



REMUNERATION TRIBUNAL

Explanatory Statement: Remuneration Tribunal Amendment Determination (No. 4) 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.

Innovation and Science Australia, Chief Executive Officer

6. On 9 June 2020, the Hon Karen Andrews MP, Minister for Industry, Science and Technology, wrote to the Hon Ben Morton MP, Assistant Minister to the Prime Minister and Cabinet, requesting the Minister remove the non-statutory public office of Chief Executive Officer (CEO) of Innovation and Science Australia (ISA) from the Remuneration Tribunal's determinative jurisdiction. Minister Andrews advised, due to changes in the role, the office was being reset to a Senior Executive Officer Band 1 position. On 16 June 2020, Assistant Minister Morton wrote to the Tribunal advising he had exercised his powers under the *Remuneration Tribunal Act 1973* (the Act) and declared the office of CEO of ISA is an office to which the Act no longer applies, therefore removing it from the Tribunal's determinative jurisdiction, with effect from 22 June 2020.

Australian Broadcasting Corporation, Chair, Deputy Chair and Member

7. In June 2020, Ms Ita Buttrose AC, OBE, Chair of the Australian Broadcasting Corporation wrote to the Tribunal to advise the non-executive directors of the Board had resolved to take a 10 per cent reduction in annual fees to be paid for the period 1 July 2020 to 31 December 2020.

Australia Post, Chair, Deputy Chair and Member

8. There was no consultation on this matter. The amendment corrects a minor drafting error in the *Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2020*. Remuneration for these offices has not changed.

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:

11. Section 1 specifies the name of the instrument.
12. Section 2 specifies when the instrument commences.
13. Section 3 specifies the authority for the instrument.
14. Section 4 outlines the effect of instruments specified in a Schedule to the instrument.
15. Schedule 1 sets out the amendments made to the instruments specified in Schedule 1.

Part 1—Main amendments

Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination 2020

16. Item 1 removes the office of the Chief Executive Officer of Innovation and Science Australia.

Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2020

17. Item 2 inserts special provisions for the offices of Chair, Deputy Chair and Member of the Australian Broadcasting Corporation.

18. Item 3 corrects a reference to special provisions for the offices of Chair, Deputy Chair and Member of Australia Post.

19. Item 4 reduces annual fees by 10 per cent for the period beginning on 1 June 2020 and ending on 31 December 2020 for the offices of Chair, Deputy Chair and Member of the Australian Broadcasting Corporation.

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. 2) 2020

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 2020; and*
- *Remuneration Tribunal (Remuneration and Allowances for Holders of Part-Time Public Office) Determination 2020.*

The determination:

- removes all reference to the Chief Executive Officer of Innovation and Science Australia, in the full-time office jurisdiction;
- temporarily reduces remuneration for the offices of Chair, Deputy Chair and Member of the Australian Broadcasting Corporation, in the part-time office jurisdiction; and
- corrects a reference to the special provisions that apply to the Chair, Deputy Chair and Member of Australia Post, in the part-time office jurisdiction.

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