



Remuneration Tribunal

Explanatory Statement: Remuneration Tribunal Amendment Determination (No. 5) 2026

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

Updated definition

6. There was no consultation on this matter. Consultation was considered unnecessary on the amendment which updates the definition of 'official travel determination' so that it refers to the Remuneration Tribunal (Official Travel) Determination 2026.

Superannuation provisions

7. Consultation was considered unnecessary on the relevant amendments which reflect legislative changes to the *Superannuation Guarantee (Administration) Act 1992*.

Retrospectivity

8. 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.
9. With respect to the provisions associated with the *Superannuation Guarantee (Administration) Act 1992*, the retrospective application of these provisions does not disadvantage any person as they reflect amendments to the applicable superannuation legislation as and when those amendments took effect.

Exemption from sunseting

10. 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*.
11. This exemption has been granted by the Attorney-General because the Remuneration Tribunal has a statutory role independent of government.
12. 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.

Power to repeal, rescind, 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 as the Remuneration Tribunal Amendment Determination (No. 5) 2026.

15. Section 2 specifies the commencement date of the instrument, including specifying the different commencement provisions for each Part of Schedule 1.
16. Section 3 specifies the authority for the instrument, Division 4 of Part II of the Act.
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 that Schedule.

SCHEDULE 1—AMENDMENTS

Part 1 – General amendments

Remuneration Tribunal (Departmental Secretaries – Classification Structure and Terms and Conditions) Determination 2026

19. Item 1 amends the definitions to include a reference to the application and transitional provisions.
20. Item 2 amends subsection 15(6) to update a reference to the *Superannuation Guarantee (Administration) Act 1992* so that it remains consistent with recent amendments to that Act. The amendment does not alter the existing superannuation entitlements of Departmental Secretaries.
21. Item 3 sets application and transitional provisions for item 2.

Part 2 – Amendments relating to the official travel determination

Remuneration Tribunal (Departmental Secretaries – Classification Structure and Terms and Conditions) Determination 2026

22. Item 4 amends the definition of official travel determination in section 8 so that it refers to the 2026 determination.

Authority:

Division 4 of 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 Amendment Determination (No. 5) 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 determination, the Remuneration Tribunal (Departmental Secretaries – Classification Structure and Terms and Conditions) Determination 2026.

This instrument updates the definitions to reflect the making of a new official travel determination and updates the superannuation provisions in the principal determination to reflect amendments to the primary superannuation legislation.

Human rights implications

The instrument does not engage any of the applicable rights or freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

The amendments are administrative and technical in nature. The amendment to subsection 15(6) updates a reference to the operation of the *Superannuation Guarantee (Administration) Act 1992* to ensure the determination continues to operate correctly following amendments to that Act. The amendment does not alter the substantive superannuation entitlements of Departmental Secretaries or affect the rights, obligations or eligibility of any person.

The amendment to the definition of *official travel determination* updates the reference to the current *Remuneration Tribunal (Official Travel) Determination 2026*. This amendment is consequential in nature and is intended solely to ensure the determination refers to the current travel determination. It does not affect any human rights.

Accordingly, the instrument does not engage any human rights and is compatible with human rights.

Conclusion

This instrument is compatible with human rights as it does not raise any human rights issues.

The Remuneration Tribunal