



REMUNERATION TRIBUNAL

Explanatory Statement: Remuneration Tribunal (Remuneration and Allowances for Holders of Full-Time Public Office) Determination 2020

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.

Review of Remuneration for Holders of Public Office

6. The Tribunal's obligations, under sub-sections 7(3) and 8(1)(b) of the Act are to make determinations in respect of remuneration for various offices within its jurisdiction at periods of not more than one year. To meet these obligations, the Tribunal issued determinations on 21 June 2019 and at that time included a general adjustment of 2 per cent to remuneration for all offices in its jurisdiction.
7. In complying with its obligations to make new determinations the Tribunal takes the opportunity to consider whether any general increase to remuneration for offices might be warranted. In conducting this review the Tribunal takes account of economic conditions in Australia, past and projected movements in remuneration in the public and private sectors (including the Australian Public Service), as well as the outcomes of reviews of public offices completed by the Tribunal. In order to inform its conclusions the Tribunal draws upon authoritative external sources such as the published material available from the Government, the Reserve Bank of Australia and the Australian Bureau of Statistics as well as trends in public and private sector remuneration. The Tribunal is also obliged by the Act to consider the Annual Wage Reviews of the Fair Work Commission. The Commission's 2020 decision was not available at the time the Tribunal concluded its deliberations.
8. The Tribunal also considered a joint request from the Minister for Finance, Senator the Hon Mathias Cormann and the Minister Assisting the Prime Minister for the Public Service and Cabinet, the Hon Greg Hunt MP, to institute stay on increases to remuneration, entitlements and allowances for all office holders in the Tribunal's jurisdiction.
9. On 11 June 2020 the Tribunal notified its decision to determine no adjustment to remuneration for public offices in its jurisdiction with effect from 1 July 2020. A statement setting out the Tribunal's reasons for decision is available at www.remtribunal.gov.au.
10. *Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination 2020* formalises the Tribunal's decision for Full-time Public Offices.
11. Consultation on this outcome was considered unnecessary given the matters considered by the Tribunal in making its decision.

Sport Integrity Australia, Chief Executive Officer

12. On 4 November 2019, Senator the Hon Richard Colbeck, Minister for Youth and Sport wrote to the Tribunal seeking indicative remuneration for the proposed full-time office of Chief Executive Officer of Sport Integrity Australia, to be established by the *Australian Sports Anti-Doping Authority Amendment (Sport Integrity Australia) Act 2020*. The letter was accompanied by a submission detailing the roles and responsibilities of the office, the functions of the Authority and the skills and qualifications required of the office holder. The relevant legislation received Royal Assent on 6 March 2020, formally establishing the office from 1 July 2020.

Australian Sports Anti-Doping Authority, Chief Executive Officer

13. On 4 November 2020, Senator the Hon Richard Colbeck, Minister for Youth and Sport wrote to the Tribunal regarding the establishment of Sport Integrity Australia and confirmed the Australian Sports Anti-Doping Authority, and the office of Chief Executive Officer, would be abolished by the *Australian Sports Anti-Doping Authority Amendment (Sport Integrity Australia) Act 2020* (the Act). The Act received Royal Assent on 6 March 2020, abolishing the office from 1 July 2020.

Director-General of Security, Australian Security Intelligence Organisation

14. On 8 August 2019 the Prime Minister, the Hon Scott Morrison MP and the Minister for Home Affairs, the Hon Peter Dutton MP, announced that Mr Duncan Lewis would conclude his appointment as the Director-General of Security, Australian Security Intelligence Organisation on 14 September 2019. There was no consultation on this matter given the amendment removes a person specific superannuation salary for Mr Lewis, for an office he is no longer appointed to.

Minor variations to wording and numbering

15. The Tribunal has taken the opportunity to make minor edits to some wording and numbering, for consistency and clarity within the determination. No consultation occurred on this matter as the amendments make no change to the effect of provisions.

Retrospectivity

16. 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

17. 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:

PART 1 - PRELIMINARY

18. Part 1 specifies the authority for and the commencement date of the determination and supersedes the previous principal *Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination 2019* (as amended) applying to the offices covered by this determination. This Part also contains information on schedules and definitions of certain words used in the determination.

PART 2 – REMUNERATION

19. Part 2 sets out the total remuneration and other related matters (such as special provisions for certain offices) effective from 1 July 2020 unless specified.
20. Remuneration and Travel Tier for the new office of Chief Executive Officer, Sport Integrity Australia has been added to Table 2A, and all references to the office of Chief Executive Officer, Australian Sports Anti-Doping Authority have been removed as this office has been abolished.
21. Minor changes have been made to ensure consistency and clarity within the determination, including reordering the Second Parliamentary Counsel and updating references to special provisions.
22. The provisions in Part 2 otherwise remain unchanged from those contained in Part 2 of the previous determination.

PART 3 – SUPERANNUATION

23. Part 3 sets out the superannuation arrangements and other related matters, including superannuation salary for specified office holders.
24. The superannuation salary for Mr Duncan Lewis, Director-General of Security, Australian Security Intelligence Organisation, have been removed, as his term of appointment has ended.
25. The provisions in Part 3 otherwise remain unchanged from those contained in Part 2 of the previous determination.

PART 4 – VEHICLES AND BUSINESS SUPPORT

26. Part 4 sets out the entitlements for vehicle and business support.
27. The provisions of this Part remain unchanged from those contained in Part 4 of the previous determination.

28. PART 5 – TRAVEL AND ACCOMODATION ASSISTANCE

29. Part 5 sets out the entitlements for travel and accommodation assistance, including accommodation and reunion assistance for specified office holders.
30. Minor edits have been made to this section, including the removal of the commencement date of Mr Christopher Wade's accommodation assistance and reunion travel assistance, and reordering of the Service Chiefs to ensure consistency within the document.
31. The provisions of this Part otherwise remain unchanged from those contained in Part 5 of the previous determination.

SCHEDULE 1 – REPEALS

32. 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 legislative instrument, or determination, formalises the Tribunal's review decision to determine no adjustment to remuneration for Full-time Public Offices from 1 July 2020.

The determination supersedes the previous *Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination 2019 (as amended)*.

The decision follows 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*.

In addition to formalising the Tribunal's review decision, the determination:

- sets remuneration and travel tier for the office of Chief Executive Officer of Sport Integrity Australia;
- removes all reference to the office of Chief Executive Officer of the Australian Sports Anti-Doping Authority, as the Authority has been abolished;
- removes a person specific superannuation salary for Mr Duncan Lewis, Director-General of Security, Australian Security Intelligence Organisation, whose term of appointment has ended; and
- minor changes to wording and numbering for consistency and clarity, which have no change to the effect of the provisions.

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