



## REMUNERATION TRIBUNAL

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### **Explanatory Statement: Remuneration Tribunal Amendment Determination (No. 7) 2019**

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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.

*Booderee Board of Management, Chair and Members*

6. On 24 October 2019, the Hon Sussan Ley MP, Minister for the Environment wrote to the Tribunal seeking an increase in remuneration for the offices of the Booderee Board of Management.
7. The submission provided updated information on the role of the Booderee Board of Management, noting an increase in time commitment and work complexity for its offices.

*Military Justice System: Deputy Chief Judge Advocate, Judge Advocate General, Deputy Judge Advocate General, Judge Advocate and Defence Force Magistrate*

8. On 24 October 2019, Senator the Hon Linda Reynolds CSC, Minister for Defence wrote to the Tribunal seeking determination of remuneration for a number of offices in the Military Justice System. The letter was accompanied by a detailed submission setting out the roles and responsibilities of the offices.
9. The offices have been transferred into the Tribunal's jurisdiction as result of recent amendments to the *Defence Force Discipline Act 1982*.

*Australian Centre for International Agriculture Research, Chief Executive Officer*

10. On 2 December 2019, at the request of Senator the Hon Marise Payne, Minister for Foreign Affairs, and in consultation with the Tribunal, the Minister Assisting the Prime Minister for the Public Service and Cabinet, the Hon Greg Hunt MP, revoked the Principal Executive Office status of the office of Chief Executive Officer of the Australian Centre for International Agriculture Research. The effect of the revocation is to return the office to the Tribunal's determinative jurisdiction with effect from the date of revocation, 2 December 2019. Remuneration for the office was determined at the next highest level within the full time office structure above the office's reference rate. Travel tier for the office was not changed.

*Inspector-General of Live Animal Exports*

11. On 29 October 2019, Senator the Hon Bridget McKenzie, Minister for Agriculture wrote to the Tribunal seeking determination of remuneration and travel tier for the new office of Inspector-General of Live Animal Exports. The letter was accompanied by a detailed submission setting out the roles and responsibilities of this new office.

*Australian Sports Anti-Doping Authority – Advisory Group*

12. The Tribunal received advice from officials in the Department of Health that the Advisory Group was abolished by amendments to the *Australian Sports Anti-Doping Authority Act 2006*.

*Accommodation and Reunion Travel Assistance, various office holders*

13. There was no consultation on these matters. The amendments are to provide clarity in the determination on earlier decisions of the Tribunal, in particular to specify the date Accommodation and Reunion travel assistance ceases. The amount of assistance has not changed.

## Retrospectivity

14. 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**

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**

### **Part 1—Repeal of item that is being replaced**

#### ***Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2019***

21. Item 1 removes superseded remuneration provisions for the offices of the Booderee Board of Management.

### **Part 2—Main amendments**

#### ***Remuneration Tribunal (Judicial and Related Offices—Remuneration and Allowances) Determination 2019***

22. Item 2 sets remuneration and travel tier for the office of Deputy Chief Judge Advocate, Military Justice System.
23. Item 3 sets the daily fee and travel tier for the offices of Judge Advocate General, Deputy Judge Advocate General, Judge Advocate and Defence Force Magistrate, Military Justice System.
24. Item 4 sets the commencement date relating to the provisions specified in Items 2 and 3.

#### ***Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination 2019***

25. Item 5 sets the remuneration and travel tier for the office of Chief Executive Officer, Australian Centre for International Agriculture Research.
26. Item 6 inserts a cessation date for accommodation assistance previously determined by the Tribunal for Ms June Oscar, Aboriginal and Torres Strait Islander Social Justice Commissioner.
27. Item 7 inserts a cessation date for accommodation assistance previously determined by the Tribunal for Ms Kate Jenkins, Sex Discrimination Commissioner Australian Human Rights Commission.
28. Item 8 inserts a cessation date for accommodation assistance previously determined by the Tribunal for Ms Libby Lyons, Director of Workplace Gender Equality.
29. Item 9 inserts a cessation date for accommodation assistance previously determined by the Tribunal for Mr Michael Griffin, Integrity Commissioner Australian Commission for Law Enforcement Integrity.
30. Item 10 inserts a cessation date for accommodation assistance previously determined by the Tribunal for The Hon Margaret Stone, Inspector-General of Intelligence and Security.
31. Item 11 inserts a cessation date for accommodation assistance previously determined by the Tribunal for Mr Mark Bielecki, Registered Organisations Commissioner.
32. Item 12 inserts a cessation date for reunion travel assistance previously determined by the Tribunal for Ms Natasha Griggs, Administrator of Christmas and Cocos (Keeling) Islands.
33. Item 13 inserts a cessation date for reunion travel assistance previously

determined by the Tribunal for Mr Eric Hutchinson, Administrator of Norfolk Island.

34. Item 14 inserts a cessation date for reunion travel assistance previously determined by the Tribunal for Ms Libby Lyons, Director of Workplace Gender Equality.
35. Item 15 inserts a cessation date for reunion travel assistance previously determined by the Tribunal for Ms June Oscar, Aboriginal and Torres Strait Islander Social Justice Commissioner.
36. Item 16 inserts a cessation date for reunion travel assistance previously determined by the Tribunal for Dr Stephen Donoghue QC, Solicitor-General.
37. Item 17 inserts a cessation date for reunion travel assistance previously determined by the Tribunal for Ms Kate Jenkins, Sex Discrimination Commissioner Australian Human Rights Commission.
38. Item 18 inserts a cessation date for reunion travel assistance previously determined by the Tribunal for Mr Mark Bielecki, Registered Organisations Commissioner.
39. Item 19 inserts a cessation date for reunion travel assistance previously determined by the Tribunal for The Hon Margaret Stone, Inspector-General of Intelligence and Security.
40. Item 20 inserts a cessation date for reunion travel assistance previously determined by the Tribunal for Mr Michael Griffin, Integrity Commissioner Australian Commission for Law Enforcement Integrity.
41. Item 21 removes reunion travel assistance previously determined by the Tribunal for Mr Tim Kelsey, Chief Executive Officer Australian Digital Health Agency, from the date of his resignation.
42. Item 22 sets the commencement dates relating to the provisions specified in Items 5 and 21.

***Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2019***

43. Item 23 sets the daily fee and travel tier for the Inspector-General of Live Animal Exports.
44. Item 24 removes the Australian Sports Anti-Doping Authority-Advisory Group.
45. Item 25 sets the daily fee and travel tier for the office of Chair and Member of the Booderee Board of Management.
46. Item 26 sets special provisions for the Inspector-General of Live Animal Exports, which caps the daily fee at 120 days per year.
47. Item 27 sets the commencement date relating to the provisions specified in Items 25 and 26.

**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. 6) 2019**

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 2019;*
- *Remuneration Tribunal (Judicial and Related Offices—Remuneration and Allowances) Determination 2019;* and
- *Remuneration Tribunal (Remuneration and Allowances for Holders of Part-Time Public Office) Determination 2019.*

The determination:

- sets the remuneration and travel tier for the office of Chief Executive Officer of the Australian Centre for International Agricultural Research in the full time office jurisdiction;
- clarifies the cessation date for accommodation and reunion travel assistance for various office holders;
- removes all reference to reunion travel assistance for Mr Tim Kelsey, Chief Executive Officer Australian Digital Health Agency, from the date of his resignation;
- removes all reference to the Australian Sports Anti-Doping Authority – Advisory Group that is no longer in operation;
- sets revised fees for the office of Chair and Member of the Booderee Board of Management;
- sets daily fees and travel tier for the new office of Inspector General of Live Animal Exports, capped at 120 days per year;
- sets remuneration and travel tier for the offices of Deputy Chief Judge Advocate, Judge Advocate General, Deputy Judge Advocate General, Judge Advocate and Defence Force Magistrate of the Military Justice System.

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**