



REMUNERATION TRIBUNAL

Explanatory Statement: Remuneration Tribunal Amendment Determination (No. 1) 2022

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.

Tuition Protection Service, Director

6. On 13 January 2022, the Tribunal's Secretariat received advice from the Department of Education, Skills and Employment that Mr Vipin Mahajan had retired from the office of Director, Tuition Protection Service in October 2021.

Solicitor-General

7. There was no consultation on this matter. The amendment removes a provision for reunion travel assistance for Dr Stephen Donaghue QC, Solicitor-General, which expired on 15 January 2022.

Financial Adviser Standards and Ethics Authority

8. On 19 January 2022, the Department of the Treasury wrote to the Tribunal's Secretariat advising the Financial Adviser Standards and Ethics Authority had been abolished and requesting it be removed from the determination.

ASC Pty Ltd, Deputy Chair

9. On 6 December 2021, the Minister for Finance, Senator the Hon Simon Birmingham wrote to the Tribunal seeking a determination of remuneration and travel tier for the new office of Deputy Chair of the ASC Board.

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.

Exemption from sunseting

11. 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*.
12. This exemption has been granted by the Attorney-General because the Remuneration Tribunal has a statutory role independent of government.

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

13. 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:

14. Section 1 specifies the name of the instrument.
15. Section 2 specifies when the instrument commences.
16. Section 3 specifies the authority for the instrument.
17. Section 4 outlines the effect of instruments specified in a Schedule to the instrument.
18. 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 2021

1. Item 1 removes the reference to the special provision for the office of Director, Tuition Protection Service in Table 2A.
2. Item 2 removes the item in Table 2B setting person-specific remuneration for Mr Vipin Mahajan, Director, Tuition Protection Service.
3. Item 3 removes the item in Table 3B setting superannuation salary for Mr Vipin Mahajan.
4. Item 4 removes the item in Table 5B dealing with reunion travel assistance for Dr Stephen Donaghue QC, Solicitor-General.

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

5. Item 5 sets remuneration for the office of Deputy Chair of ASC Pty Ltd in Table 3A.
6. Item 6 amends the special provision for the ASC Pty Ltd Business Assurance and Security Committee in Table 3B.
7. Item 7 removes the office of Director, Financial Adviser Standards and Ethics Authority from Table 4A.
8. Item 8 removes the office of Chair, Financial Adviser Standards and Ethics Authority from Table 5A.

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.

Remuneration Tribunal Amendment Determination (No.1) 2022

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:

- removes person-specific remuneration and a personal superannuation salary for Mr Vipin Mahajan.
- removes reunion travel assistance for Dr Stephen Donaghue QC, Solicitor-General.
- establishes remuneration for the office of Deputy Chair of ASC Pty Ltd.
- amends the special provision for the ASC Pty Ltd Business Assurance and Security Committee.
- removes the offices of Director and Chair of the Financial Adviser Standards and Ethics 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