



## REMUNERATION TRIBUNAL

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### **Explanatory Statement: Remuneration Tribunal Amendment Determination (No. 2) 2022**

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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 (for a Principal Executive Office) with responsibility for the relevant office(s). The Tribunal will normally seek the views of the 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 minister or person making the submission.
5. In deliberating on appropriate remuneration for an office, the Tribunal also 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 Health Funding Pool, Administrator*

6. On 17 January 2022, the Minister for Health and Aged Care, the Hon Greg Hunt MP, wrote to the Tribunal seeking a review of remuneration for the office of Administrator, National Health Funding Pool. The letter was accompanied by a submission outlining changes in the office's responsibilities.

*National Health Funding Body, Chief Executive Officer*

7. On 17 January 2022, the Minister for Health and Aged Care, the Hon Greg Hunt MP, wrote to the Tribunal seeking a review of remuneration for the office of Chief Executive Officer, National Health Funding Body. The letter was accompanied by a submission outlining changes in the office's responsibilities.

*Aged Care Quality and Safety Commissioner*

8. On 10 February 2022, the Minister for Senior Australians and Aged Care Services, Senator the Hon Richard Colbeck wrote to the Tribunal seeking a review of remuneration for the office of Aged Care Quality and Safety Commissioner. The letter was accompanied by a submission outlining changes in the office's responsibilities.

*National Mental Health Commission, Chief Executive Officer*

9. On 9 February 2022, the Minister for Health and Aged Care, the Hon Greg Hunt MP, wrote to the Tribunal seeking a review of remuneration for the office of Chief Executive Officer, National Mental Health Commission. The letter was accompanied by a submission outlining changes in the office's responsibilities.

*Superannuation Complaints Tribunal; Chairperson, Deputy Chairperson, Member*

10. On 10 March 2022, the Department of the Treasury wrote to the Tribunal's Secretariat advising the Superannuation Complaints Tribunal had been abolished and requesting it be removed from the Tribunal's determinations.

*Australian Research Council, Chief Executive Officer*

11. There was no consultation on this matter. The amendment removes a personal rate of remuneration for Professor Sue Thomas who no longer holds this office.

*Director of National Parks*

12. On 17 February 2022, the Tribunal received a letter from the Minister for the Environment, the Hon Sussan Ley MP, seeking a determination of personal superannuation salary for Ms Jody Swirepik, the Director of National Parks.

*Northern Australia Infrastructure Facility; Chief Executive Officer and Member*

13. There was no consultation on this matter. The amendments remove accommodation and reunion travel assistance for Mr Christopher Wade, former Chief Executive Officer, and a personal rate of remuneration for Mr Barry Coulter, a former Member. These individuals no longer hold the relevant offices.

*Australian Hearing Services, Chair*

14. There was no consultation on this matter. The amendment removes a personal rate of remuneration for Dr Peta Seaton who no longer holds this office.

*Australian Pesticides and Veterinary Medicines Authority Board, Chair and Member*

15. On 10 March 2021, the then Minister for Agriculture, Drought and Emergency Management, the Hon David Littleproud MP, wrote to the Tribunal seeking an indicative determination of remuneration, travel tier and a special provision for the proposed offices of Chair and Member of the Australian Pesticide and Veterinary Medicines Authority (APVMA) governance board. The letter was accompanied by a submission outlining the roles and responsibilities of the proposed offices. Following proclamation, the offices came into existence on

4 March 2022.

*Australian Pesticides and Veterinary Medicines Authority Advisory Board, Chair and Member*

16. On 10 March 2021, the then Minister for Agriculture, Drought and Emergency Management, the Hon David Littleproud MP, wrote to the Tribunal advising that the APVMA advisory board had not operated since 2015 and would be abolished as part of the Bill establishing the APVMA governance board. Following proclamation, the offices were abolished on 4 March 2022.

*Medical Services Advisory Committee; Chair, Deputy Chair and Member*

17. On 30 November 2021, the Minister for Health and Aged Care, the Hon Greg Hunt MP, wrote to the Tribunal seeking a review of remuneration for the offices of Chair and Member of the Medical Services Advisory Committee (MSAC) and a determination of remuneration and travel tier for the new office of Deputy Chair of MSAC. The letter was accompanied by a submission outlining the functions, responsibilities, expanded complexity and workload of MSAC. The Tribunal was also assisted by a detailed discussion between the President of the Tribunal and the Secretary of the Department of Health that enriched the information provided in the submission.

**Retrospectivity**

18. 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.
19. With respect to the office of Aged Care Quality and Safety Commissioner, the retrospective application does not disadvantage any person as the amendment provides more generous remuneration than previously determined.
20. With respect to the Director of National Parks, the retrospective application does not disadvantage any person as the amendments provide more generous superannuation entitlements than previously determined and ensures consistency with relevant superannuation legislation.
21. With respect to the remuneration for the new offices of Chair and Member of the APVMA governance board, the retrospective application does not disadvantage any person as it provides remuneration for these offices from the date the governance board was established.
22. With respect to the remuneration for the former offices of Chair and Member of the APVMA advisory board, the retrospective application does not disadvantage any person, as this body has not operated since 2015 and was formally abolished with effect from 4 March 2022.
23. With respect to the offices of Chair and Member of MSAC, the retrospective application does not disadvantage any person as the amendments provide more generous remuneration than previously determined.
24. With respect to the remuneration for the new office of Deputy Chair of MSAC, the retrospective application does not disadvantage any person as it provides remuneration for an office which was not previously included in the determination.

### **Exemption from sunseting**

25. Under section 12, item 56 of the Legislation (Exemptions and Other Matters) Regulation 2015, an instrument required to be laid before the Parliament under subsection 7(7) of the *Remuneration Tribunal Act 1973* is exempt from the provisions of paragraph 54(2)(b) of the *Legislation Act 2003*.
26. This exemption has been granted by the Attorney-General because the Remuneration Tribunal has a statutory role independent of government.
27. As the Remuneration Tribunal makes new principal determinations annually, the principal instruments amended by this determination are unlikely to have any practical effect beyond the usual 10 year sunseting period. As such, the exemption from sunseting will not have a practical impact on parliamentary oversight of the relevant measures.

### **The power to repeal, rescind and revoke, amend and vary**

28. 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:**

29. Section 1 specifies the name of the instrument.
30. Section 2 specifies when the instrument commences.
31. Section 3 specifies the authority for the instrument.
32. Section 4 outlines the effect of instruments specified in a Schedule to the instrument.
33. Schedule 1 sets out the amendments made to the instruments specified in Schedule 1.

## **SCHEDULE 1—AMENDMENTS**

### **Part 1 – Repeal of items that are being replaced**

#### ***Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination 2021***

1. Item 1 removes the item dealing with the office of Aged Care Quality and Safety Commissioner in Table 2A.
2. Item 2 removes the item dealing with the office of Chief Executive Officer, National Mental Health Commission, in Table 2A.
3. Item 3 removes the item dealing with the office of Administrator of the National Health Funding Pool in Table 2A.
4. Item 4 removes the item dealing with the office of Chief Executive Officer, National Health Funding Body in Table 2A.

***Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2021***

5. Item 5 removes the item dealing with the offices of the Medical Services Advisory Committee in Table 3A.

**Part 2 – Main amendments**

***Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination 2021***

6. Item 6 sets remuneration and travel tier and references transitional provisions for the office of Aged Care Quality and Safety Commissioner in Table 2A.
7. Item 7 removes the reference in Table 2A to an item in Table 2B setting person-specific remuneration for Professor Sue Thomas, Chief Executive Officer, Australian Research Council.
8. Item 8 sets remuneration and travel tier for the office of Chief Executive Officer, National Mental Health Commission in Table 2A.
9. Item 9 sets remuneration and travel tier for the office of Administrator of the National Health Funding Pool in Table 2A.
10. Item 10 sets remuneration and travel tier for the office of Chief Executive Officer, National Health Funding Body in Table 2A.
11. Item 11 removes the office of Chairperson, Superannuation Complaints Tribunal from Table 2A.
12. Item 12 removes the office of Deputy Chairperson, Superannuation Complaints Tribunal from Table 2A.
13. Item 13 removes the item in Table 2B setting person-specific remuneration for Professor Sue Thomas, Chief Executive Officer, Australian Research Council.
14. Item 14 sets a person-specific superannuation salary for Ms Jody Swirepik, Director of National Parks, in Table 3B.
15. Item 15 removes the item in Table 5A dealing with accommodation assistance for Mr Christopher Wade, Chief Executive Officer, Northern Australia Infrastructure Facility.
16. Item 16 removes the item in Table 5B dealing with reunion travel assistance for Mr Christopher Wade, Chief Executive Officer, Northern Australia Infrastructure Facility.
17. Item 17 sets the application and transitional provisions for items 6 and 14.

***Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2021***

18. Item 18 sets remuneration and travel tier and references transitional provisions for the offices of Chair, Deputy Chair and Member of the Medical Services Advisory Committee in Table 3A.
19. Item 19 amends the reference to special provisions for the Northern Australia Infrastructure Facility in Table 3A.
20. Item 20 sets remuneration, travel tier and special provisions and references transitional provisions for the offices of Chair and Member of the Australian

Pesticides and Veterinary Medicines Authority Board in Table 3A.

21. Item 21 amends the reference to special provisions for Australian Hearing Services in Table 3A.
22. Item 22 removes the office of Chair, Australian Pesticides & Veterinary Medicines Authority – Advisory Board from Table 3A.
23. Item 23 removes person-specific remuneration for Mr Barry Coulter from Table 3B.
24. Item 24 removes person-specific remuneration for Dr Peta Seaton from Table 3B.
25. Item 25 sets special provisions for the offices of Chair and Member of the Australian Pesticides and Veterinary Medicines Authority Board in Table 3B.
26. Item 26 removes the Member, Superannuation Complaints Tribunal from Table 4A.
27. Item 27 removes the Australian Pesticides & Veterinary Medicines Authority – Advisory Board from Table 4A.
28. Item 28 removes the office of Member, Medical Services Advisory Committee from Table 4A.
29. Item 29 removes the special provision for the Superannuation Complaints Tribunal from Table 4B.
30. Item 30 sets the application and transitional provisions for items 20, 22 and 28.

**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) 2022

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 2021; and*
- *Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2021.*

The determination:

- amends remuneration for the office of Administrator of the National Health Funding Pool
- amends remuneration for the office of Chief Executive Officer, National Health Funding Body
- amends remuneration for the office of Aged Care Quality and Safety Commissioner
- amends remuneration for the office of Chief Executive Officer, National Mental Health Commission
- removes the offices of Chairperson, Deputy Chairperson and Member of the Superannuation Complaints Tribunal and an associated special provision
- removes person-specific remuneration for Professor Sue Thomas
- establishes a person-specific superannuation salary for Ms Jody Swirepik, Director of National Parks
- removes accommodation and reunion travel assistance for Mr Christopher Wade
- removes person-specific remuneration for Mr Barry Coulter
- removes person-specific remuneration for Dr Peta Seaton
- establishes remuneration, travel tier and a special provision for the offices of Chair and Member of the Australian Pesticides and Veterinary Medicines Authority (APVMA) governance board
- removes the offices of Chair and Member of the APVMA advisory board
- amends remuneration for the offices of Chair and Member of Medical Services Advisory Committee (MSAC)
- establishes remuneration and travel tier for the office of Deputy Chair of MSAC

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