



Remuneration Tribunal

Explanatory Statement: Remuneration Tribunal Amendment Determination (No.4) 2023

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.

Net Zero Economy Agency, Chair

6. On 6 June 2023, the Prime Minister of Australia, the Hon Anthony Albanese MP wrote to the Tribunal seeking a determination of remuneration and travel tier for the new office of Chair, Net Zero Economy Agency. The accompanying submission

outlined the responsibilities of the office, and the qualities and capabilities required of the office holder.

Director of National Parks

7. On 24 May 2023, the Minister for the Environment and Water, the Hon Tanya Plibersek MP, wrote to the Tribunal seeking a review of remuneration for the office of Director of National Parks. The accompanying submission outlined the increase in complexity and demands on the office since it was last considered by the Tribunal.

Workplace Gender Equality, Chief Executive Officer

8. On 22 May 2023, the Workplace Gender Equality Agency confirmed the title of its statutory office holder had changed from Director Workplace Gender Equality to Chief Executive Officer Workplace Gender Equality Agency, in line with amendments to the *Workplace Gender Equality Act 2012*.

Medical Devices and Human Tissue Advisory Committee, Chair and Member and Prostheses List Advisory Committee, Chair and Member

9. On 24 January 2023, the Minister for Health and Aged Care, the Hon Mark Butler MP, wrote to the Tribunal seeking a review of remuneration for the part-time offices of Chair and Member of the Prostheses List Advisory Committee, which from 1 July 2023 would become the Medical Devices and Human Tissue Advisory Committee. The accompanying submission outlined the roles of the offices, and the qualities and capabilities required of the office holders.

Australia's Economic Accelerator Advisory Board, Chair, Deputy Chair and Member

10. On 6 June 2023, the Minister for Education, the Hon Jason Clare MP, wrote to the Tribunal seeking a determination of remuneration and travel tier for the part-time offices of Chair, Deputy Chair and Member of Australia's Economic Accelerator Advisory Board. The accompanying submission outlined the responsibilities of the offices, and the qualities and capabilities required of the office holders.

Retrospectivity

11. 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.
12. With respect to the office of Chair, Net Zero Economy Agency, the retrospective application does not disadvantage any person as it establishes remuneration for this office from the date of its establishment.
13. With respect to the office of Director of National Parks, the retrospective application does not disadvantage any person as it establishes a more generous remuneration entitlement than would otherwise apply.
14. With respect to the offices of Chair and Member of the Medical Devices and Human Tissue Advisory Committee, the retrospective application does not disadvantage any person as it establishes remuneration for these offices from the date of their transition from the Prostheses List Advisory Committee.

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.

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

17. 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:

18. Section 1 specifies the name of the instrument.
19. Section 2 specifies when the instrument commences.
20. Section 3 specifies the authority for the instrument.
21. Section 4 outlines the effect of instruments specified in a Schedule to the instrument.
22. 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 (No. 1) 2023

1. Item 1 inserts a definition for Table 6A relating to application and transition provisions.
2. Item 2 establishes remuneration and travel tier for the office of Chair, Net Zero Economy Agency in Table 2A.
3. Item 3 sets new remuneration of the office of Director of National Parks in Table 2A.
4. Item 4 removes the previous entry for the office of Director of National Parks in Table 2A.
5. Items 5, 6 and 7 replace the reference to the office of Director, Workplace Gender Equality with the Chief Executive Officer, Workplace Gender Equality Agency, in Tables 2A, 5A and 5B.
6. Item 8 sets application and transition provisions for items 2 and 3.

Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination (No. 1) 2023

7. Item 9 inserts a reference to application and transition provisions in Section 7.
8. Item 10 inserts a definition for Table 8A relating to application and transition provisions.

9. Item 11 establishes annual fees and travel tier for the offices of the Medical Devices and Human Tissue Advisory Committee in Table 3A.
10. Item 12 establishes annual fees and travel tier for the offices of Australia's Economic Accelerator Advisory Board in Table 3A.
11. Items 13 and 14 remove the offices of the Prostheses List Advisory Committee from Tables 3A and 5A.
12. Item 15 sets application and transition provisions for item 11.

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.

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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 (No. 1) 2023; and*
- *Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination (No. 1) 2023.*

The determination:

- establishes remuneration and travel tier for the office of Chair, Net Zero Economy Agency.
- amends the remuneration of the office of Director of National Parks.
- amends the title of the office of Director, Workplace Gender Equality to Chief Executive Officer, Workplace Gender Equality Agency.
- establishes annual fees and travel tier for the offices of Chair and Member of the Medical Devices and Human Tissue Advisory Committee.
- removes the offices of Chair and Member of the Prostheses List Advisory Committee.
- establishes annual fees and travel tier for the offices of Chair, Deputy Chair and Member of Australia's Economic Accelerator Advisory Board.

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