



REMUNERATION TRIBUNAL

Explanatory Statement: Remuneration Tribunal Amendment Determination (No. 5) 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.

Federal Circuit Court, Judges

6. On 13 July 2020, the Honourable Justice Alstergren, Chief Judge of the Federal Circuit Court wrote to the Tribunal seeking temporary amendments to recreation leave arrangements for the Judges of the Federal Circuit Court, given the impact of the COVID-19 pandemic on the ability of Judges to access recreation leave during the period.

Australian Research Council, Chief Executive Officer

7. In July 2020, at the request of the Minister for Education, Hon Dan Tehan MP, and in consultation with the Tribunal, the Assistant Minister to the Prime Minister and Cabinet, the Hon Ben Morton MP, revoked the Principal Executive Office (PEO) status of the office of the Chief Executive Officer (CEO) of the Australian Research Council (ARC). The effect of the revocation is to transfer the office into the Tribunal's full time determinative jurisdiction with effect from the date of revocation, 1 August 2020.

Repatriation Commission, Deputy President

8. On 16 June 2020, Ms Liz Cosson AM CSC, Secretary of the Department of Department of Veterans' Affairs wrote to the Tribunal seeking a determination for personal superannuation salary for Ms Cathryn Pope PSM, the preferred candidate for the office of Deputy President of the Repatriation Commission, should Ms Pope be appointed to the office. On 17 August 2020, Ms Cosson confirmed Ms Pope's appointment to the office effective from 6 August 2020.

Inspector-General of Intelligence and Security

9. On 12 August 2020, the Tribunal received advice from the Office of the Inspector-General of Intelligence and Security that the Hon Margaret Stone's appointment as Inspector-General of Intelligence and Security ended on 23 August 2020, and the determination of accommodation and reunion travel assistance specific to Ms Stone is no longer required.

Aboriginal Hostels Limited, Chief Executive Officer

10. On 24 March 2020, Dr Susan Gordon AM, Chairperson of the Aboriginal Hostels Limited (AHL) Board, wrote to the Tribunal seeking accommodation and reunion fares assistance for Mr David Chalmers, Chief Executive Officer of AHL. The submission provided information on Mr Chalmers' circumstances, consistent with the Tribunal's Relocation Assistance Guidelines.

Commonwealth Scientific and Industrial Research Organisation, Deputy Chair

11. On 7 November 2019, following submissions from the Chairman of the Commonwealth Scientific and Industrial Research Organisation (CSIRO), Mr David Thodey AO, the Tribunal aligned remuneration for the office of Deputy Chair CSIRO with the office of Member CSIRO. The Tribunal also determined additional fees for members of CSIRO (other than the Chair or Deputy Chair) who Chair the People and Safety Committee and the Science Excellence Committee.
12. At this time, the Tribunal maintained existing arrangements for the current Deputy Chair, Ms Shirley In't Veld, for the remainder of her current appointment, and agreed that future appointments to the office of Deputy Chair would receive additional fees for any sub-committee they Chair. Ms In't Veld's appointment ended on 27 June 2020. The amendments implement the Tribunal's November 2019 decision.

Anti-Doping Rule Violation Panel, Chair and Members

13. In August 2020, the Tribunal received advice from the Department of Health that the Anti-Doping Rule Violation Panel had been abolished by updates to the *Australian Sports Anti-Doping Authority Act 2006*.

Aboriginal Hostels Limited Board, Members

14. On 10 June 2020, Dr Susan Gordon AM, Chairperson of the AHL Board, wrote to the Tribunal seeking a determination for additional remuneration for members of the Board of Directors of AHL who perform roles on the Audit, Risk and Finance Committee and the Asset Management Committee. The submission detailed the responsibilities of these sub-committees and the additional responsibilities of members appointed as Chair or Member of these sub-committees.

National Soils Advocate

15. On 18 August 2020, Mr Phillip Gaetjens, Secretary of the Department of the Prime Minister and Cabinet wrote to the Tribunal on behalf of the Prime Minister seeking a remuneration determination for the office of the National Soils Advocate, pending confirmation from the Hon Ben Morton MP, Assistant Minister to the Prime Minister and Cabinet that the office is one to which the provisions of the *Remuneration Tribunal Act 1973* (the Act) should apply. The letter was accompanied by a submission detailing the roles and responsibilities of the office and the skills required of the office holder.
16. On 21 August 2020, the Minister wrote to the Tribunal specifying that the office of the National Soils Advocate is an office to which the provisions of the Act apply, with effect from 28 August 2020.

Retrospectivity

17. 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

18. 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:

19. Section 1 specifies the name of the instrument.
20. Section 2 specifies when the instrument commences.
21. Section 3 specifies the authority for the instrument.
22. Section 4 outlines the effect of instruments specified in a Schedule to the instrument.
23. Schedule 1 sets out the amendments made to the instruments specified in Schedule 1.

SCHEDULE 1—AMENDMENTS

Part 1—Main amendments

Remuneration Tribunal (Judicial and Related Offices—Remuneration and Allowances) Determination 2020

24. Item 1 sets temporary recreation leave arrangements for Federal Circuit Court Judges.

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

25. Item 2 inserts a definition for Table 6A (application and transitional provisions).
26. Item 3 sets remuneration, travel tier and special provisions for the office of Chief Executive Officer, Australian Research Council.
27. Item 4 sets person specific remuneration for Professor Sue Thomas, Chief Executive Officer, Australian Research Council.
28. Item 5 sets a personal superannuation salary for Ms Cathryn Pope, Deputy President, Repatriation Commission.
29. Item 6 removes accommodation assistance for the Hon Margaret Stone, Inspector-General of Intelligence and Security and inserts accommodation assistance for Mr David Chalmers, Chief Executive Officer, Aboriginal Hostels Limited.
30. Item 7 removes reunion travel assistance for the Hon Margaret Stone, Inspector-General of Intelligence and Security and inserts reunion travel assistance for Mr David Chalmers, Chief Executive Officer, Aboriginal Hostels Limited.
31. Item 8 sets the application and transitional provisions relating to the office of Chief Executive Officer, Australian Research Council.

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

32. Item 9 inserts a definition for Table 8A (application and transitional provisions).
33. Item 10 removes personal remuneration for Ms Shirley In't Veld, Deputy Chair, Commonwealth Scientific and Industrial Research Organisation.
34. Item 11 inserts special provisions for Aboriginal Hostels Limited.
35. Item 12 removes the exclusion for the office of Deputy Chair receiving additional fees as Chair of the People and Safety Committee and Chair of the Science and Excellence Committee, with effect from 28 June 2020.
36. Item 13 removes personal remuneration for Ms Shirley In't Veld, Deputy Chair, Commonwealth Scientific and Industrial Research Organisation.
37. Item 14 sets additional fees for the Chair and Members of the Aboriginal Hostels Limited Audit, Risk and Finance Committee and Asset Management Committee.
38. Item 15 sets remuneration, travel tier and special provisions the office of the National Soils Advocate.
39. Item 16 removes the Anti-Doping Rule Violation Panel.

40. Item 17 caps the daily fee for the office of the National Soils Advocate at 100 days per year.

41. Item 18 sets the application and transitional provisions relating to the office of the National Soils Advocate.

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 (Judicial and Related Offices—Remuneration and Allowances) Determination 2020;*
- *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:

- sets temporary recreation leave arrangements for Federal Circuit Court judges as a result of the COVID-19 pandemic;
- sets the remuneration, travel tier and special provisions for the office of Chief Executive Officer, Australian Research Council in the full-time office jurisdiction, including personal remuneration for Professor Sue Thomas, the current office holder;
- sets a personal superannuation salary for Ms Cathryn Pope, Deputy President, Repatriation Commission;
- removes all reference to accommodation and reunion travel assistance for the Hon Margaret Stone, Inspector-General of Intelligence and Security;
- sets accommodation and reunion travel assistance for Mr David Chalmers, Chief Executive Officer, Aboriginal Hostels Limited;
- extends the additional annual fees for Members of the Commonwealth Scientific and Industrial Research Organisation who undertake the role of Chair, People and Safety Committee and/or Chair, Science Excellence Committee to the Deputy Chair;
- removes the personal remuneration for Ms Shirley In't Veld, Deputy Chair, Commonwealth Scientific and Industrial Research Organisation;
- sets additional fees for members of Aboriginal Hostels Limited (other than the Chair) who are appointed to the Audit, Risk and Finance Committee or the Asset Management Committee;
- sets the remuneration and travel tier for the National Soils Advocate, capped at 100 days per year; and
- removes the Anti-Doping Rules Violation Panel that is no longer in operation.

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.