



REMUNERATION TRIBUNAL

Explanatory Statement: Remuneration Tribunal Amendment Determination (No. 1) 2021

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.

Australian Industrial Chemicals Introduction Scheme, Executive Director

6. On 27 July 2020 the Department of Health advised that effective from 1 July 2020 the position of Director of the National Industrial Chemicals and Notification Assessment Scheme changed to the Executive Director of the Australian Industrial Chemicals Introduction Scheme.

Aboriginal Hostels Limited, Chief Executive Officer

7. There was no consultation in this matter. The amendments remove accommodation and reunion assistance travel for Mr David Chalmers, Chief Executive Office, Aboriginal Hostels Limited. The period of assistance set by the Tribunal expired on 9 March 2021.

Inspector-General of Intelligence and Security

8. On 16 December 2020 the Attorney-General, the Hon Christian Porter MP wrote to the Tribunal seeking accommodation and reunion fares assistance for Dr Christopher Jessop QC, the new Inspector-General of Intelligence and Security. The submission provided information on Dr Jessop's circumstances, consistent with the Tribunal's Relocation Assistance Guidelines.

Australian Medical Research Advisory Board

9. On 19 January 2021, the Hon Greg Hunt MP, Minister for Health and Aged Care, wrote to the Tribunal seeking a review of remuneration for the part-time office of Chair of the Australian Medical Research Advisory Board and determination of remuneration for the new role of Deputy Chair of the Australian Medical Research Advisory Board. The submission provided updated information on the Australian Medical Research Advisory Board, noting an increase in work volume and time commitment.

Retrospectivity

10. 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

11. 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:

12. Section 1 specifies the name of the instrument.
13. Section 2 specifies when the instrument commences.
14. Section 3 specifies the authority for the instrument.
15. Section 4 outlines the effect of instruments specified in a Schedule to the instrument.
16. 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

17. Item 1 repeals the definition of a table of application and transitional provisions in section 24.
18. Item 2 repeals the reference to special provisions for the Director-General, Office of the Special-Investigator and replaces it with a new reference to Table 6A.
19. Item 3 repeals the reference to special provisions for the Chief Executive Officer, Australian Skills Quality Authority and replaces it with a new reference to Table 6A.
20. Item 4 repeals the reference to special provisions for the Chief Executive Officer, Australian Radioactive Waste Agency and replaces it with a new reference to Table 6A.
21. Item 5 renames the "Director, National Industrial Chemicals Notification and Assessment Scheme" to "Executive Director, Australian Industrial Chemicals Introduction Scheme".
22. Item 6 removes accommodation assistance for Mr David Chalmers, Chief Executive Officer, Aboriginal Hostels Limited.
23. Item 7 sets accommodation assistance for Dr Christopher Jessop QC, Inspector General of Intelligence and Security.
24. Item 8 sets reunion travel assistance for Dr Christopher Jessop QC, Inspector General of Intelligence and Security.
25. Item 9 removes reunion travel assistance for Mr David Chalmers, Chief Executive Officer, Aboriginal Hostels Limited.
26. Item 10 sets the application and transitional provisions for items 2, 3 and 4.
27. Item 11 repeals a section of application and transitional provisions.

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

28. Item 12 repeals the definition of a table of application and transitional provisions in section 49.
29. Item 13 sets annual fees for the Chair and Deputy Chair of the Australian Medical Research Advisory Board.
30. Item 14 repeals the reference to special provisions for the Australian Sports Drug Medical Advisory Committee and replaces it with a new reference to Table 8A.
31. Item 15 repeals the reference to special provisions for the Independent Reviewer appointed under the Food and Grocery Code of Conduct and replaces it with a new reference to Table 8A.
32. Item 16 removes the reference to daily fees for the Chair of the Australian Medical

Research Advisory Board.

33. Item 17 repeals the reference to special provisions for the National Vocational Education and Training Regulator Advisory Council and replaces it with a new reference to Table 8A.
34. Item 18 sets the application and transitional provisions for items 14, 15 and 17.
35. Item 19 repeals a section of application and transitional provisions.

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:

- combines separate tables of application and transitional provisions into a single table.
- renames the "Director, National Industrial Chemicals Notification and Assessment Scheme" to "Executive Director, Australian Industrial Chemicals Introduction Scheme".
- removes accommodation assistance and reunion travel assistance for Mr David Chalmers, Chief Executive Officer of Aboriginal Hostels Limited.
- sets accommodation assistance and reunion travel assistance for Dr Christopher Jessop QC, Inspector General of Intelligence and Security.
- removes daily fees for the Chair of the Australian Medical Research Advisory Board and sets annual fees for the Chair and the new office of Deputy Chair.
- 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