



Remuneration Tribunal (Recreation Leave for Holders of Relevant Offices) Determination 2018

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 (Recreation Leave for Holders of Relevant 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Note: This table relates only to the provisions of this instrument as originally made.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(3AA) and 8A(4) of the *Remuneration Tribunal Act 1973*.

4 Determination supersedes previous determination

This instrument supersedes *Determination 2012/11: Recreation Leave for Full-Time Holders of Relevant Offices*.

5 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

Act means the *Remuneration Tribunal Act 1973*.

agency, of an office holder, means:

- (a) the agency to which the office holder is attached; or
- (b) if the office holder is not attached to an agency—the portfolio Department.

Section 7

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 office has the meaning given by subsection 7(3AB) of the Act.

Note: Subsection 7(3AB) of the Act provides that a relevant office is a public office in relation to which a law of the Commonwealth provides that the holder of the office has such recreation leave entitlements as are determined by the Tribunal.

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

specified statutory office: see paragraph 7(b).

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

This instrument applies to a person (an **office holder**) who holds one of the following:

- (a) a relevant 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) a relevant office (a **specified statutory office**) to which the *Remuneration Tribunal (Specified Statutory Offices—Remuneration and Allowances) Determination 2018* (or any determination that supersedes that determination) applies.

Note 1: A principal executive office is not a relevant office: see paragraph 3(4)(ra) of the Act.

Note 2: A specified statutory office is a relevant office. However, the Tribunal does not have the power to determine recreation leave entitlements for the Chief of the Defence Force or the Australian Statistician (both of which are specified statutory offices).

8 Accrual of recreation leave

- (1) For each completed 12 months of service, an office holder accrues a credit of 4 weeks of recreation leave. The leave accrues on a pro rata basis.
- (2) An office holder's recreation leave is to be paid at the office holder's normal weekly salary.

9 Credits prior to appointment

- (1) If, on or after appointment to a relevant office, an office holder:
 - (a) elects to resign under another employing Act of the Commonwealth that the office holder was employed under; and

- (b) has not received payment in lieu for the recreation leave credit held immediately before the date of resignation;
the office holder is taken, on the day of the resignation, to have accrued an equivalent credit of recreation leave under this instrument.
- (2) Any credit that is taken to have accrued under this section is taken to have accrued on the day that it accrued while the office holder was employed under the other employing Act.

10 Recreation leave accrued under earlier determinations

Any entitlement to recreation leave accrued by an office holder under a previous determination made under the Act is to be recognised as an entitlement to recreation leave for the purposes of this instrument.

11 Additional recreation leave entitlements for certain office holders

Administrator of Christmas and Cocos (Keeling) Islands

- (1) The Administrator of Christmas and Cocos (Keeling) Islands is entitled to 7 days recreation leave per year in addition to the recreation leave otherwise provided for in this instrument.

Administrator of Norfolk Island

- (2) The Administrator of Norfolk Island is entitled to 3 days recreation leave per year in addition to the recreation leave otherwise provided for in this instrument.

12 Administration of recreation leave

- (1) Subject to this section and section 13, leave accrued by an office holder under this instrument is to be administered by the office holder's agency in accordance with the agency's policies and practices relating to annual leave or recreation leave (however described) that apply generally to the employees in the agency.
- (2) If the agency has specific policies and practices relating to annual leave or recreation leave (however described) for SES employees (or equivalent) in the agency, leave accrued by an office holder under this instrument is to be administered in accordance with those policies and practices.
- (3) Without limiting subsections (1) and (2), any provisions of the agency's policies and practices that relate to matters such as the following apply to the administration of the office holder's recreation leave:
- (a) limitations on credits accrued;
 - (b) subject to subsection (5), deeming on leave;
 - (c) sickness while on approved leave;
 - (d) cashing out of some credits.
- (4) An agency's policies and practices do not apply to an office holder to the extent that those policies or practices have the effect of providing recreation leave that is additional to the leave under this instrument.

Section 13

- (5) Any provisions of an agency's policies and practices relating to deeming on leave do not apply to an office holder who holds a specified statutory office.

13 Approval of leave

An office holder may take recreation leave under this instrument if approved by:

- (a) the person, authority or body (each of whom is a *relevant authority*), or a delegate of the relevant authority, who may, under a law of the Commonwealth, grant leave of absence other than recreation leave to the holder of that office; or
- (b) if the law of the Commonwealth does not specify a relevant authority—for the purposes of subsection 7(3AD) of the Act, the Minister with portfolio responsibility for the relevant office.

14 Payment in lieu

If an office holder is eligible for a payment in lieu of recreation leave, the rate of remuneration used for calculating that payment is the office holder's reference salary.

Schedule 1—Repeals

Determination 2012/11: Recreation Leave for Full-Time Holders of Relevant Offices

1 The whole of the instrument

Repeal the instrument.