



REMUNERATION TRIBUNAL

Explanatory Statement: Remuneration Tribunal Amendment Determination (No. 5) 2022

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.

Great Barrier Reef Marine Park Authority, Chief Executive Officer (CEO)

6. On 10 February 2022, the then Minister for the Environment, the Hon Sussan Ley MP, wrote to the Tribunal seeking a review of remuneration for the full-time office of CEO, Great Barrier Reef Marine Park Authority. The Tribunal requested

further information to support its considerations, receiving a revised submission on 6 April 2022 providing detail on changes to the roles and responsibilities of the office.

Retrospectivity

7. 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.

Exemption from sunseting

8. 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*.
9. This exemption has been granted by the Attorney-General because the Remuneration Tribunal has a statutory role independent of government.
10. 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

11. 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:

12. Section 1 specifies the name of the instrument.
13. Section 2 specifies when the instrument commences.
14. Section 3 specifies the authority for the instrument.
15. Section 4 outlines the effect of instruments specified in a Schedule to the instrument.
16. Schedule 1 sets out the amendments made to the instrument specified in Schedule 1.

SCHEDULE 1—AMENDMENTS

Part 1 – Repeal of item that is being replaced

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

1. Item 1 repeals the item associated with the office of Chief Executive Officer, Great Barrier Reef Marine Park Authority in Table 2A.

Part 2 – Main amendments

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

2. Item 2 sets new total remuneration for the office of Chief Executive Officer, Great Barrier Reef Marine Park Authority in Table 2A.

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.5) 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 the principal determination *Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination 2021*.

The determination amends the total remuneration of the office of Chief Executive Officer, Great Barrier Reef Marine Park Authority.

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