



## REMUNERATION TRIBUNAL

---

# **Explanatory Statement: Remuneration Tribunal (Compensation for Loss of Office for Holders of Certain Public 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. There have been no changes to terms and conditions set out in this determination.

## **Retrospectivity**

7. 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**

8. 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**

9. Specify the authority for and the commencement date of the determination and supersedes the previous determination, *Determination 2014/17 Compensation for Loss of Office for Holders of Public Office* (as amended), applying to the offices covered by this determination.

### **SECTIONS 5 – 7**

10. 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.

### **SECTION 8**

11. Sets out the entitlement to compensation for loss of office.

### **SCHEDULE 1 – REPEALS**

12. 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*

### **Remuneration Tribunal (Compensation for Loss of Office for Holders of Certain Public Offices) Determination 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**

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 2014/17 Compensation for Loss of Office for Holders of Public Office* (as amended).

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**