



## REMUNERATION TRIBUNAL

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### Explanatory Statement: Remuneration Tribunal Amendment Determination (No. 7) 2020

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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.

*Office of the Special Investigator, Director-General*

6. On 10 December 2020, the Hon Peter Dutton MP, Minister for Home Affairs wrote to the Tribunal seeking indicative remuneration for the new office of the Director-General of the Office of the Special Investigator. The letter was accompanied by a submission detailing the roles and responsibilities of the office.
7. On 10 December 2020, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia signed an Order establishing the Office of the Special Investigator as an Executive Agency under the *Public Service Act 1999*, with effect from 4 January 2021.

*Australian Skills Quality Authority, Chief Executive Officer and the National Vocational Education and Training Regulator Advisory Council, Chair and Member*

8. On 10 July 2020, Senator the Hon Michaelia Cash, Minister for Employment, Skills, Small and Family Business wrote to the Tribunal seeking indicative remuneration for the office of the Chief Executive Officer, Australian Skills Quality Authority (CEO of ASQA), and the new part-time offices of Chair and Member of the National Vocational Education and Training Regulator (NVETR) Advisory Council, subject to the passage of relevant legislation. The letter was accompanied by a submission detailing the effect of the proposed legislative amendments, and the roles and responsibilities of the offices.
9. The *National VET Regulator Amendment (Governance and Other Matters) Act 2020* (the Governance Act) gives effect to a revised governance structure, abolishing the current Commissioner roles and creating a single statutory office holder, the National VET Regulator, to be known as the CEO of ASQA. The Governance Act also establishes the NVETR Advisory Council that will provide expert advice to the CEO on the regulator's functions. The Governance Act received Royal Assent on 26 November 2020, formally establishing the offices from 1 January 2021.

*Australian Radioactive Waste Agency, Chief Executive Officer*

10. On 29 October 2020, the Hon Keith Pitt MP, Minister for Resources, Water and Northern Australia, wrote to the Hon Ben Morton MP, Assistant Minister to the Prime Minister and Cabinet seeking his agreement to refer the full-time office of the Chief Executive Officer (CEO) of the Australian Radioactive Waste Agency (ARWA) into the Tribunal's jurisdiction, and requesting the Tribunal determine remuneration for the office.
11. On 9 November 2020, Assistant Minister Morton wrote to the Tribunal advising the office of CEO of ARWA is an office to which the provisions of the *Remuneration Tribunal Act 1973* should apply, with effect from 1 December 2020. Assistant Minister Morton attached a submission from Minister Pitt which provided information on the role and responsibilities of the office.

*Tertiary Education Quality and Standards Agency, Chief Executive Officer*

12. There was no consultation in this matter. The amendment removes person specific total remuneration for Mr Anthony McClaran, Chief Executive Officer Tertiary Education Quality and Standards Agency. Mr McClaran's term has now expired.

*Australian Electoral Officer for Queensland*

13. There was no consultation on this matter. The amendment removes person specific total remuneration for Mr Thomas Ryan, Australian Electoral Officer for Queensland. Mr Ryan's term has now expired.

### *Parliamentary Budget Officer*

14. On 23 October 2020 the Hon Tony Smith MP, Speaker of the House of Representatives and Senator the Hon Scott Ryan, President of the Senate, wrote to the Tribunal advising that Dr Stein Helgeby had been appointed to the office of the Parliamentary Budget Officer, and seeking the Tribunal's determination of a personal superannuation salary for Dr Helgeby.

### *Workplace Gender Equality Agency, Director*

15. On 12 October 2020, Ms Alison Frame, Deputy Secretary of the Department of the Prime Minister and Cabinet, wrote to the Tribunal advising that the Director of the Workplace Gender Equality Agency, Ms Libby Lyons, had been reappointed for a 6 month period, until 20 April 2021. Ms Frame sought the Tribunal's agreement to the continuation of accommodation and reunion fares assistance for Ms Lyons for this period.

### *Australian Sports Drug Medical Advisory Committee, Chair*

16. On 26 June 2020 the former Acting Secretary of the Department of Health, Ms Caroline Edwards, wrote to the Tribunal seeking a review of remuneration for the part-time office of Chair of the Australian Sports Drug Medical Advisory Committee (ASDMAC). The submission provided updated information on the role of the Chair of the Committee, noting an increase in workload and prominence since the office was first established.
17. On 9 October 2020, the Hon Richard Colbeck MP, Minister for Youth and Sport wrote to the Tribunal providing his support for the submission, and noting a review of remuneration for the office was necessary.

### *Australia Post, People and Sustainability Committee*

18. On 7 October 2020, Mr Lucio Di Bartolomeo, Chair of Australia Post wrote to the Tribunal advising the People, Safety and Culture Sub-committee was now known as the People and Sustainability Committee and requesting the Tribunal update its determination to reflect the new name.

### *Independent Reviewer – Food and Grocery Code of Conduct*

19. On 8 December 2020, the Hon Michael Sukkar MP, Assistant Treasurer and Minister for Housing wrote to the Tribunal seeking a determination of remuneration for the new part-time office of the Independent Reviewer – Food and Grocery Code of Conduct. The letter was accompanied by a submission detailing the roles and responsibilities of the office.

### **Retrospectivity**

20. 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**

21. 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:**

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

**SCHEDULE 1—AMENDMENTS**

**Part 1—Main amendments**

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

27. Item 1 repeals remuneration set for the office of Chair and Member, Australian Sports Drug Medical Advisory Committee, which is replaced by remuneration set in item 17.
28. Item 2 inserts a reference to the table of application and transitional provisions in section 23.
29. Item 3 sets remuneration and travel tier for the office of the Director-General, Office of the Special Investigator.
30. Item 4 renames the “Chief Commissioner and Chief Executive Officer, Australian Skills Quality Authority”, the “Chief Executive Officer, Australian Skills Quality Authority”.
31. Item 5 sets remuneration and travel tier for the office of the Chief Executive Officer, Australian Radioactive Waste Agency.
32. Item 6 removes all reference to the office of the Deputy Chief Commissioner, Australian Skills Quality Authority.
33. Item 7 removes all reference to the office of the Commissioner, Australian Skills Quality Authority.
34. Item 8 removes the reference to person specific remuneration for Mr Anthony McClaran, Chief Executive Officer, Tertiary Education Quality and Standards Agency.
35. Item 9 removes the reference to person specific remuneration for Mr Thomas Ryan, Australian Electoral Officer for Queensland.
36. Item 10 removes person specific remuneration for Mr Anthony McClaran, Chief Executive Officer, Tertiary Education Quality and Standards Agency and Mr Thomas Ryan, Australian Electoral Officer for Queensland.
37. Item 11 sets personal superannuation salary for Dr Stein Helgeby, Parliamentary Budget Officer.
38. Item 12 removes accommodation assistance for Ms Libby Lyons, Director Workplace Gender Equality Agency.

39. Item 13 sets accommodation assistance for Ms Libby Lyons, Director Workplace Gender Equality Agency at a reduced rate, for a further period.
40. Item 14 removes reunion assistance for Ms Libby Lyons, Director Workplace Gender Equality Agency.
41. Item 15 sets reunion assistance for Ms Libby Lyons, Director Workplace Gender Equality Agency at a reduced rate, for a further period.
42. Item 16 sets the application and transitional provisions for items 3,4,5,6 and 7.

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

43. Item 17 inserts a reference to the table of application and transitional provisions in section 48.
44. Item 18 increases remuneration for the office of Chair, Australian Sports Drug Medical Advisory Committee, and resets remuneration for the office of Member with no change.
45. Item 19 renames the Australia Post "People, Safety and Culture Sub committee" the "People and Sustainability Committee".
46. Item 20 sets remuneration and travel tier for the office of the Independent Reviewer appointed under the Food and Grocery Code of Conduct.
47. Item 21 sets remuneration and travel tier for the office of Chair and Member, National Vocational Education and Training Regulator Advisory Council.
48. Item 22 sets the application and transitional provisions for items 18, 20 and 21.

**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:

- sets remuneration and travel tier for the office of the Director-General, Office of the Special Investigator.
- renames the "Chief Commissioner and Chief Executive Officer, Australian Skills Quality Authority", the "Chief Executive Officer, Australian Skills Quality Authority".
- sets remuneration and travel tier for the office of the Chief Executive Officer, Australian Radioactive Waste Agency.
- removes all reference to the office of Deputy Chief Commissioner, and Commissioner, Australian Skills Quality Authority.
- removes person specific remuneration for Mr Anthony McClaran, Chief Executive Officer, Tertiary Education Quality and Standards Agency.
- removes person specific remuneration for Mr Thomas Ryan, Australian Electoral Officer for Queensland.
- sets personal superannuation salary for Dr Stein Helgeby, Parliamentary Budget Officer.
- Extends the period of accommodation and reunion assistance for Ms Libby Lyons, Director Workplace Gender Equality Agency, at a reduced rate.
- increases remuneration for the office of Chair, Australian Sports Drug Medical Advisory Committee.
- renames the Australia Post "People, Safety and Culture Sub committee" the "People and Sustainability Committee".
- sets remuneration and travel tier for the office of the Independent Reviewer appointed under the Food and Grocery Code of Conduct.
- sets remuneration and travel tier for the office of Chair and Member, National Vocational Education and Training Regulator Advisory Council.
- 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**