



## Remuneration Tribunal (Compensation for Loss of Office for Holders of Certain Public Offices) Determination 2018

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We, the members of the Remuneration Tribunal, make the following determination.

Dated 25 June 2018

John Conde AO  
President

Ewen Crouch AM  
Member

Heather Zampatti  
Member



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## 1 Name

This instrument is the *Remuneration Tribunal (Compensation for Loss of Office for Holders of Certain Public Offices) Determination 2018*.

## 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 July 2018.	1 July 2018

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

## 3 Authority

This instrument is made under subsections 7(3) and (4) of the *Remuneration Tribunal Act 1973*.

## 4 Determination supersedes previous determination

This instrument supersedes *Determination 2014/17: Compensation for Loss of Office for Holders of Public Office*.

## 5 Schedule

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

## 6 Definitions

In this instrument:

**APS employment** means employment as an APS employee (within the meaning of the *Public Service Act 1999*).

**Commonwealth company** has the meaning given by the *Public Governance, Performance and Accountability Act 2013*.

## Section 7

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**Commonwealth entity** has the meaning given by the *Public Governance, Performance and Accountability Act 2013*.

**employer superannuation contribution**, for an office holder, has the same meaning it has in the relevant principal determination in relation to the office holder.

**office holder**: see section 7.

**reference salary**, in relation to an office holder, means the office holder's total remuneration, less the amount that reflects the employer superannuation contribution for the office holder.

**relevant principal determination**, in relation to an office holder, means the determination mentioned in section 7 that applies to the office holder.

**total remuneration**, in relation to an office holder, has the same meaning it has in the relevant principal determination in relation to the office holder.

## 7 Application of this instrument

- (1) This instrument applies to a person (an **office holder**) who holds one of the following:
  - (a) an office to which the *Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination 2018* (or any determination that supersedes that determination) applies;
  - (b) an office to which the *Remuneration Tribunal (Specified Statutory Offices—Remuneration and Allowances) Determination 2018* (or any determination that supersedes that determination) applies;
  - (c) an office to which Part 3 of the *Remuneration Tribunal (Judicial and Related Offices—Remuneration and Allowances) Determination 2018* (or any determination that supersedes that determination) applies.
- (2) However, this instrument does not apply to an office holder if the office holder:
  - (a) was appointed on a part-time basis; and
  - (b) is eligible for either a daily fee or annualised fee (rather than total remuneration or a proportion of total remuneration).

## 8 Entitlement to compensation for loss of office

- (1) An office holder is entitled to compensation for loss of office if the office holder's appointment is terminated prior to the expiry of the term of the office holder's appointment, unless an exclusion event occurs.
- (2) The compensation payable is calculated on the basis of one-third of one month of reference salary for each month of service remaining in the term of the office holder's appointment with:
  - (a) a minimum payment of 4 months of reference salary; and
  - (b) a maximum payment of a year of reference salary.
- (3) The Commonwealth may calculate service remaining by excluding any period of Commonwealth service in alternative employment to be performed during the

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remaining term of the appointment where the alternative employment commenced immediately after the termination. The Commonwealth may require an office holder to sign a release in return for the payment.

*Exclusion event*

- (4) An ***exclusion event*** is any of the following events:
- (a) the office holder resigns or retires;
  - (b) the office holder serves the office holder's full term of appointment;
  - (c) the office holder's appointment terminates prematurely for reasons of misbehaviour or unsatisfactory performance;
  - (d) the office holder's appointment terminates prematurely because the office holder is not able to perform the duties of the office because of physical or mental incapacity;
  - (e) the office holder:
    - (i) becomes bankrupt; or
    - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
    - (iii) compounds with the office holder's creditors; or
    - (iv) makes an assignment of the office holder's remuneration for the benefit of the office holder's creditors;
  - (f) the office holder is offered suitable alternative employment (including in a Commonwealth company or Commonwealth entity).
- (5) Without limiting paragraph (4)(f), an offer of suitable alternative employment is taken to have been made to the office holder if the office holder is:
- (a) on leave without pay or some other form of authorised absence from APS employment; and
  - (b) able to resume that employment following the termination of the office holder's appointment.

## **Schedule 1—Repeals**

### *Determination 2014/17: Compensation for Loss of Office for Holders of Public Office*

#### **1 The whole of the instrument**

Repeal the instrument.