



REMUNERATION TRIBUNAL

Explanatory Statement: Remuneration Tribunal Amendment Determination (No. 2) 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.

Food Standards Australia New Zealand, Chief Executive Officer

6. In February 2021, at the request of Senator the Hon Richard Colbeck, Minister for Senior Australians and Aged Care Services, and in consultation with the Tribunal, the Hon Ben Morton MP, Assistant Minister to the Prime Minister and Cabinet revoked the Principal Executive Office status of the office of the Chief Executive Officer of Food Standards Australia New Zealand (CEO FSANZ) as a Principal Executive Office (PEO). The effect of the revocation is to return the office to the Tribunal's determinative jurisdiction with effect from the date of revocation, 6 March 2021.
7. Senator Colbeck sought total remuneration of \$332,550 and Tier 1 travel for the office and determination of personal total remuneration of \$369,550 for the current officeholder, Mr Mark Booth, for the duration of his appointment.

Australian Skills Quality Authority, Commissioner

8. On 10 July 2020 the then Minister for Employment, Skills, Small and Family Businesses, Senator the Hon Michaelia Cash, wrote to the Tribunal advising the Chief Commissioner and Deputy Chief Commissioner roles of the Australian Skills Quality Authority were to be abolished, effective 1 January 2021. The amendments remove accommodation and reunion assistance travel for Dr Irene Ioannakis on abolition of the office of Deputy Chief Commissioner.

Chief Scientist

9. There was no consultation on this matter. The amendment removes accommodation assistance for Dr Alan Finkel, Chief Scientist. The period of assistance set by the Tribunal for Dr Finkel expired on 31 December 2020.

Inspector-General of Intelligence and Security

10. The amendments correct the spelling of Dr Christopher Jessup QC's name.

Workplace Gender Equality Agency, Director

11. There was no consultation on this matter. The amendment removes accommodation assistance for Ms Libby Lyons, Director of the Workplace Gender Equality Agency. The period of assistance set by the Tribunal for Ms Lyons expired on 20 April 2021.

Retrospectivity

12. 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

13. 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:

14. Section 1 specifies the name of the instrument.

15. Section 2 specifies when the instrument commences.
16. Section 3 specifies the authority for the instrument.
17. Section 4 outlines the effect of instruments specified in a Schedule to the instrument.
18. 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

19. Item 1 inserts the office of Chief Executive Officer of Food Standards Australia and New Zealand and sets remuneration, travel tier and special provisions for the office.
20. Item 2 sets person-specific remuneration for Mr Mark Booth, Chief Executive Officer of Food Standards Australia and New Zealand.
21. Item 3 removes accommodation assistance for Dr Irene Ioannakis, Commissioner, Australian Skills Quality Agency and Dr Alan Finkel, Chief Scientist.
22. Item 4 corrects the spelling of Dr Christopher Jessup QC's name.
23. Item 5 removes accommodation assistance for Ms Libby Lyons, Director of the Workplace Gender Equality Agency.
24. Item 6 removes reunion travel assistance for Dr Irene Ioannakis, Commissioner, Australian Skills Quality Agency.
25. Item 7 corrects the spelling of Dr Christopher Jessup QC's name.
26. Item 8 removes reunion travel assistance for Ms Libby Lyons, Director of the Workplace Gender Equality Agency.
27. Item 9 sets the application and transitional provisions for item 1.

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.

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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

This determination amends principal determination:

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

The determination:

- sets remuneration and travel tier for the office of Chief Executive Officer of Food Standards Australia New Zealand.
- removes accommodation assistance for Dr Alan Finkel, Chief Scientist.
- removes accommodation assistance and reunion travel assistance for Dr Irene Ioannakis, Commissioner, Australian Skills Quality Agency.
- corrects the spelling of Dr Christopher Jessup QC's name.
- Removes reunion travel assistance for Ms Libby Lyons, Director Workplace Gender Equality Agency

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