by the Tribunal in making its decision.

### *National Recovery and Resilience Agency*

12. There was no consultation on this matter. On 15 April 2021, the Governor General of the Commonwealth of Australia, General the Honourable David Hurley AC DSC (Retd), renamed the National Drought and North Queensland Flood Response and Recovery Agency, the National Recovery and Resilience Agency. This took effect from 5 May 2021.

### *Infrastructure and Project Financing Agency (IPFA), Chief Executive Officer (CEO)*

13. There was no consultation on this matter. On 1 May 2021, the *Public Governance, Performance and Accountability Amendment (Infrastructure and Project Financing Agency) Rules 2021* (Amendment Rules) was amended to reflect the office of IPFA CEO no longer exists. All provisions specific to this office have been removed from the determination.

*National Disability Insurance Scheme Quality and Safeguards Commissioner*

14. There was no consultation on this matter. Personal remuneration for Mr Graeme Head AO was removed as Mr Head's appointment ends on 30 June 2021.

*Comcare, Chief Executive Officer (CEO)*

15. On 20 April 2021, the Attorney-General, Senator the Hon Michaelia Cash, wrote to the Tribunal seeking an amendment to the personal remuneration determined for Ms Sue Weston PSM, CEO Comcare. The submission provided the Tribunal with updated information.

*Northern Australia Infrastructure Facility (NAIF), Chief Executive Officer (CEO)*

16. There was no consultation on this matter. Special provisions set by the Tribunal for the office of CEO NAIF, and the current office holder, Mr Christopher Wade, have been removed as they expire on 30 June 2021.

*Office of National Intelligence, Director-General*

17. There was no consultation on this matter. On 16 October 2020, the Prime Minister, the Hon Scott Morrison MP, announced Mr Nick Warner AO PSM would conclude his appointment as the Director-General of the Office of National Intelligence in December 2020. The amendment removes a person specific superannuation salary for Mr Warner.

*Director of National Parks*

18. There was no consultation on this matter. Dr James Findlay resigned his appointment as the Director of National Parks in August 2020. This amendment removes a person specific superannuation salary for Dr Findlay.

*Australian Human Rights Commission, Sex Discrimination Commissioner*

19. There was no consultation on this matter. Accommodation and reunion travel assistance for Ms Kate Jenkins, Sex Discrimination Commissioner has been removed as the period of assistance agreed by the Tribunal expired on 16 April 2021.

*Christmas and Cocos (Keeling) Islands, Administrator*

20. On 23 November 2020, the Hon Nola Marino MP, Assistant Minister for Regional Development and Territories, wrote to the Tribunal requesting an extension of reunion travel assistance for Mrs Natasha Griggs, who was reappointed as the Administrator of Christmas and Cocos (Keeling) Islands.

21. On 18 April 2021, the Minister provided the Tribunal with additional information to supplement the submission. The submission provided information on Mrs Griggs' circumstances, consistent with the Tribunal's Relocation Assistance Guidelines.

*Norfolk Island, Administrator*

22. On 26 February 2021, the Hon Nola Marino MP, Assistant Minister for Regional Development and Territories, wrote to the Tribunal requesting an extension of reunion travel assistance for Mr Eric Hutchinson, who was reappointed as the Administrator of Norfolk Island. The submission provided information on

Mr Hutchinson's circumstances, consistent with the Tribunal's Relocation Assistance Guidelines.

*Australian Securities and Investments Commission (ASIC), Chairperson*

23. On 25 May 2021, the Treasurer, the Hon Josh Frydenberg MP, wrote to the Tribunal seeking reunion travel assistance for Mr Joe Longo, the incoming Chairperson of ASIC. The submission provided information on Mr Longo's circumstances, consistent with the Tribunal's Relocation Assistance Guidelines.

*Minor variations to wording and numbering*

24. The Tribunal has taken the opportunity to make minor edits to some wording and numbering, for consistency and clarity within the determination. No consultation occurred on this matter as the amendments make no change to the effect of provisions.

**Retrospectivity**

25. 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**

26. 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**

27. 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 Full-time Public Office) Determination 2020* (as amended) applying to the offices covered by this determination. This Part also contains information on schedules and definitions of certain words used in the determination.

**PART 2 – REMUNERATION**

28. Part 2 sets out the total remuneration and other related matters (such as special provisions for certain offices) effective from 1 July 2021 unless specified.

29. The National Drought and North Queensland Flood Response and Recovery Agency is renamed the National Recovery and Resilience Agency.

30. All references to the office of Chief Executive Officer, Infrastructure and Project Financing Agency have been removed as this office has been abolished.

31. Personal remuneration for Mr Graeme Head AO, National Disability Insurance Scheme Quality and Safeguards Commissioner, has been removed from Table 2B, as his term of appointment ends on 30 June 2021.

32. Personal remuneration for Ms Sue Weston PSM, CEO Comcare has been revised in Table 2B.
33. Special provision remuneration for the office of CEO, NAIF has been removed from Table 2B, as the provision has expired.
34. Minor changes have been made to ensure consistency and clarity within the determination, including updating references to special provisions.
35. The provisions in Part 2 otherwise remain unchanged from those contained in Part 2 of the previous determination.

### **PART 3 – SUPERANNUATION**

36. Part 3 sets out the superannuation arrangements and other related matters, including superannuation salary for specified office holders.
37. The superannuation salary for Mr Nick Warner AO PSM, Director-General, Office of National Intelligence, has been removed from Table 3B, as his term of appointment has ended.
38. The superannuation salary for Dr Nick Findlay, Director of National Parks, has been removed from Table 3B, as he is no longer appointed to this office.
39. The provisions in Part 3 otherwise remain unchanged from those contained in Part 3 of the previous determination.

### **PART 4 – VEHICLES AND BUSINESS SUPPORT**

40. Part 4 sets out the entitlements for vehicle and business support.
41. The provisions of this Part remain unchanged from those contained in Part 4 of the previous determination.

### **42. PART 5 – TRAVEL AND ACCOMODATION ASSISTANCE**

43. Part 5 sets out the entitlements for travel and accommodation assistance, including accommodation and reunion assistance for specified office holders.
44. Reunion travel assistance in Table 5B for Mrs Natasha Griggs, Administrator of Christmas and Cocos (Keeling) Islands has been extended to 4 October 2022. The amount of reunion travel assistance available to Mrs Griggs is now \$40,260 per annum.
45. Reunion travel assistance in Table 5B for Mr Eric Hutchinson, Administrator of Norfolk Island has been extended to 31 March 2023. The amount of reunion travel assistance available to Mr Hutchinson is now \$24,000 per annum.
46. Accommodation and reunion travel assistance for Ms Kate Jenkins, Sex Discrimination Commissioner, have been removed from Tables 5A and 5B as the period of assistance has expired.
47. Accommodation and reunion travel assistance for Mr Christopher Wade, CEO NAIF, have been removed from Tables 5A and 5B as the period of assistance has expired.
48. Reunion travel assistance has been added to Table 5B for Mr Joe Longo, Chairperson ASIC. The amount of reunion travel assistance available to Mr Longo is \$9,600. The period of reunion travel assistance is 1 June to 1 July 2021.

49. Minor edits have been made to this section, including renumbering to take into account the removed items.

50. The provisions of this Part otherwise remain unchanged from those contained in Part 5 of the previous determination.

### **SCHEDULE 1 – REPEALS**

51. 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 Allowance for Holders of Full-time Public Office) Determination 2021**

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 Full-time Public Offices from 1 July 2021.

The determination supersedes the previous *Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination 2020* (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:

- replaces all references to the National Drought and North Queensland Flood Response and Recovery Agency with the National Recovery and Resilience Agency;
- removes all reference to the office of Chief Executive Officer, Infrastructure and Project Financing Agency, as the office has been abolished;
- removes personal remuneration for Mr Graeme Head AO, National Disability Insurance Scheme Quality and Safeguards Commissioner, whose appointment ends on 30 June 2021;
- sets new personal remuneration for Ms Sue Weston PSM, CEO Comcare;
- removes special provisions for the office of CEO NAIF, and the current office holder, Mr Christopher Wade, which expire on 30 June 2021;
- removes a person specific superannuation salary for Mr Nick Warner AO PSM, Director-General, Office of National Intelligence, whose appointment has ended;
- removes a person specific superannuation salary for Dr James Findlay, Director of National Parks, whose appointment has ended;
- removes accommodation and reunion travel assistance for Ms Kate Jenkins, Sex Discrimination Commissioner as the period of assistance has expired;
- extends and sets a new level of reunion travel assistance for Mrs Natasha Griggs, the Administrator of Christmas and Cocos (Keeling) Islands;
- extends and sets a new level of reunion travel assistance for Mr Eric Hutchinson, the Administrator of Norfolk Island;
- sets reunion travel assistance for Mr Joe Longo, the incoming Chairperson of ASIC; and
- makes minor changes to wording and numbering for consistency and clarity, which have no change to the effect of the provisions.

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**