



Remuneration Tribunal

Explanatory Statement: Remuneration Tribunal Amendment Determination (No. 3) 2025

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.
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.

Consultation

Amendments to Part 3 – Superannuation

6. In March 2025, the Australian Research Council (ARC) contacted the Tribunal's Secretariat regarding superannuation for the preferred appointee to the full-time office of Chief Executive Officer, ARC. The Secretariat consulted with the relevant

superannuation fund, UniSuper, to ascertain that it was possible for the office holder to maintain membership and for UniSuper to receive contributions from the ARC.

Aged Care Quality and Safety Commission, Complaints Commissioner

7. On 6 March 2025, the Hon Anika Wells MP, then Minister for Aged Care wrote to the Tribunal seeking a determination of remuneration and travel tier for the new full-time office of Complaints Commissioner, Aged Care Quality and Safety Commission. The accompanying submission provided information on the role and responsibilities of the office. The office is established by the *Aged Care Act 2024* on and from 1 July 2025.

Creative Australia, Writing Australia Council, Member

8. On 25 June 2024, the Hon Tony Burke MP, Minister for the Arts, wrote to the Tribunal seeking a determination of remuneration and travel tier for the new part-time office of Member of the Creative Australia, Writing Australia Council. The accompanying submission provided information on the role and responsibilities of the office. The office is established by the *Creative Australia Act 2023* on and from 1 July 2025.

Exemption from sunseting

9. 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 Act is exempt from the provisions of paragraph 54(2)(b) of the *Legislation Act 2003*.
10. This exemption has been granted by the Attorney-General because the Remuneration Tribunal has a statutory role independent of government.
11. As the Remuneration Tribunal makes new principal determinations annually, this instrument's exemption from sunseting will not have any practical effect. 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

12. 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:

13. Section 1 specifies the name of the instrument as the Remuneration Tribunal Amendment Determination (No. 3) 2025.
14. Section 2 specifies the commencement date of the instrument as the day after the instrument is registered on the Federal Register of Legislation.

15. Section 3 specifies the authority for the instrument, sections 7(3), and (4) of the Act.
16. Section 4 outlines the effect of instruments specified in a Schedule to the instrument.
17. Schedule 1 sets out the amendments made to the instruments specified in Schedule 1.

SCHEDULE 1—AMENDMENTS

Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination 2024

18. Item 1 amends the definition of employer superannuation contribution in section 7 so that it includes UniSuper.
19. Item 2 amends the definition of superannuation salary in section 7 so that it includes UniSuper.
20. Item 3 establishes remuneration and travel tier for the new office of Complaints Commissioner, Aged Care Quality and Safety Commission in Table 2A.
21. Item 4 establishes UniSuper as a listed superannuation fund to which employer superannuation contributions can be made and establishes relevant provisions in section 14.
22. Item 5 amends the heading of section 15 so that it includes UniSuper.
23. Item 6 amends section 15(1) so that the superannuation salary for office holders who are members of UniSuper is calculated using the method set out in Table 3A.

Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2024

24. Item 7 establishes an annual fee and travel tier for the new office of Member, Creative Australia Writing Australia Council in Table 3A.

Authority:

Sub-sections 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) 2025

This Disallowable 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 Instrument

This instrument, or determination, amends the principal determinations:

- Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination 2024
- Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2024

This instrument establishes remuneration and travel tier for a new full-time office and a new part-time office and establishes provisions to enable the payment of employer superannuation contributions to the UniSuper superannuation fund for members of the defined benefit division of UniSuper.

Human rights implications

This instrument engages the right to work in Article 6 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) and the right to the enjoyment of just and favourable conditions of work, primarily contained in Article 7 of ICESCR.

Right to work and to just and favourable conditions of work

Article 6 of the ICESCR recognises ‘... *the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts* ...’ The right to just and favourable conditions of work include, but is not limited to, ensuring ‘*fair wages and equal remuneration for work of equal value without distinction of any kind*’, and ‘*a decent living for themselves and their families*’ (Article 7(1)(a)).

Consistent with Articles 6 and 7 of the ICESCR, this instrument ensures that individuals appointed to the public offices subject to the determination continue to be fairly remunerated in respect of the work they undertake as public office holders. Specifically, the instrument:

- establishes remuneration and travel tier for the full-time office of Complaints Commissioner, Aged Care Quality and Safety Commission;
- establishes remuneration and travel tier for the part-time office of Member of the Creative Australia Writing Australia Council; and
- establishes provisions to enable the payment of employer superannuation contributions to the UniSuper superannuation fund for members of the defined benefit division of UniSuper.

By establishing remuneration, allowances and entitlements based on an assessment of the current work value of the office, the instrument directly promotes the principle of ensuring ‘*fair wages and equal remuneration for work of equal value*’ per Article 7(1)(a) of the ICESCR and more broadly

contributes to ‘... *the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts* ...’ per Article 6 of the ICESCR.

Conclusion

This instrument is compatible with human rights because it enhances and promotes the protection of human rights, and in particular, the right to work and to just and favourable conditions of work through maintaining the principle of fair, and current, remuneration for work performed.

The Remuneration Tribunal