



## Remuneration Tribunal

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### **Explanatory Statement: Remuneration Tribunal Amendment Determination (No. 2) 2026**

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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. 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);
  - the remuneration of similar, comparator, offices within its jurisdiction; and
  - any non-financial rewards associated with the office, including the status of holding the office.

### **Consultation**

#### *Associate Director of Public Prosecutions*

6. On 5 February 2026, the Hon Michelle Rowland MP, the Attorney-General, wrote to the Tribunal seeking a review of remuneration for the full-time office of Associate Director of

Public Prosecutions. The accompanying submission provided information on the contemporary role and responsibilities of the office.

*National Emergency Management Agency, Coordinator-General*

7. The instrument removes a special provision for the previous office holder. There was no consultation on this matter, as the provision is no longer in force as the office holder's appointment has concluded.

*Australian Naval Nuclear Power Safety Regulator, Director-General*

8. On 11 February 2026, the Hon Richard Marles MP, Minister for Defence, wrote to the Tribunal seeking the determination of temporary accommodation assistance for Mr Michael Drake, Director-General, Australian Naval Nuclear Power Safety Regulator. The accompanying submission provided supporting information.

*National Competition Council, President and Councillor*

9. On 9 February 2026, the Hon Dr Andrew Leigh MP, Assistant Minister for Productivity, Competition, Charities and the Treasury, wrote to the Tribunal seeking the removal of the special provision associated with the payment of additional daily fees to the part-time offices of the National Competition Council. The accompanying submission provided information on the contemporary roles and responsibilities of the offices.

**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.
11. With respect to the office of Director-General, Australian Naval Nuclear Power Safety Regulator, the retrospective application of this provision does not disadvantage any person as it provides a greater entitlement than previously applied.

**Exemption from sunseting**

12. 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*.
13. This exemption has been granted by the Attorney-General because the Remuneration Tribunal has a statutory role independent of government.
14. 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**

15. 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:**

16. Section 1 specifies the name of the instrument as the Remuneration Tribunal Amendment Determination (No. 2) 2026.
17. Section 2 specifies the commencement date of the instrument as the day after the instrument is registered on the Federal Register of Legislation.
18. Section 3 specifies the authority for the instrument, sections and 7(3) and (4) of the Act.
19. Section 4 outlines the effect of instruments specified in a Schedule to the instrument.
20. 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 2025***

21. Item 1 establishes new total remuneration for the office of Associate Director of Public Prosecutions in Table 2A.
22. Item 2 removes the reference to the special provision for the office of Coordinator-General, National Emergency Management Agency, from Table 2A.
23. Item 3 removes the previous entry for the office of Associate Director of Public Prosecutions in Table 2A.
24. Item 4 removes the special provision for Mr Brendan Moon, former Coordinator-General, National Emergency Management Agency, from Table 2B.
25. Item 5 establishes a special provision for Mr Michael Drake, Director-General, Australian Naval Nuclear Power Safety Regulator, in Table 5A.

***Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2025***

26. Item 6 removes the reference to the special provision for the office of President, National Competition Council, from Table 5A.
27. Item 7 removes the reference to the special provision for the office of Member, National Competition Council, from Table 5A.
28. Item 8 removes the special provision for the offices of the National Competition Council from Table 5B.

**Authority:**

Sub-sections 7(3) and (4) of the *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) 2026

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 amends the principal determinations:

- Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination 2025
- Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2025

This instrument amends the remuneration of one full-time office, removes an expired special provision for one former office holder, establishes a temporary special provision for one office holder, and removes a special provision for 2 part-time offices.

#### 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 are fairly remunerated in respect of the work they undertake as public office holders. Specifically, the instrument:

- Amends the remuneration for the full-time office of Associate Director of Public Prosecutions;
- Removes a temporary special provision (annual loading) for Mr Brendan Moon, former Coordinator-General, National Emergency Management Agency, whose term has concluded;
- Establishes a temporary special provision (temporary accommodation assistance) for Mr Michael Drake, Director-General, Australian Naval Nuclear Power Safety Regulator;
- Removes the special provision limiting the circumstances in which the additional daily fee may be paid to the President and Councillor of the National Competition Council.

By establishing remuneration, allowances and entitlements based on an assessment of the current work value of the offices, 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.

To the extent that the instrument limits human rights, these limitations are lawful, reasonable and proportionate.

#### The Remuneration Tribunal