



REMUNERATION TRIBUNAL

Explanatory Statement: Remuneration Tribunal Amendment Determination (No. 3) 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 (for a Principal Executive Office) with responsibility for the relevant office(s). The Tribunal will normally seek the views of the 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 minister or person making the submission.
5. In deliberating on appropriate remuneration for an office, the Tribunal also 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.

Northern Australia Infrastructure Facility, Chief Executive Officer

6. On 18 May 2021, The Hon Keith Pitt MP, the then Minister for Resources, Water and Northern Australia, wrote to the Tribunal seeking a determination of special provision remuneration for the office of Chief Executive Officer (CEO), Northern Australia Infrastructure Facility, for the extended deal-making phase of the agency's operations.
7. Minister Pitt also sought an extension of accommodation and reunion travel assistance for the CEO, Mr Christopher Wade, for the term of his reappointment.

Food Standards Australia New Zealand, Chief Executive Officer

8. There was no consultation on this matter. The amendment removes the personal remuneration provision for Mr Mark Booth, on the basis his formal appointment to the office of CEO has now ceased.

Tiwi Land Council, Chair

9. On 21 April 2021, Mr Gibson Farmer Illortaminni, Chair, Tiwi Land Council and Mr Andrew Tipungwuti, Chief Executive Officer, Tiwi Land Council, wrote to the Tribunal seeking a determination of remuneration for the full-time office of Chair of the Tiwi Land Council. The submission was accompanied by a letter of support from The Hon Mr Ken Wyatt AM MP, Minister for Indigenous Australians.

Australian Industrial Chemicals Introduction Scheme, Executive Director

10. On 13 May 2021, The Hon Mark Coulton MP, the former Minister for Regional Health, Regional Communications and Local Government, wrote to the Tribunal seeking a determination of accommodation and reunion travel assistance for Mr Graeme Barden, the preferred candidate for the office of Executive Director, Australian Industrial Chemicals Introduction Scheme. On 10 June 2021 Mr Barden's appointment to the office was confirmed, with effect 1 July 2021.

Australian Human Rights Commission, Sex Discrimination Commissioner

11. On 3 June 2021, the Attorney-General, Senator the Hon Michaelia Cash, wrote to the Tribunal seeking a determination of accommodation and reunion travel assistance for Ms Kate Jenkins, for the duration of her reappointment to the office of Sex Discrimination Commissioner.

Australian Securities and Investments Commission, Chairperson

12. There was no consultation on this matter. The amendment removes reunion travel assistance for Mr Joe Longo, Chairperson, Australian Securities and Investments Commission. The period of assistance set by the Tribunal for Mr Longo expired on 1 July 2021.

Retrospectivity

13. 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

14. 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:

15. Section 1 specifies the name of the instrument.
16. Section 2 specifies when the instrument commences.
17. Section 3 specifies the authority for the instrument.
18. Section 4 outlines the effect of instruments specified in a Schedule to the instrument.
19. 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 2021

20. Item 1 inserts a definition for Table 6A (application and transitional provisions).
21. Item 2 inserts a reference to a special provision for the office of Chief Executive Officer, Northern Australia Infrastructure Facility.
22. Item 3 removes a reference to the special provision for the office of Chief Executive Officer of Food Standards Australia and New Zealand.
23. Item 4 sets remuneration, travel tier and transitional provisions for the full-time office of Chair, Tiwi Land Council
24. Item 5 removes the person-specific remuneration for Mr Mark Booth, Chief Executive Officer, Food Standards Australia and New Zealand, and sets special a provision of remuneration for the office of Chief Executive Officer, Northern Australia Infrastructure Facility.
25. Item 6 sets accommodation assistance for Mr Graeme Barden, Executive Director, Australian Industrial Chemicals Introduction Scheme; Ms Kate Jenkins, Sex Discrimination Commissioner; and Mr Christopher Wade, Chief Executive Officer, Northern Australia Infrastructure Facility.
26. Item 7 sets reunion travel assistance for Ms Kate Jenkins, Sex Discrimination Commissioner.
27. Item 8 removes reunion travel assistance for Mr Joe Longo, Chairperson, Australian Securities and Investments Commission, and sets reunion travel assistance for Mr Christopher Wade, Chief Executive Officer, Northern Australia Infrastructure Facility and Mr Graeme Barden, Executive Director, Australian Industrial Chemicals Introduction Scheme.
28. Item 9 sets the application and transitional provisions for item 4.

Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2021

29. Item 10 inserts a definition for Table 8A (application and transitional provisions).

30. Item 11 removes the office of Chair, Tiwi Land Council.

31. Item 12 sets the application and transitional provisions for item 11.

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.3) 2021

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 2021; and*
- *Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2021; and*

The determination:

- sets special provision remuneration for the office of Chief Executive, Northern Australia Infrastructure Facility.
- removes person-specific remuneration for Mr Mark Booth, Chief Executive Officer, Food Standards Australia New Zealand.
- sets remuneration and travel tier for the full-time office of Chair, Tiwi Land Council.
- sets accommodation assistance and reunion travel assistance for Mr Graeme Barden, Executive Director, Australian Industrial Chemicals Introduction Scheme.
- sets accommodation assistance and reunion travel assistance for Ms Kate Jenkins, Sex Discrimination Commissioner.
- sets accommodation assistance and reunion travel assistance for Mr Christopher Wade, Chief Executive Officer, Northern Australia Infrastructure Facility.
- removes reunion travel assistance for Mr Joe Longo, Chairperson, Australian Securities and Investments Commission.
- removes the part-time office of Chair, Tiwi Land 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