



REMUNERATION TRIBUNAL

Explanatory Statement: Remuneration Tribunal Amendment Determination (No. 3) 2018

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.

Australian Competition and Consumer Commission, Member

6. The Tribunal received a submission in October 2018 from Mr Rod Sims, the Australian Competition and Consumer Commission Chair. The submission provided detailed information about the expanded role and responsibilities of the Australian Competition and Consumer Commission since 2011 and proposed a review of remuneration for the office of Member.

Great Barrier Reef Marine Park Authority, Chief Executive Officer, Chair and Member

7. In April 2018, the Tribunal received a submission from the former Minister for the Environment, the Hon Josh Frydenberg MP, seeking a review of remuneration for the offices of the Great Barrier Reef Marine Park Authority, following changes to its governance structure resulting from amendments to the *Great Barrier Reef Marine Park Authority Act 1975*. The submission provided comprehensive information about the roles and responsibilities of these offices under the new structure, which came into effect on proclamation of the amending legislation on 29 October 2018.

Director of National Parks

8. On 23 October 2018, at the request of the Minister for the Environment, the Hon Melissa Price MP and in consultation with the Tribunal, the Minister for Finance and the Public Service, the Hon Mathias Cormann revoked the Principal Executive Office (PEO) status of the office of the Director of National Parks. The effect of the revocation is to return the office to the Tribunal's determinative jurisdiction with effect from the date of revocation, 29 October 2018. The remuneration for the office was not changed.

Australian Signals Directorate, Director-General

9. Following advice in September 2018 from the First Assistant Secretary, People Services Division, Defence People Group, Department of Defence, the Tribunal determined a person specific superannuation salary for the recently appointed Australian Signals Directorate Director-General, Mr Michael Burgess, maintaining his superannuation salary arrangements consistent with the requirements of the Public Sector Superannuation Scheme.

Snowy Hydro Limited, Chair and Member

10. The Tribunal received a letter in September 2018 from the Chairman of Snowy Hydro Limited (SHL), Mr Noel Cornish AM. The letter was provided via the Department of Finance. The letter provided detailed information on the roles and responsibilities of the offices of Chair and Member of the SHL Board upon the organisation's establishment as a fully owned Commonwealth corporate company. The submission also detailed the additional responsibilities of members appointed to the Board's Audit Committee.

Financial Reporting Council, Chair and Member

11. The Tribunal received a submission in September 2018 from the Hon Kelly O'Dwyer MP, former Minister for Revenue and Financial Services, seeking a determination of remuneration for the offices of Chair and Members of the Financial Reporting Council following the movement of these offices into the Tribunal's determinative jurisdiction. The submission provided information about the current roles and responsibilities of the offices.

WSA Co Limited Sub-Committees

12. The Tribunal received a letter in September 2018 from Mr Paul O'Sullivan, the Chair of WSA Co Limited, seeking a determination of additional annual fees for WSA Co Limited Board members appointed as Chairs of the four sub-committees of the Board. The submission provided detailed information about the roles and responsibilities of the sub-committees.

National School Resourcing Board, Chair and Deputy Chair

13. The Tribunal received a letter in October 2018 from the Minister for Education, the Hon Dan Tehan MP, confirming that the roles of Chair and Deputy Chair are operating as expected. The Tribunal agreed to a loading for the office holders appointed to these offices for the first 12 months of their appointments. The period expired on 28 October 2018.

High Court of Australia

14. The Tribunal received a letter in October 2018 from the Chief Justice of the High Court, the Hon Susan Kiefel AC, providing updated data on the days that were appointed by the Court each year as sitting days together with details of circuit sittings by the Court.

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.

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

16. 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:

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

SCHEDULE 1—AMENDMENTS

Part 1—Repeals of items that are being replaced

Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination 2018

22. Item 1 removes superseded remuneration provisions for the office of Member of the Australian Competition and Consumer Commission.

Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2018

23. Item 2 removes superseded remuneration provisions for the office of Member of the Great Barrier Reef Marine Park Authority.

Part 2—Main amendments

Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination 2018

24. Item 3 inserts new remuneration for the office of Member of the Australian Competition and Consumer Corporation.
25. Item 4 sets remuneration and travel tier for the office of Chief Executive Officer of the Great Barrier Reef Marine Park Authority.
26. Item 5 sets remuneration and travel tier for the office of the Director of National Parks.
27. Item 6 sets a person specific superannuation salary for Mr Michael Burgess, Director-General, Australian Signals Directorate.
28. Item 7 sets the commencement dates for the matters specified in Items 1 to 5 of the instrument.

Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2018

29. Item 8 sets remuneration and travel tier for the offices of Chair and Member of Snowy Hydro Limited and inserts a provision for additional annual fees for Members appointed to the Board's audit committee.
30. Item 9 inserts a provision for additional annual fees for Members of the Board of WSA Co Limited appointed to the Board's audit committee and inserts a reference to an item providing additional fees for other sub-committees of the Board.

31. Item 10 sets remuneration and travel tier for the office of Chair of the Financial Reporting Council.
32. Item 11 sets remuneration and travel tier for the office of Chair and new remuneration for the office of Member of the Great Barrier Reef Marine Park Authority.
33. Items 12 and 13 remove the additional loading provisions for the offices of Chair and Deputy Chair of the National School Resourcing Board.
34. Item 14 inserts additional annual fees for WSA Co Limited Board members appointed as Chairs of three specified sub-committees of the Board for a fixed period of two years.
35. Item 15 sets the remuneration and travel tier for the office of Member of the Financial Reporting Council.
36. Item 16 sets the commencement dates for the matters specified in Items 8 to 13 and item 15 of the instrument.

Remuneration Tribunal (Judicial and Related Offices—Remuneration and Allowances) Determination 2018

37. Item 17 inserts a definition of Table 7A (application and transitional provisions).
38. Item 18 increases the rate of the annualised travel allowance payable to Justices of the High Court who do not establish a place of residence in Canberra.
39. Item 19 inserts Part 7—Application and transitional provisions including section 46 which states the purpose of Table 7A. Table 7A is inserted. The table sets the commencement date for the matter specified in Item 18. The application provision is intended to result in 22 October 2018 being the date specified for the purposes of paragraph 7(5C)(a) of the Act.

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.3) 2018

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 2018;*
- *Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2018; and*
- *Remuneration Tribunal (Judicial and Related Offices—Remuneration and Allowances) Determination 2018.*

The determination:

- sets new remuneration for the office of the Member of the Australian Competition and Consumer Corporation;
- sets remuneration and travel tier for the offices of Chief Executive Officer and Chair of the Great Barrier Reef Marine Park Authority and new remuneration for the office of Member;
- sets remuneration and travel tier for the office of the Director of National Parks;
- sets a person specific superannuation salary for Mr Michael Burgess, Director-General, Australian Signals Directorate;
- sets remuneration and travel tier for the offices of the Chair and Member of Snowy Hydro Limited, including additional fees for Members appointed to the Board's audit committee;
- sets remuneration and travel tier for the offices of Chair and Member of the Financial Reporting Council;
- removes the additional loadings, agreed for the first 12 months of appointment, for the offices of Chair and Deputy Chair of the National School Resourcing Board;
- sets additional annual fees for WSA Co Limited Board Members appointed to the Board's audit committee;
- sets additional annual fees for WSA Co Limited Board Members appointed as Chairs of three specified sub-committees of the Board; and
- increases the annualised travel allowance for Justices of the High Court who do not establish a place of residence in Canberra.

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