



Remuneration Tribunal

Explanatory Statement: Remuneration Tribunal Amendment Determination (No.8) 2023

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 (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.

Housing Australia, Chief Executive Officer, Chair and Member

6. On 13 October 2023, the Department of the Treasury advised the Tribunal's Secretariat that the name of the National Housing Finance and Investment Corporation had changed to Housing Australia.

High Speed Rail Authority, Chief Executive Officer

7. On 21 September 2023, the Chair of the High Speed Rail Authority Board, Ms Jill Rossouw, wrote to the Tribunal seeking a revised determination of remuneration for the office of Chief Executive Officer, High Speed Rail Authority. The accompanying submission outlined expanded expectations of the office. On 29 October 2023, the Minister for Regional Development, Local Government and Territories, the Hon Kristy McBain MP, acting for the Minister for Infrastructure, Transport, Regional Development and Local Government, the Hon Catherine King MP, wrote to the Tribunal expressing support for the submission.

Inspector-General of Aged Care

8. On 12 April 2023, the Minister for Aged Care, the Hon Anika Wells MP, wrote to the Tribunal seeking an indicative determination of remuneration for the proposed full-time office of the Inspector-General of Aged Care. The accompanying submission outlined the role and responsibilities of the office, and the qualities and capabilities required of the office holder.

Jobs and Skills Australia Deputy Commissioner

9. On 21 September 2023, the Minister for Skills and Training, the Hon Brendan O'Connor MP, wrote to the Tribunal seeking a determination of full-time remuneration and travel tier for the new office of Jobs and Skills Australia Deputy Commissioner. The accompanying submission outlined the role and responsibilities of the office, and the qualities and capabilities required of the office holder.

National Emergency Management Agency, Coordinator-General

10. A special provision for Mr Brendan Moon in his role as Coordinator-General of the National Emergency Management Agency expired on 5 October 2023. There was no consultation on this matter.

Race Discrimination Commissioner

11. Special provisions for Mr Chin Tan in his role as Race Discrimination Commissioner expired on 7 October 2023. There was no consultation on this matter.

Prime Ministerial Advisory Council on Veterans' Mental Health, Chair and Member

12. On 4 October 2023, the Department of the Prime Minister and Cabinet advised the Tribunal's Secretariat that the Prime Ministerial Advisory Council on Veterans' Mental Health could be removed from the Tribunal's part-time determination, as the terms of reference for the council expired in 2021.

Bundanon Trust Board, Chair and Member

13. On 20 September 2023, the Minister for the Arts, the Hon Tony Burke MP, wrote to the Tribunal seeking a determination of remuneration and travel tier for the part-time offices of Chair and Member of the Bundanon Trust Board, subject to the offices being referred into the Tribunal's determinative jurisdiction by the Assistant Minister for the Public Service, the Hon Patrick Gorman MP. The

accompanying submission outlined the role of the offices and the qualities and capabilities required of office holders.

14. On 6 November 2023, Assistant Minister Gorman wrote to the Tribunal President specifying that the offices of Chair and Member of the Bundanon Trust Board are offices to which the provisions of the *Remuneration Tribunal Act 1973* should apply.

Retrospectivity

15. 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.
16. With respect to the offices of Chair and Member of the Bundanon Trust Board, the retrospective application of this provision does not disadvantage any person as it provides remuneration and travel tier for the offices from the date they were brought into the Remuneration Tribunal's determinative jurisdiction.

Exemption from sunseting

17. 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*.
18. This exemption has been granted by the Attorney-General because the Remuneration Tribunal has a statutory role independent of government.
19. As the Remuneration Tribunal makes new principal determinations annually, the principal instrument amended by this determination are unlikely to have any practical effect beyond the usual 10 year sunseting period. 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

20. 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:

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

25. 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 (No.2) 2023

26. Items 1 and 2 amend the name of the 'National Housing Finance and Investment Corporation' to 'Housing Australia' in Table 2A.

27. Item 3 amends the remuneration for the office of Chief Executive Officer, High Speed Rail Authority in Table 2A.

28. Item 4 establishes remuneration and travel tier for the office of Inspector-General of Aged Care in Table 2A.

29. Item 5 repeals the previous item relating to the remuneration of the Chief Executive Officer, High Speed Rail Authority in Table 2A.

30. Item 6 establishes remuneration and travel tier for the office of Jobs and Skills Australia Deputy Commissioner in Table 2A.

31. Item 7 amends the special provision for Mr Brendan Moon, Coordinator-General, National Emergency Management Agency in Table 2B to remove a loading which is no longer applicable.

32. Items 8 and 9 remove the items dealing with accommodation and reunion travel assistance for Mr Chin Tan, former Race Discrimination Commissioner from Tables 5A and 5B.

Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination (No.2) 2023

33. Items 10 and 11 amend the name of the 'National Housing and Finance Investment Corporation' to 'Housing Australia' in Table 3A.

34. Item 12 establishes remuneration and travel tier for the offices of Chair and Member of the Bundanon Trust Board in Table 3A.

35. Item 13 removes the item dealing with the Prime Ministerial Advisory Council on Veterans' Mental Health from Table 4B.

36. Item 14 sets application and transition provisions for the offices of Chair and Member of the Bundanon Trust Board in Table 8A.

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) 2023

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 the principal determinations:

- Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination (No. 2) 2023
- Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination (No. 2) 2023.

The determination:

- updates the name of the 'National Housing Finance and Investment Corporation' to 'Housing Australia' in the full-time and part-time determinations;
- amends remuneration for the full-time office of Chief Executive Officer, High Speed Rail Authority;
- sets remuneration and travel tier for the full-time office of Inspector-General of Aged Care;
- sets full-time remuneration and travel tier for the office of Jobs and Skills Australia Deputy Commissioner;
- removes a special provision for Mr Brendan Moon, Coordinator-General, National Emergency Management Agency, which has expired;
- removes special provisions for Mr Chin Tan, former Race Discrimination Commissioner, which have expired;
- sets remuneration and travel tier for the part-time offices of Chair and Member of the Bundanon Trust Board;and
- removes the offices of the Prime Ministerial Advisory Council on Veterans' Mental Health.

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