



Remuneration Tribunal

Explanatory Statement: Remuneration Tribunal (Departmental Secretaries – Classification Structure and Terms and Conditions) Determination (No.2) 2023

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 Departmental Secretaries and associated terms and conditions for office holders.

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.

Review of Remuneration for Holders of Public Office

6. The Tribunal's obligations, under sub-sections 7(3) and 8(1)(b) of the Act are to make determinations in respect of remuneration for various offices within its jurisdiction at periods of not more than one year. To meet these obligations, the Tribunal issued determinations on 8 June 2023, and at that time determined no adjustment to remuneration for all offices in its jurisdiction.
7. The Tribunal noted in its published statement of the same date, that it would meet again in August 2023 to consider further data, and determine whether any adjustment in remuneration is appropriate for offices within its jurisdiction.
8. In complying with its obligations the Tribunal takes the opportunity to consider whether any general increase to remuneration for offices might be warranted. In conducting this review the Tribunal takes account of economic conditions in Australia, past and projected movements in remuneration in the public and private sectors (including the Australian Public Service), as well as the outcomes of reviews of public offices completed by the Tribunal. In order to inform its conclusions the Tribunal draws upon authoritative external sources such as the published material available from the Government, the Reserve Bank of Australia and the Australian Bureau of Statistics as well as trends in public and private sector remuneration. The Tribunal is also obliged by the Act to consider the Annual Wage Reviews of the Fair Work Commission.
9. The Tribunal did not receive any submissions on this matter.
10. On 28 August 2023 the Tribunal decided to determine a general adjustment of 4 per cent to remuneration for public offices in its jurisdiction. The increase applies with effect from 1 July 2023 for all offices except Federal Members of Parliament, which applies with effect from 1 September 2023.
11. A statement setting out the Tribunal's reasons for decision is available at www.remtribunal.gov.au.
12. Remuneration Tribunal (Departmental Secretaries – Classification Structure and Terms and Conditions) Determination (No.2) implements the Tribunal's decision for Departmental Secretaries.
13. Consultation on this outcome was considered unnecessary given the matters considered by the Tribunal in making its decision.

Retrospectivity

14. 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.
15. With respect to the application of the general adjustment of 4 per cent for all offices, retrospective application does not disadvantage any person as it establishes more generous remuneration entitlements than would otherwise apply.

Exemption from sunseting

16. Under section 12, item 56 of the Legislation (Exemptions and Other Matters) Regulation 2015, an instrument required to be laid before the Parliament under subsection 7(7) of the *Remuneration Tribunal Act 1973* is exempt from the provisions of paragraph 54(2)(b) of the *Legislation Act 2003*.
17. This exemption has been granted by the Attorney-General because the Remuneration Tribunal has a statutory role independent of government.
18. As the Remuneration Tribunal makes new principal determinations annually, this principal determination is unlikely to have any practical effect beyond the usual 10 year sunseting period. As such, the exemption from sunseting will not have a practical impact on parliamentary oversight of the relevant measures.

The power to repeal, rescind and revoke, amend and vary

19. 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:

PART 1 – PRELIMINARY

20. Part 1 specifies the authority for and the commencement date of the determination and supersedes the previous principal Remuneration Tribunal (Departmental Secretaries – Classification Structure and Terms and Conditions) Determination (No.1) 2023 applying to the offices covered by this determination. This part also contains definitions of certain words used in the determination.

PART 2 – CLASSIFICATION, REMUNERATION AND RELATED MATTERS

21. Part 2 sets out the classification structure, pay point assignments and travel tier for the office of Departmental Secretary.
22. The provisions of this Part remain otherwise unchanged from those contained in Part 2 of the previous determination.

PART 3 - SUPERANNUATION

23. Part 3 sets out superannuation arrangements.
24. The provisions of this Part remain otherwise unchanged from those contained in Part 3 of the previous determination.

PART 4 – VEHICLES AND BUSINESS SUPPORT

25. Part 4 sets out provisions relating to vehicles, parking and business support.
26. The provisions of this Part remain otherwise unchanged from those contained in Part 4 of the previous determination.

PART 5 – LEAVE

27. Part 5 sets out provisions relating to recreation leave, personal leave, and miscellaneous leave.
28. The provisions of this Part remain otherwise unchanged from those contained in Part 5 of the previous determination.

PART 6 – END OF APPOINTMENT

29. Part 6 sets out provisions relating to compensation for loss of office and notice of a decision not to reappoint.
30. The provisions of this Part remain otherwise unchanged from those contained in Part 6 of the previous determination.

PART 7 – REMOVAL, RELOCATION AND FAMILY REUNION ASSISTANCE

31. Part 7 sets out provisions relating to relocation, settling in and out, accommodation support and reunion travel.
32. The provisions of this Part remain otherwise unchanged from those contained in Part 7 of the previous determination.

PART 8 – ASSISTANCE FOR TRAINING AND DEVELOPMENT

33. Part 8 sets out provisions relating to leave for training and development and the reimbursement of costs for training and development.
34. The provisions of this Part remain otherwise unchanged from those contained in Part 8 of the previous determination.

PART 9 – DELEGATION

35. Part 9 sets out provisions relating to the delegation of a Minister's functions under this determination.
36. The provisions of this Part remain otherwise unchanged from those contained in Part 9 of the previous determination.

SCHEDULE 1 – REPEALS

37. Schedule 1 specifies instruments which have been amended or repealed.

Authority: Division 4, Part II
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 (Departmental Secretaries – Classification Structure and Terms and Conditions) Determination (No.2) 2023

This 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 Instrument

The legislative instrument, or determination, formalises the Tribunal's review decision to determine an adjustment of 4 per cent to remuneration for Secretaries from 1 July 2023.

The determination supersedes the previous determination Remuneration Tribunal (Departmental Secretaries – Classification Structure and Terms and Conditions) Determination (No.1) 2023.

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