



Remuneration Tribunal

Explanatory Statement: Remuneration Tribunal Amendment Determination (No. 7) 2024

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.

Federal Circuit and Family Court of Australia, Judge (Division 2)

6. On 15 January 2024, Chief Justice the Hon William Alstergren AO, Chief Justice of the Federal Circuit and Family Court of Australia, wrote to the Tribunal seeking a review of remuneration and recreation leave for the office of Judge of

Division 2 of the Federal Circuit and Family Court of Australia. The Tribunal also sought the Attorney-General's views on these matters.

Parliamentary Budget Office, Parliamentary Budget Officer

7. There was no consultation on this matter. Dr Stein Helgeby, the Parliamentary Budget Officer, completed his term on 17 November 2024.

Australian Bravery Decorations Council, Council for the Order of Australia, National Emergency Medal Committee

8. On 28 February 2024, the Hon Patrick Gorman MP, Assistant Minister to the Prime Minister, wrote to the Tribunal seeking a review of remuneration for the part-time offices of the Australian Bravery Decorations Council, the Council for the Order of Australia and the National Emergency Medal Committee (collectively known as the Australian Honours Councils). The accompanying submission outlined the roles and responsibilities of the offices.

9. On 15 November 2024, Assistant Minister Gorman wrote to the Tribunal President specifying that certain appointments to the Australian Honours Councils are offices to which the provisions of the Act should apply.

10. The Tribunal's Secretariat consulted with the Department of the Prime Minister and Cabinet and the Australian Government Solicitor in relation to this matter.

Retrospectivity

11. 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

12. 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 Act is exempt from the provisions of paragraph 54(2)(b) of the *Legislation Act 2003*.

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

14. As the Remuneration Tribunal makes new principal determinations annually, this instrument's exemption from sunseting will not have any practical effect. 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

15. 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:

16. Section 1 specifies the name of the instrument.
17. Section 2 specifies when the instrument commences.
18. Section 3 specifies the authority for the instrument.
19. Section 4 outlines the effect of instruments specified in a Schedule to the instrument.
20. Schedule 1 sets out the amendments made to the instruments specified in Schedule 1.

SCHEDULE 1—AMENDMENTS

Remuneration Tribunal (Judicial and Related Offices - Remuneration and Allowances) Determination 2024

21. Item 1 amends sections 14(2) and (3) of the determination so that Judges of Division 2 of the Federal Circuit and Family Court of Australia are entitled to 8 weeks of recreation leave with effect from 1 January 2025.
22. Item 2 sets application and transitional provisions for item 1.

Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination 2024

23. Item 3 removes the personal superannuation salary for Dr Stein Helgeby, former Parliamentary Budget Officer, from Table 3B.

Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2024

24. Item 4 inserts definitions relevant to the Australian Honours Councils in section 8.
25. Item 5 establishes annual fees and travel tiers, in Table 3A, for the offices of:
 - Chair and Member of the Australian Bravery Decorations Council – eligible member.
 - Chair and Member of the Australian Bravery Decorations Council – member other than an eligible member.
 - Chair and Member of the Council for the Order of Australia – eligible member.
 - Chair and Member of the Council for the Order of Australia – member other than an eligible member.
26. Item 6 establishes annual fees and travel tiers, in Table 3A, for the offices of:
 - Chair and Member of the National Emergency Medal Committee –eligible member.
 - Chair and Member of the National Emergency Medal Committee – member other than an eligible member.

27. Item 7 removes the offices of the Australian Bravery Decorations Council from Table 4A.
28. Item 8 removes the offices of the Council for the Order of Australia from Table 4A.
29. Item 9 removes the offices of the National Emergency Medal Committee from Table 4A.

Authority: Sub-sections 7(3), (3AA) (4) and (4B)

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. 7) 2024

This Disallowable 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 Instrument

This instrument, or determination, amends the principal determinations:

- Remuneration Tribunal (Judicial and Related Offices—Remuneration and Allowances) Determination 2024.
- Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination 2024.
- Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2024.

The instrument establishes remuneration for a range of part-time offices (and maintains the travel tier for the relevant offices); increases recreation leave for a class of office holder; and removes a spent provision.

Human rights implications

This instrument engages the right to work in Article 6 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) and the right to the enjoyment of just and favourable conditions of work, primarily contained in Article 7 of ICESCR.

Right to work and to just and favourable conditions of work

Article 6 of the ICESCR recognises ‘... *the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts* ...’. The right to just and favourable conditions of work includes, but is not limited to, ensuring ‘*fair wages and equal remuneration for work of equal value without distinction of any kind*’, and ‘*a decent living for themselves and their families*’ (Article 7(1)(a)).

Consistent with Articles 6 and 7 of the ICESCR, this instrument ensures that individuals appointed to the public offices subject to the determination continue to be fairly remunerated in respect of the work they undertake as public office holders. Specifically, the instrument:

- Increases the recreation leave entitlement for the office of Federal Circuit and Family Court of Australia (Division 2) Judge;
- Removes the personal superannuation salary for the former Parliamentary Budget Officer, Dr Stein Helgeby, reflecting the expiry of his term of office;
- Establishes remuneration (and transitions the travel tier from the Tribunal’s daily fee to its annual fee provisions) for the part-time offices of the:
 - Australian Bravery Decorations Council – eligible member,
 - Council for the Order of Australia – eligible member,
 - National Emergency Medal Committee – eligible member; and

- Maintains the travel tier for the following part-time offices and transitions the offices from the Tribunal’s daily fee to its annual fee provisions (although no fee will continue to be payable in respect of these offices):
 - Australian Bravery Decorations Council – member other than an eligible member,
 - Council for the Order of Australia – member other than an eligible member,
 - National Emergency Medal Committee – member other than an eligible member.

These amendments do not reduce the remuneration of any of the offices. By establishing remuneration, allowances and entitlements based on an assessment of the current work value of the office, the instrument directly promotes the principle of ensuring ‘*fair wages and equal remuneration for work of equal value*’ per Article 7(1)(a) of the ICESCR and more broadly contributes to ‘... *the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts* ...’ per Article 6 of the ICESCR.

Conclusion

This instrument is compatible with human rights because it enhances and promotes the protection of human rights, and in particular, the right to work and to just and favourable conditions of work through maintaining the principle of fair, and current, remuneration for work performed.

The Remuneration Tribunal