



REMUNERATION TRIBUNAL

Explanatory Statement: Remuneration Tribunal Amendment Determination (No. 8) 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 (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.

National Disability Insurance Agency (NDIA), Chief Executive Officer (CEO) and Member

6. Special provision remuneration for Mr Martin Hoffman, CEO of the NDIA has been removed as Mr Hoffman is no longer appointed to that office. There was no consultation on this matter.
7. On 7 March 2022, the President of the Remuneration Tribunal wrote to the then Minister for the National Disability Insurance Scheme, Senator the Hon Linda Reynolds CSC, in relation to appointments to the Board of the NDIA. The President reminded the Minister of the government policy that former State parliamentarians in receipt of a parliamentary pension have their remuneration relating to any Commonwealth 'office of profit' reduced.
8. On 24 June 2022, Dr Peta Seaton AM confirmed her State parliamentary pension was in excess of the amount determined for the office of Member of the NDIA Board and agreed to a reduction in remuneration as required by the policy.

Domestic, Family and Sexual Violence Commission (DFSV Commission), Commissioner

9. Special provision remuneration for Ms Catherine Fitzpatrick, Commissioner, DFSV Commission has been removed as Ms Fitzpatrick is no longer appointed to that office. There was no consultation on this matter.

National Intermodal Corporation Limited, all public offices

10. There was no consultation on this matter. On 2 March 2022, Moorebank Intermodal Company Limited was renamed National Intermodal Corporation Limited.

Defence Families of Australia - Defence Family Advocate

11. On 16 June 2022, the Department of Defence wrote to the Tribunal's Secretariat advising that office of Defence Families of Australia – National Convenor had been renamed Defence Families of Australia – Defence Family Advocate.

AIATSIS Research Advisory Committee

12. On 16 June 2022, the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS), wrote to the Tribunal's Secretariat confirming changes to its legislation meant the AIATSIS Research Advisory Committee was no longer capable of being in the Tribunal's determinative jurisdiction.

Various part-time offices

13. On 6 and 7 July 2022 respectively, Sport Integrity Australia and the Department of Climate Change, Energy, the Environment and Water advised the Tribunal's Secretariat of typographical errors in the travel tier of some part-time offices. Further investigation identified errors in the travel tiers for the offices of the Australian Pesticides and Veterinary Medicines Authority Board, the Advisory Committee on the Environmental Management of Industrial Chemicals, the Defence Force Advocate, the Defence Force Remuneration Tribunal, the Australian Sports Drug Medical Advisory Committee – Review Members, the Australian Digital Health Agency – Standing Advisory

Committees, the Australian Bravery Decorations Council, the Council for the Order of Australia and the Military Rehabilitation and Compensation Commission. These have been amended to reflect the tier determined for each office (as published in the Tribunal's 2021 determinations).

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.

Exemption from sunseting

15. 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*.
16. This exemption has been granted by the Attorney-General because the Remuneration Tribunal has a statutory role independent of government.
17. 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

18. 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:

19. Section 1 specifies the name of the instrument.
20. Section 2 specifies when the instrument commences.
21. Section 3 specifies the authority for the instrument.
22. Section 4 outlines the effect of instruments specified in a Schedule to the instrument.
23. Schedule 1 sets out the amendments made to the instruments specified in Schedule 1.

SCHEDULE 1—AMENDMENTS

Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination 2022

24. Item 1 removes the reference to a special provision for the office of Chief Executive Officer, National Disability Insurance Agency from Table 2A.
25. Item 2 removes the reference to a special provision for the office of Commissioner, Domestic, Family and Sexual Violence Commission from Table 2A.
26. Item 3 removes the special provisions for the offices of Chief Executive Officer, National Disability Insurance Agency and Commissioner, Domestic Family and Sexual Violence Commission from Table 2B.

Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2022

27. Item 4 inserts a reference to a special provision for the offices of the National Disability Insurance Agency in Table 3A.
28. Items 5 and 6 amend the name of Moorebank Intermodal Company Limited to National Intermodal Corporation Limited in Table 3A.
29. Item 7 re-establishes a travel tier (Tier 2) for the offices of the Australian Pesticides and Veterinary Medicines Authority Board in Table 3A.
30. Item 8 sets person-specific remuneration in Table 3B for Dr Peta Seaton in her role as Member of the National Disability Insurance Agency Board.
31. Item 9 re-establishes a travel tier (Tier 2) for the offices of the Advisory Committee on the Environmental Management of Industrial Chemicals in Table 4A.
32. Item 10 amends the name of the office of Defence Families of Australia – National Convenor to Defence Families of Australia – Defence Family Advocate in Table 4A.
33. Item 11 amends the travel tier of the office of Defence Force Advocate to Tier 1 in Table 4A.
34. Item 12 amends the travel tier for the offices of the Defence Force Remuneration Tribunal to Tier 1 in Table 4A.
35. Item 13 amends the travel tier for the offices of the Australian Sports Drug Medical Advisory Committee – Review Members to Tier 2 in Table 4A.
36. Item 14 amends the travel tier for the offices of the Australia Digital Health Agency – Standing Advisory Committees to Tier 2 in Table 4A.
37. Item 15 removes the AIATSIS Research Advisory Committee from Table 4A.
38. Item 16 amends the travel tier for the offices of the Australian Bravery Decorations Council to Tier 1 in Table 4A.
39. Item 17 amends the travel tier for the offices of the Council for the Order of Australia to Tier 1 in Table 4A.

40. Item 18 amends the travel tier for the offices of the Military Rehabilitation and Compensation Commission to Tier 2 in Table 4A.

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 Amendment Determination (No. 8) 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 2022*; and
- *Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2022*.

The determination:

- removes a personal remuneration provision for Mr Martin Hoffman, CEO, National Disability Insurance Agency, who no longer holds that office;
- removes a personal remuneration provision for Ms Catherine Fitzpatrick, Commissioner, Domestic, Family and Sexual Violence Commission, who no longer holds that office;
- sets reduced person-specific remuneration for Dr Peta Seaton in her role as Member of the National Disability Insurance Agency Board, in accordance with government policy and as acknowledged by Dr Seaton;
- updates the name of Moorebank Intermodal Company Limited to National Intermodal Corporation Limited;
- updates the name of the office of Defence Families of Australia – National Convenor to the Defence Families of Australia – Defence Families Advocate;
- re-establishes a travel tier for the offices of the Australian Pesticides and Veterinary Medicines Authority Board and the Advisory Committee on the Environmental Management of Industrial Chemicals;
- amends the travel tier for the offices of the Defence Force Advocate; Defence Force Remuneration Tribunal; Australian Sports Drug Medical Advisory Committee – Review Members; Australian Digital Health Agency – Standing Advisory Committees; Australian Bravery Decorations Council; Council for the Order of Australia; and the Military Rehabilitation and Compensation Commission; and
- removes the offices of the AIATSIS Research Advisory Committee.

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