



Remuneration Tribunal

Explanatory Statement: Remuneration Tribunal Amendment Determination (No.9) 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 (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.

Independent Health and Aged Care Pricing Authority, Chief Executive Officer, Board, Committees

6. On 2 November 2023, the Minister for Health and Aged Care, the Hon Mark Butler MP, wrote to the Tribunal seeking a determination of remuneration for

the full-time and part-time offices of the Independent Health and Aged Care Pricing Authority, formerly the Independent Hospital Pricing Authority. The accompanying submission outlined the roles and responsibilities of the offices.

Parliamentary Workplace Support Service, Chief Executive Officer, Advisory Board

7. On 27 October 2023, the Special Minister of State, Senator the Hon Don Farrell, wrote to the Tribunal seeking a determination of remuneration for the full-time and part-time offices of the Parliamentary Workplace Support Service. The accompanying submission outlined the roles and responsibilities of the offices.

National Disability Insurance Agency – Chief Executive Officer

8. On 15 November 2023, the Minister for the National Disability Insurance Scheme, the Hon Bill Shorten MP, wrote to the Tribunal seeking an extension for the personal loading determined for the Chief Executive Officer of the National Disability Insurance Agency, Ms Rebecca Falkingham.

Asbestos Safety and Eradication Agency – Chief Executive Officer

9. The term of Ms Justine Ross's appointment as the Chief Executive Officer of the Asbestos Eradication Agency ended on 18 November 2023. There was no consultation on this matter.

Murray Darling Basin Authority, Chief Executive

10. On 3 July 2023, the Minister for the Environment and Water, the Hon Tanya Plibersek MP wrote to the Tribunal seeking a determination of accommodation and reunion travel assistance for the Chief Executive of the Murray Darling Basin Authority, Mr Andrew McConville.

National Housing Supply and Affordability Council, Chair, Deputy Chair, Member

11. On 18 October 2023, the Minister for Housing, the Hon Julie Collins MP wrote to the Tribunal seeking an indicative determination of remuneration for the new part-time offices of the National Housing Supply and Affordability Council, subject to the passage of the National Housing Supply and Affordability Council Bill 2023. The accompanying submission outlined the roles and responsibilities of the offices.

Retrospectivity

12. 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.
13. With respect to the office of Chief Executive, Murray Darling Basin Authority, the retrospective application of this provision does not disadvantage any person as it provides an allowance for the office holder, Mr Andrew McConville from the date of the Tribunal's decision.

Exemption from sunseting

14. 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*.

15. This exemption has been granted by the Attorney-General because the Remuneration Tribunal has a statutory role independent of government.
16. As the Remuneration Tribunal makes new principal determinations annually, the principal instrument amended by this determination are unlikely to have any practical effect beyond the usual 10 year sunset period. As such, the exemption from sunset will not have a practical impact on parliamentary oversight of the relevant measures.

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.2) 2023

23. Item 1 sets remuneration and travel tier for the Chief Executive Officer, Independent Health and Aged Care Pricing Authority.
24. Item 2 repeals the item relating to the Chief Executive Officer, Independent Hospital Pricing Authority.
25. Item 3 sets remuneration and travel tier for the Chief Executive Officer, Parliamentary Workplace Support Service.
26. Item 4 extends the personal loading for the Chief Executive Officer, National Disability Insurance Agency, Ms Rebecca Falkingham.
27. Item 5 remove a special provision for the previous Chief Executive officer, Asbestos Eradication and Safety Agency, Ms Justine Ross.
28. Item 6 sets reunion travel assistance for the Chief Executive, Murray Darling Basin Authority, Mr Andrew McConville.

Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination (No.2) 2023

29. Item 7 sets annual fees and travel tier for the offices of Chair, Member, Deputy Chair Hospital Pricing and Deputy Chair Aged Care Pricing, Independent Health and Aged Care Pricing Authority.
30. Item 8 repeals the item relating to the Deputy Chair, Independent Hospital Pricing Authority.
31. Item 9 sets annual fees and travel tier for the offices of Chair, Deputy Chair and Member, National Housing Supply and Affordability Council.
32. Item 10 sets daily fees and travel tier for the offices of Chair and Member, Parliamentary Workplace Support Service Advisory Board.
33. Item 11 sets daily fees and travel tier for the office of Member (former judicial officer), Parliamentary Workplace Support Service Advisory Board.
34. Item 12 sets daily fees and travel tier for the office of Member (non-Board member) Independent Health and Aged Care Pricing Authority Aged Care Advisory Committee.
35. Item 13 amends the name of the 'Independent Hospital Pricing Authority Clinical Advisory Committee' to the 'Independent Health and Aged Care Clinical Advisory Committee'.

Authority: Sub-sections 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. 9) 2023

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 determinations:

- Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination (No. 2) 2023
- Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination (No. 2) 2023.

The determination:

- sets remuneration and travel tier for the Chief Executive Officer of the Independent Health and Aged Care Pricing Authority;
- sets remuneration and travel tier for the Chief Executive Officer of the Parliamentary Workplace Support Service;
- extends the personal loading for the Chief Executive Officer National Disability Insurance Agency, Ms Rebecca Falkingham to 7 June 2024;
- establishes reunion travel assistance for the Chief Executive Murray Darling Basin Authority, Mr Andrew McConville for the remaining term of his appointment;
- removes a special provision for the former Chief Executive Officer of the Asbestos Safety and Eradication Agency, Ms Justine Ross;
- sets annual fees and travel tier for the offices of Chair and Member of the Independent Health and Aged Care Pricing Authority;
- sets annual fees and travel tier for the offices of Deputy Chair (Hospital Pricing) and Deputy Chair (Aged Care Pricing), of the Independent Health and Aged Care Pricing Authority;
- removes the office of Deputy Chair Independent Hospital Pricing Authority;
- sets daily fees and travel tier for the offices of Chair and Member of the Clinical Advisory Committee, and the office of Member of the Aged Care Advisory Committee (non-Board Member), Independent Aged Care Pricing Authority;
- amends the name of the 'Independent Hospital Pricing Authority Clinical Advisory Committee' to the 'Independent Health and Aged Care Pricing Authority Clinical Advisory Committee';
- sets annual fees and travel tier for the offices of Chair, Deputy Chair and Member of the National Housing Supply and Affordability Council;
- sets daily fees and travel tier for the offices of Chair and Member of the Parliamentary Workplace Support Advisory Board; and
- sets daily fees and travel tier for the office of Member (former judicial officer) of the Parliamentary Workplace Support Service 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