



## Remuneration Tribunal

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### **Explanatory Statement: Remuneration Tribunal Amendment Determination (No. 8) 2024**

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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.
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.

### **Consultation**

*Net Zero Economy Authority, Chief Executive Officer, Chair and Member*

6. On 29 May 2024, the Hon Anthony Albanese MP, Prime Minister of Australia, wrote to the Tribunal seeking an indicative determination of remuneration and travel tier for the new full-time and part-time offices of the Net Zero Economy

Authority. The accompanying submission outlined the roles and responsibilities of the offices. The full-time office of Chair of the Net Zero Economy Agency was abolished on commencement of the *Net Zero Economy Authority Act 2024*.

*Australian Safeguards and Non-Proliferation Office, Director-General*

7. On 13 June 2024, Ms Jan Adams AO PSM, Secretary of the Department of Foreign Affairs and Trade, wrote to the Tribunal seeking a review of remuneration for the full-time office of the Director-General of the Australian Safeguards and Non-Proliferation Office. The accompanying submission outlined changes in the roles and responsibilities of the office. The Tribunal sought views from the responsible Minister. No response was received.

*Merit Protection Commissioner*

8. On 13 November 2024, Senator the Hon Katy Gallagher, Minister for the Public Service, wrote to the Tribunal seeking a review of remuneration for the full-time office of the Merit Protection Commissioner. The accompanying submission outlined changes in the roles and responsibilities of the office.

*Reserve Bank of Australia Governance Board, Chair, Deputy Chair and Member and Monetary Policy Board, Member*

9. On 28 June 2024, the Hon Jim Chalmers MP, Treasurer, wrote to the Tribunal seeking an indicative determination of remuneration and travel tier for the new part-time offices of the Reserve Bank of Australia Governance Board and Monetary Policy Board. The accompanying submission outlined the roles and responsibilities of the offices. The *Treasury Laws Amendment (Reserve Bank Reforms) Act 2024* received Royal Assent on 29 November 2024.

*Australian Renewable Energy Agency, Deputy Chair*

10. On 12 December 2024, Mr Shane Gaddes, Head of the Net Zero Industries Division of the Department of Climate Change, Energy, the Environment and Water, wrote to the Tribunal advising the establishment of a new part-time office of Deputy Chair of the Australian Renewable Energy Agency Board. Mr Gaddes sought remuneration for the office at the same rate as the office of Member.

*Coal Mining Industry (Long Service Leave Funding) Corporation Board, Chair, Deputy Chair, Member*

11. On 14 June 2024, Ms Darlene Perks, Chief Executive Officer of the Coal Mining Industry (Long Service Leave Funding) Corporation (Coal LSL), wrote to the Tribunal seeking a review of remuneration for the part-time offices of the Coal LSL Board. The accompanying submission outlined changes to the roles and responsibilities of the offices. The Tribunal also sought views the Minister for Employment and Workplace Relations' views on the matter.
12. On 4 November 2024, Senator the Hon Murray Watt, Minister for Employment and Workplace Relations, wrote to the Tribunal providing his views on the subject.

*Government Services Independent Advisory Board, Chair, Deputy Chair, Member*

13. On 13 November 2024, the Hon Bill Shorten MP, Minister for Government Services, wrote to the Tribunal seeking a determination of remuneration for the new part-time offices of the Government Services Independent Advisory Board. The accompanying submission outlined the roles and responsibilities of the offices.
14. On 30 October 2024, the Hon Patrick Gorman MP, Assistant Minister for the Public Service, wrote to the Tribunal President specifying that appointments to the Government Services Independent Advisory Board are offices to which the provisions of the Act should apply.

*Independent Expert Scientific Committee on Unconventional Gas Development and Large Coal Mining Development, Chair and Member*

15. On 6 December 2014, the Department of Climate Change, Energy, the Environment and Water advised the Tribunal's Secretariat that the name of the 'Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development' had changed to the 'Independent Expert Scientific Committee on Unconventional Gas Development and Large Coal Mining Development'.

**Retrospectivity**

16. 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.
17. With respect to the offices of the Net Zero Economy Authority, the retrospective application of these provisions do not disadvantage any person as they establish an entitlement that did not previously exist.

**Exemption from sunseting**

18. 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 Act is exempt from the provisions of paragraph 54(2)(b) of the *Legislation Act 2003*.
19. This exemption has been granted by the Attorney-General because the Remuneration Tribunal has a statutory role independent of government.
20. As the Remuneration Tribunal makes new principal determinations annually, this instrument's exemption from sunseting will not have any practical effect. 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**

21. 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:**

22. Section 1 specifies the name of the instrument.
23. Section 2 specifies when the instrument commences.
24. Section 3 specifies the authority for the instrument.
25. Section 4 outlines the effect of instruments specified in a Schedule to the instrument.
26. 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 2024***

27. Item 1 establishes a reference to application and transitional provisions in the definitions in Section 7.
28. Item 2 removes the office of Chair, Net Zero Economy Agency from Table 2A.
29. Item 3 establishes remuneration and travel tier for the office of Chief Executive Officer, Net Zero Economy Authority in Table 2A.
30. Items 4 and 5 increase the remuneration for the office of Director-General, Australian Safeguards and Non-Proliferation Office in Table 2A.
31. Item 6 extends the fixed personal loading of Ms Jamie Lowe, Merit Protection Commissioner, for the duration of her initial appointment in Table 2B.
32. Item 7 inserts Table 6A to provide that the remuneration and travel tier for the office of Chief Executive Officer, Net Zero Economy Authority (Item 3 of this schedule refers) apply on and after 11 December 2024.

***Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2024***

33. Item 8 adds a reference to the application and transitional provisions in Part 8 to the Simplified outline of the instrument in Section 7.
34. Item 9 establishes a reference to application and transitional provisions in the definitions in Section 8.
35. Item 10 establishes annual fees and travel tiers for the offices of Chair, Deputy Chair and Member of the Reserve Bank of Australia Governance Board and for the office of Member of the Monetary Policy Board of the Reserve Bank in Table 3A. Table 3A also includes a reference to a special provision for Governance Board public office holders which is detailed in Table 3B.
36. Item 11 establishes annual fees and travel tiers for the offices of Chair and Member of the Net Zero Economy Authority in Table 3A.

37. Item 12 establishes remuneration and travel tier for the office of Deputy Chair of the Australian Renewable Energy Agency in Table 3A.
38. Items 13 and 15 transition the remuneration for the offices of Chair, Deputy Chair and Member of the Coal Mining Industry (Long Service Leave Funding) Corporation Board from daily fees to annual fees in Tables 3A and 4A.
39. Item 14 establishes remuneration and travel tier for the offices of Chair, Deputy Chair and Member of the Government Services Independent Advisory Board in Table 3A.
40. Items 16 and 17 update the name of the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development to the Independent Expert Scientific Committee on Unconventional Gas Development and Large Coal Mining Development in Table 5A.
41. Item 17 inserts Table 8A to provide that the remuneration and travel tier for the offices of Chair and Member, Net Zero Economy Authority Board (Item 11 of this schedule refers) apply on and after 11 December 2024.

**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. 8) 2024

This Disallowable 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 Instrument

This instrument, or determination, amends the principal determinations:

- Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination 2024
- Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2024

The instrument establishes remuneration and travel tier for a range of new offices; expressly increases remuneration for one office; transitions the remuneration of certain offices from the Tribunal's daily fee structure to its annual fee structure, consequently increasing their remuneration; extends the fixed personal loading for one office holder, removes one office that has ceased to exist; and updates the names of two offices.

#### Human rights implications

This instrument engages the right to work in Article 6 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) and the right to the enjoyment of just and favourable conditions of work, primarily contained in Article 7 of ICESCR.

##### ***Right to work and to just and favourable conditions of work***

Article 6 of the ICESCR recognises '*... the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts ...*' The right to just and favourable conditions of work includes, but is not limited to, ensuring '*fair wages and equal remuneration for work of equal value without distinction of any kind*', and '*a decent living for themselves and their families*' (Article 7(1)(a)).

Consistent with Articles 6 and 7 of the ICESCR, this instrument ensures that individuals appointed to the public offices subject to the determination continue to be fairly remunerated in respect of the work they undertake as public office holders. Specifically, the instrument:

- establishes the remuneration and travel tier for the full-time office of Chief Executive Officer, Net Zero Economy Authority;
- establishes the remuneration and travel tier for the following part-time offices:
  - Chair and Member of the Net Zero Economy Authority
  - Chair, Deputy Chair and Member of the Reserve Bank of Australia Governance Board
  - Member, Reserve Bank of Australia Monetary Policy Board
  - Deputy Chair, Australian Renewable Energy Agency

- Chair, Deputy Chair and Member of the Government Services Independent Advisory Board;
- transitions the remuneration, from daily fees to annual fees, for the part-time offices of Chair, Deputy Chair and Member of the Coal Mining Industry (Long Service Leave Funding) Corporation Board, corresponding to an increase in remuneration for these offices;
- increases the remuneration for the full-time office of Director-General, Australian Safeguards and Non-Proliferation Office;
- extends the fixed personal loading of for Ms Jamie Lowe for the duration of her first term as Merit Protection Commissioner;
- removes the full-time office of Chair, Net Zero Economy Agency which has ceased to exist;
- updates the names of two offices, namely, the Chair and Member of the Independent Expert Scientific Committee on Unconventional Gas Development and Large Coal Mining Development.

These amendments do not reduce the remuneration of any of the offices. By establishing remuneration, allowances and entitlements based on an assessment of the current work value of the office, the instrument directly promotes the principle of ensuring *'fair wages and equal remuneration for work of equal value'* per Article 7(1)(a) of the ICESCR and more broadly contributes to *'... the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts ...'* per Article 6 of the ICESCR.

## **Conclusion**

This instrument is compatible with human rights because it enhances and promotes the protection of human rights, and in particular, the right to work and to just and favourable conditions of work through maintaining the principle of fair, and current, remuneration for work performed.

## **The Remuneration Tribunal**