



REMUNERATION TRIBUNAL

Explanatory Statement: Remuneration Tribunal (Recreation Leave for Holders of Relevant Offices) Determination 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.

Restructure of Determination

6. The Tribunal has taken the opportunity to review, restructure and reformat its determinations to reflect standard Commonwealth drafting practice and to improve clarity and readability. This has involved the restructuring and rewording of certain provisions. The Office of Parliamentary Counsel was engaged to assist in this process.

7. Recreation leave provisions for the Administrator, Christmas and Cocos (Keeling) Islands and the Administrator, Norfolk Island contained in Part 5 of the previous determination, *Determination 2017/11 Remuneration and Allowances for Holders of Full-Time Public Office*, have been removed from that determination and are now contained in this determination.
8. There have been no other changes to terms and conditions set out in this determination.

Retrospectivity

9. 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

10. 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:

SECTIONS 1 – 4

11. Specify the authority for and the commencement date of the determination and supersedes previous *Determination 2012/11 Recreation Leave for Full-Time Holders of Relevant Offices* (as amended) applying to the offices covered by this determination.

SECTIONS 5 – 7

12. Contain definitions of certain words used in the determination, and outline the application of the determination and the effect of instruments specified in Schedules to the determination.

SECTIONS 8 – 10

13. Set out the arrangements for accrual of recreation leave, credits accrued prior to appointment, and recreation leave accrued under earlier determinations.

SECTIONS 11 – 14

14. Set out additional recreation leave entitlements for certain office holders, arrangements for the administration and approval of recreation leave, and payment in lieu of recreation leave.

SCHEDULE 1 – REPEALS

15. Schedule 1 specifies instruments which have been amended or repealed.

Authority: Sub-sections 7(3) and 7(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

The determination has been restructured and reformatted to reflect standard Commonwealth drafting practice and to improve clarity and readability.

The determination supersedes the previous determination, *Determination 2012/11 Recreation Leave for Full-Time Holders of Relevant Offices* (as amended).

The changes follow a review of remuneration (and significantly related matters) carried out by the Tribunal consistent with sub-section 7(3) of the *Remuneration Tribunal Act 1973* and the restructuring of a number of Tribunal determinations.

This determination includes recreation leave provisions for the Administrator, Christmas and Cocos (Keeling) Islands and the Administrator, Norfolk Island which were removed from *Determination 2017/11 Remuneration and Allowances for Holders of Full-Time Public Office* (as amended).

This 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