



REMUNERATION TRIBUNAL

Explanatory Statement: Remuneration Tribunal Amendment Determination (No. 4) 2021

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.

E-Safety Commissioner

6. On 17 February 2021, the Hon Paul Fletcher MP, the Minister for Communications, Urban Infrastructure, Cities and the Arts, wrote to the Tribunal seeking a review and indicative determination of remuneration for the full-time office of the e-Safety Commissioner. The letter was accompanied by a submission detailing changes to the roles and responsibilities of the office, subject to the passage of the *Online Safety Act 2021 (Online Safety Act)*. The Tribunal's determination of remuneration has effect from the commencement of the *Online Safety Act* on 23 July 2021.

Commonwealth Ombudsman

7. There was no consultation on this matter. The amendment removes the personal superannuation provision for Mr Michael Manthorpe, on the basis his appointment to the office of Commonwealth Ombudsman ceased on 31 July 2021.

Workplace Gender Equality Agency, Director

8. On 2 August 2021, the Tribunal received correspondence from Senator the Hon Marise Payne, Minister for Women, seeking a determination of accommodation and reunion travel assistance for the Hon Mary Wooldridge, Director of Workplace Gender Equality.

Financial Regulator Assessment Authority, Chair and Member

9. On 23 June 2021, the Treasurer, the Hon Josh Frydenberg MP, wrote to the Tribunal seeking a determination of remuneration and travel tier for the offices of Chair and Member of the Financial Regulator Assessment Authority.

Retrospectivity

10. 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.

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

11. 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:

12. Section 1 specifies the name of the instrument.
13. Section 2 specifies when the instrument commences.
14. Section 3 specifies the authority for the instrument.
15. Section 4 outlines the effect of instruments specified in a Schedule to the instrument.
16. Schedule 1 sets out the amendments made to the instruments specified in Schedule 1.

SCHEDULE 1—AMENDMENTS

Part 1—Main amendments

Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination 2021

17. Item 1 repeals the item in table 2A dealing with the e-Safety Commissioner.
18. Item 2 sets remuneration and travel tier for the e-Safety Commissioner.
19. Item 3 removes the personal superannuation salary for Mr Michael Manthorpe.
20. Item 4 sets accommodation assistance for the Hon Mary Wooldridge, Director of Workplace Gender Equality.
21. Item 5 sets reunion travel assistance for the Hon Mary Wooldridge, Director of Workplace Gender Equality.
22. Item 6 sets the application and transitional provisions for item 2.

Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2021

23. Item 7 sets remuneration and travel tier for the offices of Chair and Member of the Financial Regulator Assessment Authority.
24. Item 8 sets the application and transitional provisions for item 7.

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 2021; and*
- *Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2021.*

The determination:

- sets new remuneration for the office of e-Safety Commissioner.
- removes personal superannuation salary for Mr Michael Manthorpe, former Commonwealth Ombudsman.
- sets accommodation assistance and reunion travel assistance for the Hon Mary Wooldridge, Director of Workplace Gender Equality.
- establishes remuneration and travel tier for the offices of Chair and Member of the Financial Regulator Assessment Authority.

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