Remuneration Tribunal Act 1973

Act No. 215 of 1973 as amended

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No. 50

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

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An Act to establish a tribunal in relation to the remuneration and allowances, and recreation leave entitlements, of the holders of certain public and other offices, and for related purposes

Part I—Preliminary

1 Short title [see Note 1]

This Act may be cited as the Remuneration Tribunal Act 1973.

2 Commencement [see Note 1]

This Act shall come into operation on the day on which it receives the Royal Assent.
Part II—Remuneration etc. for certain offices and appointments

Division 1—Preliminary

3 Interpretation

(1) In this Part, unless the contrary intention appears:

*Aboriginal Corporation of the National Aboriginal Conference* means the corporation of that name established under the *Aboriginal Councils and Associations Act 1976.*

*ACT office* means:

(a) an office or appointment specified in any of paragraphs (fc) to (fh) of subsection 3(4), as modified by regulations in force under the *A.C.T. Self-Government (Consequential Provisions) Act 1988,* or

(b) an office or appointment specified in subsection 73(1) of the *Australian Capital Territory (Self-Government) Act 1988.*

*allowance* includes, but is not limited to, an annual allowance and a travelling allowance.

*Commonwealth higher education institution* means a higher education institution established by or under a law of the Commonwealth or of a Territory (other than the Australian Capital Territory or the Northern Territory).

*employing body*, in relation to a principal executive office for which the Minister has, under section 3B, declared a person, authority or body to be the employing body, means that person, authority or body.

*executive education office* means an office of:

(a) the Vice-Chancellor, or Deputy Vice-Chancellor, of the Australian National University; or

(c) the Principal, or Deputy Principal, of the Australian Maritime College.
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Section 3

higher education institution means an institution that is a higher education institution within the meaning of the Employment, Education and Training Act 1988 (other than an institution declared by the regulations not to be a higher education institution for the purposes of this Act), and includes any other institution declared by the regulations to be a higher education institution for the purposes of this Act.

member means a member of the Tribunal and includes a person appointed temporarily in the place of a member under subsection 33(4) of the Acts Interpretation Act 1901-1973.

office includes position.

President means President of the Tribunal and includes a member appointed under subsection 4A(1).

principal executive office means any of the following offices or appointments:
(a) Managing Director of the Australian Postal Corporation;
(b) Chief Executive of the Australian Industry Development Corporation;
(c) Chief Executive Officer of Australian Rail Track Corporation Limited;
(d) Chief Executive Officer of the Commonwealth Services Delivery Agency;
(e) Director of Aviation Safety of the Civil Aviation Safety Authority;
(f) Chief Executive Officer of Employment National Limited;
(g) Managing Director of the Export Finance and Insurance Corporation;
(h) Managing Director of Health Services Australia Limited;
(i) Managing Director of Medibank Private Limited;
(j) Governor of the Reserve Bank of Australia;
(k) Deputy Governor of the Reserve Bank of Australia;
(l) Chief Executive Officer of Sydney Airports Corporation Limited;
(m) any other office or appointment declared by the Minister under subsection 3A(1) to be a principal executive office.

public office has the meaning given by subsection (4).
public statutory corporation means a corporation established for a public purpose by a law of the Commonwealth or a law of a Territory but does not include an institution of tertiary education.

Tribunal means the Tribunal established by subsection 4(1).

(2) A reference in this Part to remuneration shall be read as including a reference to annual allowances.

(3) A reference in this Part to an office includes a reference to an office that, within the meaning of the Australian Capital Territory (Self-Government) Act 1988, is an office of member of the Assembly or Minister and any office in or in connection with that Assembly that can be held only by a member of that Assembly.

(4) In this Part, a reference to a public office is a reference to:
(a) an office established by, or an appointment made under, a law of the Commonwealth (other than this Act);
(b) an office established by, or an appointment made under, a law of a Territory, being an office or appointment, or an office or appointment included in a class of offices or appointments, specified by the Minister, by a notice in writing given to the President, to be an office or appointment or a class of offices or appointments to which this Part is to apply;
(c) an appointment made by the Governor-General or a Minister of State otherwise than under a law of the Commonwealth or a law of a Territory, being an appointment, or an appointment included in a class of appointments, specified by the Minister, by a notice in writing given to the President, to be an appointment or a class of appointments to which this Part is to apply;
(d) an office or appointment in the service or employment of a public statutory corporation, being an office or appointment that is specified by the Minister, by a notice in writing given to the President, to be a senior office or senior appointment, as the case may be, in the service or employment of the corporation to which this Part is to apply;
(da) an appointment as a director of an incorporated company limited by guarantee where the interests and rights of the members in or in relation to the company are beneficially owned by the Commonwealth, being an appointment that is
specified by the Minister, by a notice in writing given to the
President, to be an appointment to which this Part is to apply;
(e) an appointment as a director of an incorporated company all
the stock or shares in the capital of which is or are
beneficially owned by the Commonwealth;
(f) an office or appointment in the service or employment of an
incorporated company referred to in paragraph (da) or (e),
being an office or appointment that is specified by the
Minister, by a notice in writing given to the President, to be a
senior office or senior appointment, as the case may be, in
the service or employment of the company to which this Part
is to apply;
(fa) an office of member of the Aboriginal Corporation of the
National Aboriginal Conference;
(g) an office or appointment, or an office or appointment
included in a class of offices or appointments, prescribed by
the regulations for the purposes of this paragraph;
but does not include a reference to any of the following offices or
appointments:
(ga) an office of:
(i) Chair of the Australian Fair Pay Commission; or
(ii) member of the Australian Fair Pay Commission;
(j) an office of member of the Australian Industrial Relations
Commission;
(ja) an office of member of the Legislative Assembly, of member
of the Council, or of Minister of the Territory, within the
meaning of the Northern Territory (Self-Government) Act
1978;
(jaa) an office of member of the Legislative Assembly, of member
of the Executive Council, or of executive member, within the
meaning of the Norfolk Island Act 1979;
(k) an office or appointment in the Australian Public Service or
the Commonwealth Teaching Service;
(l) an office or appointment the terms and conditions of which
are fixed under the Trade Representatives Act 1933;
(m) an office or appointment (other than the office of
Director-General of Security) in the Australian Security
Intelligence Organisation;
(p) persons who are employed under section 42 of the Naval
Defence Act 1910;
(q) an office or appointment in the service or employment of a higher education institution;

(r) an office or appointment in the Defence Force other than an appointment as:
   (i) Chief of the Defence Force; or
   (ii) Vice Chief of the Defence Force; or
   (iii) Chief of Navy; or
   (iv) Chief of Army; or
   (v) Chief of Air Force;

(ra) a principal executive office;

(s) an office or appointment in the Australian Federal Police other than an office or appointment that is specified by the Minister, by a notice in writing given to the President, to be a senior office or senior appointment, as the case may be, in the Australian Federal Police to which this Part is to apply;

(t) except as provided by paragraph (d) or (f), an office or appointment in the service or employment of a public statutory corporation or of an incorporated company;

(u) an office or appointment the remuneration in respect of which is required by law to be fixed by or in consultation with, or in accordance with arrangements made with, the Government of a State or of a country other than Australia;

(v) an office or appointment, or an office or appointment included in a class of offices or appointments, prescribed by the regulations for the purposes of this paragraph.

(5) A reference in this Part to the making of an appointment includes, unless the contrary intention appears, a reference to:

(a) the making of a contract with a person for the performance of services by the person; and

(b) the issuing of a Commission, or of another instrument (whether of a formal or informal nature), to a person appointing, authorizing or requesting him or her, either alone or together with another person or other persons, to hold an inquiry or perform other functions, duties or services;

and the person with whom such a contract is made or to whom such a Commission or other instrument is issued shall be deemed for the purposes of this Part to be the holder of an appointment.
3A Principal executive offices

(1) The Minister may, by writing, declare that a specified office or appointment is a principal executive office.

(2) The Minister may, by writing, declare that a specified principal executive office is assigned to a specified classification within the classification structure determined by the Tribunal under subsection 5(2A).

(3) A declaration made under subsection (2) as to the classification to which a principal executive office is assigned may state that the assignment of the office to the classification is a temporary assignment. If the declaration so states, the assignment ceases to be an assignment of the office to the classification at the end of the term of appointment of the person who held the office when the assignment was made.

(4) If the Minister makes a declaration under subsection (2) as to the classification to which a principal executive office is assigned, the Minister may give a notice in writing to the employing body for the office fixing the remuneration within that classification that is to be the commencing remuneration for the office.

(5) A notice given under subsection (4) fixing a commencing remuneration for a principal executive office may state that the remuneration so fixed is a temporary commencing remuneration. If the notice so states, that remuneration ceases to be the commencing remuneration for the office at the end of the term of appointment of the person who held the office when the notice was given.

(6) For each declaration under this section, the Minister must seek the advice of the Tribunal and take that advice into account.

3B Employing body

The Minister may, by writing, declare that a specified person, authority or body is the employing body for a specified principal executive office.

3C Provisions relating to declarations under sections 3A and 3B

(1) This section applies to the following declarations:

(a) declarations under subsection 3A(1);
Section 3C

(b) declarations under subsection 3A(2);
(c) declarations under section 3B.

(2) Two or more declarations may be contained in the same instrument, whether they relate to the same principal executive office or to different principal executive offices.

(3) A copy of every instrument containing a declaration or declarations is to be published in the Gazette.
Division 2—Determinations and reports by the Remuneration Tribunal

4 Establishment of Remuneration Tribunal

(1) For the purposes of this Part, there is hereby established a Tribunal to be known as the Remuneration Tribunal.

(2) The Tribunal shall consist of three members appointed by the Governor-General on a part-time basis.

(3) Subject to this Part, a member holds office for a period not exceeding 5 years, but is eligible for re-appointment.

(4) A person shall not be appointed as a member if he or she is:

(a) a member of the Parliament;
(b) a person appointed or engaged under the Public Service Act 1999;
(c) the holder of a public office;
(d) a Justice or Judge of a federal court or of the Supreme Court of a Territory; or
(e) a person who, by virtue of an Act, has the same status as a Justice or Judge of a court referred to in paragraph (d).

(5) The Governor-General shall appoint one of the members to be the President of the Tribunal.

(7) The exercise of the powers, and the performance of the functions, of the Tribunal are not affected by a vacancy in the membership of the Tribunal.

(8) In this section, President does not include an acting President.

4A Acting President

(1) The Minister may appoint a member to act as President:

(a) during a vacancy in the office of President; or
(b) during any period, or during all periods, when the President is absent from duty or from Australia or is, for any other reason, unable to perform the functions of his or her office;
but a person appointed to act during a vacancy shall not continue to act for more than 12 months.

(2) An appointment of a person under subsection (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

(3) The Minister may:
   (a) determine the terms and conditions of appointment, including fees and allowances, of a person acting as President; and
   (b) terminate such an appointment at any time.

(4) Where a person is acting as President in accordance with paragraph (1)(b) and the office of President becomes vacant while that person is so acting, then, subject to subsection (2), that person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

(5) The appointment of a person to act as President ceases to have effect if he or she resigns his or her appointment by writing signed by him or her and delivered to the Minister.

(6) The validity of anything done by a person purporting to act under subsection (1) shall not be called in question on the ground that the occasion for his or her appointment had not arisen, that there was a defect or irregularity in or in connection with his or her appointment, that the appointment had ceased to have effect or that the occasion for him or her to act had not arisen or had ceased.

4B Disclosure of interest by Tribunal members

(1) Where the President is taking part, or is to take part, in the consideration of a matter by the Tribunal and the President has or acquires any interest, pecuniary or otherwise, that could conflict with the proper performance of his or her functions in relation to the matter:
   (a) the President must, in writing, disclose the interest to the Minister; and
   (b) the President must not take part, or continue to take part, in the consideration of the matter, unless the Minister consents in writing.
(2) Where a member other than the President is taking part, or is to take part, in the consideration of a matter by the Tribunal and the member has or acquires an interest, pecuniary or otherwise, that could conflict with the proper performance of the member’s functions in relation to the matter:
   (a) the member must, in writing, disclose the interest to the President; and
   (b) the member must not take part, or continue to take part, in the consideration of the matter, if the President gives a direction under subsection (3).

(3) Where the President becomes aware:
   (a) that a member is taking part, or is to take part, in the consideration of a matter by the Tribunal; and
   (b) that the member has, in relation to the consideration of the matter, an interest referred to in subsection (2);

then, if the President considers that the member should not take part, or continue to take part, in the consideration of the matter, the President is to give a direction in writing to the member accordingly.

5 Functions of Tribunal

(1) The functions of the Tribunal are to inquire into, and report to the Minister on, matters referred to in section 6 and to inquire into, and determine, matters referred to in section 7 (other than subsection 7(3D)), having regard to:
   (a) wage-setting decisions of the Australian Fair Pay Commission; or
   (b) if the Australian Fair Pay Commission has not yet made its first wage-setting decision—the Statement of Principles enunciated by the Australian Industrial Relations Commission in its 2005 Safety Net Review Decision.

(2) An additional function of the Tribunal is to provide advice to the Australian National University, the University of Canberra and the Australian Maritime College in relation to terms and conditions (including remuneration and allowances) on which executive education offices in those bodies are to be held.
Part II  Remuneration etc. for certain offices and appointments

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(2A) An additional function of the Tribunal is to:
   (a) determine a classification structure for principal executive offices; and
   (b) in connection with determinations made under paragraph (a),
       exercise the powers referred to in subsections 7(3D), (3E) and (3F).

(2B) An additional function of the Tribunal is to provide advice, for the
     purposes of the Public Service Act 1999, in relation to terms and
     conditions (including remuneration and allowances) for the
     following offices:
     (a) the office of Public Service Commissioner;
     (b) the office of Merit Protection Commissioner;
     (c) offices of Secretary;
     (d) offices of Heads of Executive Agencies.

(2C) An additional function of the Tribunal is to provide advice for the
     purposes of subclause 1(3) of Schedule 3 to the Remuneration and
     Allowances Act 1990.

(2D) An additional function of the Tribunal is to provide advice, for the
     purposes of the Parliamentary Service Act 1999, in relation to
     terms and conditions (including remuneration and allowances) for
     the following offices:
     (a) the office of Parliamentary Service Commissioner;
     (b) the office of Parliamentary Service Merit Protection Commissioner;
     (c) offices of Secretary;
     (d) the office of Parliamentary Librarian.

(3) In providing advice under this section in relation to the terms and
     conditions as to remuneration on which principal executive offices
     or executive education offices are to be held, the Tribunal must
     have regard to the superannuation entitlements of the holders of
     those offices.

6 Inquiries and reports by Tribunal

(1) The Tribunal shall, from time to time as provided by this Part,
   inquire into, and report to the Minister on, the question whether
   any alterations are desirable in the salaries payable to Ministers of
   State out of public moneys of the Commonwealth.
(2A) The Tribunal, from time to time as provided by this Part, is to inquire into, and report to the Minister on, the rates of salaries in relation to:
   (a) Vice-Chancellors, Principals and other chief executive officers of higher education institutions (other than Commonwealth higher education institutions); and
   (b) deputies (however described) of officers referred to in paragraph (a);
that should be used as a basis for making grants in relation to recurrent expenditure in connection with those institutions, and the dates as from which those rates of salary should be so used.

(3) Where the Tribunal inquires into a matter referred to in subsection (1) or (2A):
   (a) the Tribunal may also inquire into, and report on, any matter that is, or is considered by it to be, significantly related to the first-mentioned matter; and
   (b) if the Minister, by a notice in writing given to the President, requests the Tribunal to inquire into, and report on, a matter specified in the notice, being a matter that is, or is considered by the Minister to be, significantly related to the first-mentioned matter, the Tribunal shall inquire into, and report on, the matter specified in the notice.

(4) If the Tribunal reports that alterations are desirable in respect of a matter, it shall, in its report, recommend the nature and extent of the alterations that should be made.

(5) The Minister shall cause a copy of a report to be laid before each House of the Parliament within 15 sitting days of that House after the report is received by him or her.

7 Inquiries and determinations by Tribunal

(1) The Tribunal shall, from time to time as provided by this Part, inquire into, and determine, the allowances (including allowances in accordance with section 48 of the Constitution) to be paid out of the public moneys of the Commonwealth to members of the Parliament by reason of their membership of the Parliament or by reason of their holding particular offices, or performing particular functions, in, or in relation to, the Parliament or either House of the Parliament.
(2) The Tribunal shall, from time to time as provided by this Part, inquire into, and determine, the allowances to be paid to Ministers of State out of the public moneys of the Commonwealth.

(3) The Tribunal shall, from time to time as provided by this Part, inquire into, and determine, the remuneration to be paid to the holders of public offices other than holders of those offices who are members of, or candidates for election to, either House of the Parliament.

(3AA) The Tribunal, as provided by this Part, is to inquire into, and determine, the recreation leave entitlements of the full-time holders of relevant offices other than holders of those offices who are members of, or candidates for election to, either House of the Parliament.

(3AB) For the purposes of subsection (3AA), a relevant office is a public office in relation to which a law of the Commonwealth provides that the holder of the office has such recreation leave entitlements as are determined by the Tribunal.

(3AC) The holder of a public office that is a relevant office within the meaning of subsection (3AA) may take recreation leave only with the approval of the person, authority or body, or a delegate of the person, authority or body, who may, under a law of the Commonwealth, grant leave of absence other than recreation leave to the holder of that office.

(3AD) Where a law of the Commonwealth does not specify a person, authority or body who may grant leave of absence other than recreation leave to the holder of such an office, the Tribunal may specify a person, authority or body whose approval is required in relation to the taking of recreation leave by the holder of that office.

(3A) The Tribunal may make a determination under subsection (3) or (3AA) in relation to persons included in a class of persons specified in the determination without specifying in the determination every person who is included in that class.

(3B) The Tribunal may determine that the remuneration to be paid to the holder of an office is the same as that of the holder of another office referred to in the determination, including another office the
remuneration payable to the holder of which is determined by some other Commonwealth tribunal or authority.

(3C) The Tribunal may determine that the recreation leave entitlements of the full-time holder of a public office are the same as those of the holder of another office referred to in the determination, including another office the entitlements of the holder of which are determined by some other Commonwealth tribunal or authority.

(3D) The Tribunal may, from time to time as provided by this Part:

(a) hold inquiries for the purpose of performing its function under subsection 5(2A); and
(b) in determining under that subsection a classification structure for principal executive offices, determine the terms and conditions (including remuneration and allowances, or bands of remuneration and allowances) applicable to each classification within the classification structure.

(3E) The Tribunal may, from time to time, make recommendations as to any matters relating to principal executive offices, either generally or in respect of a particular principal executive office or particular principal executive offices.

(3F) In determining under subsection (3D) the terms and conditions as to the remuneration or band of remuneration that is to be applicable to a classification within a classification structure, the Tribunal must have regard to the superannuation entitlements of the holders of principal executive offices assigned to the classification.

(4) Where the Tribunal inquires into a matter referred to in subsection (1), (2), (3), (3AA) or (3D):

(a) the Tribunal may also inquire into, and either determine or report on, any matter that is, or is considered by it to be, significantly related to the first-mentioned matter; and
(b) if the Minister, by a notice in writing given to the President, requests the Tribunal to inquire into, and either to determine or report on, a matter specified in the notice, being a matter that is, or is considered by the Minister to be, significantly related to the first-mentioned matter, the Tribunal shall inquire into the matter specified in the notice and either determine or report on that matter, as the case may be, in accordance with the request.
Section 7

(4A) The Tribunal may inquire into and determine the travelling allowances to be paid to members of committees established under section 54, and members of sub-committees established under subsection 58(1A), of the *Fisheries Administration Act 1991* in relation to the performance of their duties as members of the committees or sub-committees.

(4B) The Tribunal may inquire into and determine the travelling allowances to be paid to members of the Australian Industrial Relations Commission established under section 8 of the *Workplace Relations Act 1996* for travel within Australia.

(4C) The Tribunal may inquire into and determine the travelling allowances to be paid to members of the Australian Fair Pay Commission established under section 20 of the *Workplace Relations Act 1996* for travel within Australia.

(5) Subject to subsection (5A), a determination of the Tribunal shall be in writing and shall come into operation, or shall be deemed to have come into operation, on such date as the Tribunal specifies in the determination.

(5A) A determination to which this subsection applies comes into operation according to subsections (5C) and (5D).

(5B) Subsection (5A) applies to a determination that relates to the remuneration to be paid to a holder of:

(a) an office of Justice or Judge of a Federal Court or of the Supreme Court of a Territory; or

(b) the office of a person who, under an Act, has the same status as a Justice or Judge of a court referred to in paragraph (a).

(5C) So far as it relates to a holder of an office referred to in subsection (5B), a determination to which subsection (5A) applies takes effect on the latest of the following:

(a) the date specified by the Tribunal in the determination;

(b) the day after the fifteenth sitting day of the House of Representatives after a copy of the determination is laid before that House;

(c) the day after the fifteenth sitting day of the Senate after a copy of the determination is laid before the Senate.
(5D) Except to the extent that subsection (5C) applies, a determination to which subsection (5A) applies takes effect according to subsection (5).

(5E) Where, under subsection (5C), a determination, so far as it relates to a particular office, comes into operation after the date specified in the determination, a person who held the office at any time during the period of deferral is entitled to receive the difference between:

(a) the remuneration that would have been payable to him or her in respect of that period if the determination had come into operation according to subsection (5); and

(b) the remuneration that was payable to him or her in respect of that period.

(5F) For the purposes of subsection (5E), the period of deferral is the period commencing on the date specified in the determination and ending on the day on which the determination comes into operation in relation to the holder of the particular office.

(6) The Tribunal must give the Minister a copy of every determination made by the Tribunal, other than a determination that relates to an ACT office.

(6A) The Tribunal must give the Chief Minister of the Australian Capital Territory a copy of every determination made by the Tribunal in relation to an ACT office.

(7) The Minister shall cause a copy of a determination, other than a determination that relates to an ACT office, to be laid before each House of the Parliament within 15 sitting days of that House after the determination is received by him or her.

(8) If either House of the Parliament, within 15 sitting days of that House after a copy of a determination has been laid before that House, passes a resolution disapproving of the determination, then:

(a) if the determination has not come into operation—the determination shall not come into operation; or

(b) if the determination has come into operation—the determination shall not have any force or effect in respect of a period on or after the day on which the resolution was passed.
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Section 7

(8A) If the Legislative Assembly of the Australian Capital Territory, within 30 sitting days of the Assembly after a copy of a determination that relates to an ACT office is given to the Chief Minister, passes a resolution disapproving of the determination, then:

(a) if the determination has not come into operation—the determination does not come into operation; or
(b) if the determination has come into operation—the determination does not have any force or effect after the day on which the resolution is passed.

(9) Remuneration (including salary) or allowances to which a subsisting determination applies shall, notwithstanding the provisions of any other law of the Commonwealth, of any law of a State or Territory, of any instrument having effect by virtue of such a law or of any contract, but subject to the succeeding provisions of this section:

(a) in the case of remuneration or allowances payable to a person who:
   (i) holds an office or appointment as, or as a member of, or in the service or employment of, a public statutory corporation or an office or appointment as a member of a body established to manage, conduct or control the business or affairs of, or otherwise to perform functions in relation to, such a corporation; or
   (ii) holds an office or appointment as a director of, or in the service or employment of, an incorporated company; being a corporation or company that has funds under its control that are lawfully available to pay the remuneration or allowances—be paid in accordance with the determination out of those funds; and

(aa) in the case of remuneration or allowances payable to a person who holds an office of Magistrate within the meaning of the law of the Northern Territory known as the *Justices Act* as in force from time to time—be paid in accordance with the determination out of public moneys of the Territory within the meaning of Part V of the *Northern Territory (Self-Government) Act 1978*; and

(ab) in the case of remuneration or allowances payable to a person who holds an office as a member of the Dairy Adjustment
Authority—be paid in accordance with the determination out of the Dairy Structural Adjustment Fund; and

(aaa) in the case of remuneration or allowances payable to a person who holds an office or appointment under Part 3A of the *Aboriginal and Torres Strait Islander Act 2005*—be paid in accordance with the determination out of money of the Torres Strait Regional Authority that is lawfully available to pay the remuneration or allowances; and

(ac) in the case of remuneration or allowances payable to a person who holds an office or appointment under Part 4 of the *Aboriginal and Torres Strait Islander Act 2005*—be paid in accordance with the determination out of money of the Aboriginal and Torres Strait Islander Commercial Development Corporation that is lawfully available to pay the remuneration or allowances; and

(acaaa) in the case of remuneration or allowances payable to a person who holds an office or appointment under Part 4A of the *Aboriginal and Torres Strait Islander Act 2005*—be paid in accordance with the determination out of money of the Indigenous Land Corporation that is lawfully available to pay the remuneration or allowances; and

(acb) in the case of remuneration or allowances payable to a person who holds an office or appointment under the *Australian Institute of Aboriginal and Torres Strait Islander Studies Act 1989*—be paid in accordance with the determination out of money of the Australian Institute of Aboriginal and Torres Strait Islander Studies that is lawfully available to pay the remuneration or allowances; and

(ad) in the case of remuneration or allowances payable to a person who holds the office of Commissioner of Private Health Insurance Administration, an office of member of the Private Health Insurance Administration Council or the office of Director of that Council—to be paid in accordance with the determination out of funds under the control of that Council; and

(ae) in the case of remuneration or allowances payable to a person who holds an office of member of the Acute Care Advisory Committee or an Acute Care Advisory Committee—to be paid in accordance with the determination out of funds under the control of the Private Health Insurance Administration Council; and
(af) in the case of travelling allowances payable to a member of the Australian Industrial Relations Commission—be paid in accordance with the determination out of funds that are lawfully available under section 358 of the Workplace Relations Act 1996; and

(b) in any other case—be paid in accordance with the determination out of the Consolidated Revenue Fund.

(10) A member of, or a candidate for election to, either House of the Parliament is not entitled to be paid, and shall not be paid, any remuneration or allowances in respect of his or her holding, or performing the duties of, a public office but he or she shall be reimbursed:

(a) in the case of a public office to which paragraph (9)(a) applies—out of the funds of the corporation or company concerned; or

(b) in any other case—out of the Consolidated Revenue Fund, such expenses as he or she reasonably incurs in respect of his or her holding, or performing the duties of, that office.

(11) Except as prescribed, or as authorized or approved by or under any other law of the Commonwealth or any law of a Territory, a person is not entitled to be paid any remuneration in respect of his or her holding, or performing the duties of, a public office on a part-time basis if the person holds any office or appointment, or is otherwise employed, on a full-time basis in the service or employment of the Commonwealth, the Administration of a Territory, a public statutory corporation, an incorporated company referred to in paragraph 3(4)(da) or an incorporated company all the stock or shares in the capital of which is or are beneficially owned by the Commonwealth or by a public statutory corporation.

(11A) For the purposes of subsection (11), an office of member of the Aboriginal Corporation of the National Aboriginal Conference shall be deemed to be an office in the service of the Commonwealth.

(12) Except as prescribed, a person is not entitled to be paid any remuneration in respect of his or her holding, or performing the duties of, a public office if the person holds a judicial office in the service of the Government of a State or of a country other than Australia.
(12A) Where the same person holds each of two public offices on a full-time basis:

(a) if the salary applicable to one of those offices is higher than the salary applicable to the other of those offices—he shall be remunerated only by the salary and annual allowance (if any) applicable to the office to which the higher salary is applicable; or

(b) if the same salary is applicable to each of those offices:

(i) where an annual allowance is applicable to one only of those offices—he shall be remunerated only by the salary and annual allowance applicable to that office;

(ii) if an annual allowance is applicable to each of those offices but the annual allowance applicable to one of those offices is higher than the annual allowance applicable to the other of those offices—he shall be remunerated only by the salary and annual allowance applicable to the office to which the higher annual allowance is applicable; or

(iii) if the same annual allowance is applicable to each of those offices—he shall be remunerated only by the salary and annual allowance applicable to one of those offices.

(13) The Consolidated Revenue Fund is appropriated for the purposes of subsections (9) and (10).


8 Time of making reports and determinations

(1) Subject to this section, the Tribunal shall, as soon as practicable after the commencement of this Act, and at subsequent intervals of not more than 1 year, make:

(a) reports on the matters referred to in subsections 6(1), (2) and (2A); and

(b) determinations in respect of the matters referred to in subsections 7(1), (2) and (3).

(2) Where:

(a) an office came into existence before the commencement of the Remuneration and Allowances Amendment Act 1983 and
Part II  Remuneration etc. for certain offices and appointments
Division 2  Determinations and reports by the Remuneration Tribunal

Section 8A

the Tribunal has not determined the remuneration to be paid in respect of that office;
(aa) an office comes into existence after that commencement; or
(b) a substantial change in the functions or duties to be performed by the holder of an office has occurred since the Tribunal last determined the remuneration to be paid in respect of that office;

the Tribunal shall, as soon as practicable but without prejudice to its obligations under subsection (1), inquire into and determine the remuneration to be paid in respect of that office.

(2A) Subsection (2) does not apply in relation to the holder of an office who is a member of, or a candidate for election to, either House of the Parliament.

(3) Where the Tribunal inquires into, and determines, the remuneration to be paid in respect of an office in accordance with subsection (2), the Tribunal may also inquire into, and either determine or report on, any matter that is, or is considered by it to be, significantly related to that remuneration.

(4) In subsections (2), (2A) and (3), office means a public office.

8A  Time of making recreation leave determinations

(1) Subject to this section, the Tribunal may, from time to time, make determinations in respect of the matters referred to in subsection 7(3AA).

(2) Where:
   (a) a public office becomes a relevant office within the meaning of subsection 7(3AA) and is held by a person on a full-time basis; or
   (b) a public office, being such a relevant office, comes into existence and is held by a person on a full-time basis; or
   (c) a substantial change in the functions or duties to be performed by the holder of a public office has occurred since the Tribunal last determined the recreation leave entitlement of a full-time holder of that office;

the Tribunal must, as soon as practicable but without prejudice to its obligations under subsection (1), inquire into and determine the recreation leave entitlements of a full-time holder of that office.
(3) Subsection (2) does not apply in relation to the holder of a public office who is a member of, or a candidate for election to, either House of the Parliament.

(4) Where the Tribunal inquires into, and determines, the recreation leave entitlements of a full-time holder of a public office in accordance with subsection (2), the Tribunal may also inquire into, and either determine or report on, any matter that is, or is considered by it to be, significantly related to those entitlements.

8B Hearings in relation to discriminatory determinations

(1) If a determination is referred to the Tribunal under section 46PX of the Human Rights and Equal Opportunity Commission Act 1986, the Tribunal must hold a hearing to review the determination.

(2) Section 10 applies to the hearing as if it were a meeting of the Tribunal.

(3) The Tribunal must decide whether or not the hearing is to be held in public.

(4) If the Tribunal decides that the hearing is not to be held in public, then, subject to subsection (5), it may decide the people who may be present.

(5) The Sex Discrimination Commissioner is entitled to notice of, and to be present at, the hearing and may make submissions to the Tribunal.

(6) In this section:

determination includes a variation to a determination.

8C Review of discriminatory determinations

(1) If:

(a) a determination has been referred to the Tribunal under section 46PX of the Human Rights and Equal Opportunity Commission Act 1986; and

(b) the Tribunal considers that the determination is a discriminatory determination;
the Tribunal must take the necessary action to remove the discrimination, by setting aside the determination, setting aside terms of the determination or varying the determination.

(2) In this section:

determination has the same meaning as in section 8B.

discriminatory determination means a determination that:

(a) has been referred to the Tribunal under section 46PX of the Human Rights and Equal Opportunity Commission Act 1986; and

(b) requires a person to do an act that would be unlawful under Part II of the Sex Discrimination Act 1984 except for the fact that the act would be done in direct compliance with the determination.

(3) For the purposes of the definition of discriminatory determination in subsection (2), the fact that an act is done in direct compliance with the determination does not of itself mean that the act is reasonable.

9 Resignation and removal from office

(1) A member may resign his or her office by writing signed by him or her and delivered to the Governor-General.

(2) The Governor-General may remove a member from office for misbehaviour or physical or mental incapacity.

(3) A member ceases to hold office if he or she becomes a person mentioned in subsection 4(4).

10 Meetings of the Tribunal

(1) The President may convene meetings of the Tribunal.

(2) The President shall preside at all meetings of the Tribunal at which he or she is present.

(3) In the event of the absence of the President from a meeting, another member nominated by the President shall preside.
Section 11

(4) At a meeting of the Tribunal:
   (a) the procedure shall be as determined by the Tribunal;
   (b) two members constitute a quorum;
   (c) all questions shall be decided by a majority of votes of the
       members present and voting; and
   (d) the member presiding has a deliberative vote and, in the
       event of an equality of votes, also has a casting vote.

11 Method of inquiry by Tribunal

(1) In the performance of the functions of the Tribunal:
   (a) the Tribunal may inform itself in such manner as it thinks fit;
   (b) the Tribunal may receive written or oral statements;
   (c) the Tribunal is not required to conduct any proceeding in a
       formal manner; and
   (d) the Tribunal is not bound by the rules of evidence.

(2) The Minister may, if he or she thinks fit, appoint a person or
    persons to assist the Tribunal in an inquiry.

12 Fees and allowances

A member and any person appointed under subsection 11(2) to
assist the Tribunal shall be paid such fees and allowances as are
prescribed.

12AA Annual report

(1) The Tribunal shall, as soon as practicable after 30 June in each
    year, prepare and furnish to the Minister a report of the operations
    of the Tribunal during the year that ended on that 30 June.

(1A) The Tribunal shall include in the report an assessment of the
general operation of subsection 5(2).

(2) The Minister shall cause a copy of a report furnished to him or her
    under subsection (1) to be laid before each House of the Parliament
    within 15 sitting days of that House after the day on which he or
    she receives the report.
Part II  Remuneration etc. for certain offices and appointments
Division 3  Determinations by employing bodies for principal executive offices

Section 12C

Division 3—Determinations by employing bodies for principal executive offices

12C  Terms and conditions determined by employing body

(1) Subject to subsection (2), the employing body for a principal executive office may, in writing, determine the terms and conditions (including remuneration and allowances) applying to the office.

(2) Except with the written consent of the Tribunal, an employing body must not determine terms and conditions in respect of a principal executive office that are inconsistent with terms and conditions determined by the Tribunal under subsection 7(3D) in respect of the classification to which the office is assigned.

(3) If a determination is in force under this section for a principal executive office, the determination overrides any provision of another Act that provides for the terms and conditions applying to the principal executive office, unless that other provision refers to, and is expressed to override, this section.
Part IV—Miscellaneous

13 Regulations

The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act.
Notes to the Remuneration Tribunal Act 1973

Note 1

The Remuneration Tribunal Act 1973 as shown in this compilation comprises Act No. 215, 1973 amended as indicated in the Tables below.

The Remuneration Tribunal Act 1973 was amended by the Public Employment (Consequential and Transitional) Regulations 1999 (Statutory Rules 1999 No. 301 as amended by Statutory Rules 2000 No. 332) and the Workplace Relations Amendment (Work Choices) (Consequential Amendments) Regulations 2006 (No. 1) (SLI 2006 No. 50). The amendments are incorporated in this compilation.

All relevant information pertaining to application, saving or transitional provisions prior to 16 December 1995 is not included in this compilation. For subsequent information see Table A.

The Remuneration Tribunal Act 1973 was modified by the A.C.T. Self-Government (Consequential Provisions) Regulations (1989 No. 3 as amended) see Table B.

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### Notes to the Remuneration Tribunal Act 1973

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</table>
(a) The Remuneration Tribunal Act 1973 was amended by sections 182 and 183 only of the Defence Force Re-organization Act 1975, section 2 of which provides as follows:

2 This Part shall come into operation on the day on which this Act receives the Royal Assent, and the remaining provisions of this Act shall come into operation on such date as is, or such respective dates as are, fixed by Proclamation.

(b) The Remuneration Tribunal Act 1973 was amended by section 117 only of the Statute Law Revision Act 1981, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.

(c) The Remuneration Tribunal Act 1973 was amended by Part XX (sections 255 and 256) only of the Commonwealth Functions (Statutes Review) Act 1981, subsection 2(1) of which provides as follows:

(1) Parts I, IV, IX, X, XI, XII, XIII, XV, XVII (other than sections 220, 221, 222, 223, 225, 226, 227, 228 and 230), XX, XXI, XXII and XXIII shall come into operation on the day on which this Act receives the Royal Assent.

(d) The Remuneration Tribunal Act 1973 was amended by Part XIX (section 68) only of the Statute Law (Miscellaneous Amendments) Act 1981, subsection 2(12) of which provides as follows:

(12) The remaining provisions of this Act shall come into operation on the twenty-eighth day after the day on which this Act receives the Royal Assent.

(e) The Remuneration Tribunal Act 1973 was amended by section 95 only of the Public Service Acts Amendment Act 1982, subsection 2(4) of which provides as follows:

(4) The remaining provisions of this Act shall come into operation on such date as is, or on such respective dates as are, fixed by Proclamation.

(f) The Remuneration Tribunal Act 1973 was amended by section 3 only of the Statute Law (Miscellaneous Provisions) Act (No. 1) 1983, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.

(g) The Remuneration Tribunal Act 1973 was amended by Part IV (sections 9 and 10) only of the Remuneration and Allowances Amendment Act 1983, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.

(h) The Remuneration Tribunal Act 1973 was amended by sections 149, 150, 151(1) and 152(1) only of the Public Service Reform Act 1984, subsections 2(1) and (4) of which provide as follows:

(1) Sections 1, 2, 3, 4 and 7, subsections 29(1) and (3), sections 107 and 108, Parts III and IV and sections 125, 138, 142, 144 and 149 shall come into operation on the day on which this Act receives the Royal Assent.

(4) The remaining provisions of this Act shall come into operation on such day as is, or on such respective days as are, fixed by Proclamation.

(i) The Remuneration Tribunal Act 1973 was amended by section 120 only of the Defence Legislation Amendment Act 1984, subsection 2(2) of which provides as follows:

(2) Section 1, this section and sections 16, 17, 18, 19 and 120 and Part XIV shall come into operation on the day on which this Act receives the Royal Assent.

(j) The Remuneration Tribunal Act 1973 was amended by section 3 only of the Statute Law (Miscellaneous Provisions) Act (No. 1) 1985, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.
Notes to the *Remuneration Tribunal Act 1973*

**Act Notes**

(i) The *Remuneration Tribunal Act 1973* was amended by Part VIII (section 60) only of the *Australian Trade Commission (Transitional Provisions and Consequential Amendments) Act 1985*, subsection 2(1) of which provides as follows:

(1) Subject to subsections (2) and (3), this Act shall come into operation on the commencing day.

Section 3 of the *Australian Trade Commission Act 1985* defines “commencing day” as the day fixed by Proclamation for the purposes of subsection 2(2) of that Act.

(m) The *Remuneration Tribunal Act 1973* was amended by section 86 only of the *Industrial Relations (Consequential Provisions) Act 1988*, subsection 2(2) of which provides as follows:

(2) The remaining provisions of this Act commence on the commencement of section 8 of the *Industrial Relations Act 1988*.

(n) The *Remuneration Tribunal Act 1973* was amended by section 32 only of the *A.C.T. Self-Government (Consequential Provisions) Act 1988*, subsection 2(3) of which provides as follows:

(3) The remaining provisions of this Act (including the amendments made by Schedule 5) commence on a day or days to be fixed by Proclamation.

(o) The *Remuneration Tribunal Act 1973* was amended by Part 6 (sections 63 and 64) only of the *Community Services and Health Legislation Amendment Act 1989*, subsection 2(1) of which provides as follows:

(1) Subject to subsections (2), (3), (4), (5), (6), (7), (8), (9) and (10), this Act commences on the day on which it receives the Royal Assent.

(p) The *Remuneration Tribunal Act 1973* was amended by section 25 only of the *Territories Law Reform Act 1992*, subsection 2(1) of which provides as follows:

(1) Sections 1, 2, 25 and 26 commence on the day on which this Act receives the Royal Assent.

(q) The *Remuneration Tribunal Act 1973* was amended by section 80 only of the *Aboriginal and Torres Strait Islander Commission Amendment Act (No. 3) 1993*, subsection 2(3)(b) of which provides as follows:

(3) The following provisions commence on 1 July 1994:

(b) Part 28 (other than Subdivision A of Division 2) and Schedules 2 and 3.

(r) The *Remuneration Tribunal Act 1973* was amended by Schedule 2 (item 90) and Schedule 5 (items 135–137) only of the *Statute Law Revision Act 1996*, subsections 2(1) and (2) of which provide as follows:

(1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.

(2) Each item in Schedule 2 commences or is taken to have commenced (as the case requires) at the time specified in the note at the end of the item.

Item 90 is taken to have commenced immediately after the commencement of section 9 of the *Remuneration Tribunal Act 1974*. Section 9 of the *Remuneration Tribunal Act 1974* commenced on 16 October 1974.

(s) The *Remuneration Tribunal Act 1973* was amended by Schedule 2 (items 49, 88 and 114) only of the *Defence Legislation Amendment Act (No. 1) 1997*, subsection 2(1) of which provides as follows:

(1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.

(t) The *Remuneration Tribunal Act 1973* was amended by Schedule 1 (Part 3) only of the *Education Legislation Amendment Act 1997*, subsections 2(3) and (4) of which provide as follows:

(3) If Part 1 of Schedule 1 does not commence under subsection (2) within 6 months after the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.
Act Notes

(4) Parts 2, 3 and 4 of Schedule 1 commence immediately after the commencement of Part 1 of Schedule 1.

Part 1 commenced on 1 December 1997.

(u) The Remuneration Tribunal Act 1973 was amended by Schedule 5 (item 13) only of the Defence Legislation Amendment Act (No. 1) 1999, subsection 2(4) of which provides as follows:

(4) Schedule 5 commences on 1 January 2001.

(v) The Remuneration Tribunal Act 1973 was amended by Schedule 1 (items 776–781) only of the Public Employment (Consequential and Transitional) Amendment Act 1999, subsections 2(1) and (2) of which provide as follows:

(1) In this Act, commencing time means the time when the Public Service Act 1999 commences.

(2) Subject to this section, this Act commences at the commencing time.

(w) The Remuneration Tribunal Act 1973 was amended by Schedule 3 (items 1 and 56) only of the Australian Security Intelligence Organisation Legislation Amendment Act 1999, subsection 2(2) of which provides as follows:

(2) Subject to subsections (3) to (6), Schedule 3 commences immediately after the commencement of the other Schedules to this Act.

The other Schedules commenced on Royal Assent.
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40 Remuneration Tribunal Act 1973
Table A

Application, saving or transitional provisions

Industrial Relations and other Legislation Amendment Act 1995
(No. 168, 1995)

Schedule 9

4 Continuance of determinations until new conditions substituted

(1) Despite the amendments of the Remuneration Tribunal Act 1973 made by this Act, any determination of the Remuneration Tribunal:
   (a) that relates to the salary payable to the Vice-Chancellor or Deputy Vice-Chancellor of the Australian National University; and
   (b) that was in force immediately before those amendments;
continues in force in relation to that office until such time as the Council of the Australian National University makes a determination in substitution for that determination as so continued in force.

(2) Despite the amendments of the Remuneration Tribunal Act 1973 made by this Act, any determination of the Remuneration Tribunal:
   (a) that relates to the salary payable to the Vice-Chancellor or Deputy Vice-Chancellor of the University of Canberra; and
   (b) that was in force immediately before those amendments;
continues in force in relation to that office until such time as the Council of the University of Canberra makes a determination in substitution for the determination as so continued in force.

(3) Despite the amendments of the Remuneration Tribunal Act 1973 made by this Act, any determination of the Remuneration Tribunal:
   (a) that relates to the salary payable to the Principal or Deputy Principal of the Australian Maritime College; and
   (b) that was in force immediately before those amendments;
Table A

continues in force in relation to that office until such time as the Council of the Australian Maritime College makes a determination in substitution for the determination as so continued in force.

Education Legislation Amendment Act 1997 (No. 66, 1997)

Part 4—Transitional provisions

19 Purpose of this Part

This Part sets out transitional provisions relating to the transfer of the responsibility for the University of Canberra from the Commonwealth to the Australian Capital Territory.

20 Definitions

In this Part, unless the contrary intention appears:

ACT enactment means an enactment as defined by section 3 of the Australian Capital Territory (Self-Government) Act 1988.

transfer day means the day on which Part 1 of this Schedule commences.

University means the University of Canberra established by section 4 of the University Act.

University Act means the University of Canberra Act 1989 as in force from time to time before the transfer day.

21 Terms and conditions of employment of University employees

If a person was employed by the University immediately before the transfer day, this Act does not affect the terms and conditions (including any accrued entitlement to benefits) of that employment.

22 Audit

If the transfer day is less than a year after the end of the last period in respect of which a report was made by the Auditor-General under subsection 37(4) of the University Act, that subsection has effect in respect of the period (the final reporting period) beginning immediately after the end of that last period and ending immediately before the
transfer day as if the reference to a year in that subsection were a reference to the final reporting period.

23 Annual report and financial statements

If the transfer day is less than a year after the end of the last year in respect of which a report was prepared under section 39 of the University Act, that section has effect in respect of the period beginning immediately after the end of that last year and ending immediately before the transfer day as if:

(a) a reference in that section to a year were a reference to that period; and
(b) a reference in that section to 31 December were a reference to the transfer day.

Human Rights Legislation Amendment Act (No. 1) 1999 (No. 133, 1999)

Division 1—Interpretation

4 Interpretation

In this Part:

appropriate Commissioner means:
(a) in relation to a complaint lodged under the old DDA—the Disability Discrimination Commissioner; and
(b) in relation to a complaint lodged under the old RDA—the Race Discrimination Commissioner; and
(c) in relation to a complaint lodged under the old SDA—the Sex Discrimination Commissioner.

Court means the Federal Court of Australia.

holding of an inquiry means a holding of an inquiry referred to in a notice given under:
(a) section 83 of the old DDA; or
(b) section 25E of the old RDA; or
(c) section 63 of the old SDA.

new HREOCA means the Human Rights and Equal Opportunity Commission Act 1986 as amended by Schedule 1 to this Act.
Table A

**old DDA** means the *Disability Discrimination Act 1992* before being amended by Schedule 1 to this Act.

**old RDA** means the *Racial Discrimination Act 1975* before being amended by Schedule 1 to this Act.

**old SDA** means the *Sex Discrimination Act 1984* before being amended by Schedule 1 to this Act.

**purported complaint** means a document purporting to be a complaint.

**starting day** means the day on which this Part commences.

**Division 2**—Treatment of complaints lodged before starting day

**Subdivision A**—Treatment of complaint depends on the stage it has reached

**5 Purported complaint lodged but no decision as to whether it is a complaint**

(1) A purported complaint is treated in the way set out in subsection (2) if, before the starting day:

(a) it was lodged with the Commission; and

(b) the Commission had not decided whether it was a complaint within the meaning of the old DDA, old RDA or old SDA.

(2) On the starting day:

(a) the purported complaint is taken to have been lodged under section 46P of the new HREOCA; and

(b) the Commission must then decide whether it is a complaint within the meaning of the new HREOCA.

**6 Administrative appeal on Commission’s decision as to whether complaint**

(1) A purported complaint is treated in the way set out in subsection (2) if:
(a) before the starting day, the Commission decided that it was, or was not, a complaint within the meaning of the old DDA, old RDA or old SDA; and
(b) on or after the starting day, the Court makes an order under the Administrative Decisions (Judicial Review) Act 1977 to refer the matter to which the decision relates to the Commission for further consideration.

(2) On the day on which the order is made:
(a) the purported complaint is taken to have been lodged under section 46P of the new HREOCA; and
(b) the Commission must then decide whether it is a complaint within the meaning of the new HREOCA.

7 Complaint lodged but Commissioner not notified of it

(1) A purported complaint is treated in the way set out in subsection (2) if, before the starting day:
(a) it was lodged with the Commission; and
(b) the Commission decided that it was a complaint within the meaning of the old DDA, old RDA or old SDA; and
(c) the Commission had not notified the appropriate Commissioner of it.

(2) On the starting day:
(a) the purported complaint is taken to have been lodged under section 46P of the new HREOCA; and
(b) the Commission is taken to have decided that it is a complaint within the meaning of the new HREOCA.

8 Commissioner notified of complaint but had not decided to dismiss or refer it

(1) A complaint is treated in the way set out in subsection (2) if, before the starting day:
(a) the Commission had notified the appropriate Commissioner of the complaint; and
(b) the appropriate Commissioner had not made a decision not to inquire, or not to continue to inquire, into the complaint; and
(c) the appropriate Commissioner had not referred the complaint to the Commission.
**Table A**

(2) On the starting day, the complaint is taken to have been referred to the President under section 46PD of the new HREOCA.

### 9 Commissioner decided to dismiss complaint

(1) A complaint is treated in the way set out in subsection (2) if:

(a) before the starting day, the appropriate Commissioner decided not to inquire, or not to continue to inquire, into the complaint; and

(b) on the starting day, the complainant could have required the appropriate Commissioner to:

(i) refer the complaint to the President under section 71 of the old DDA if that section had not been repealed by this Act; or

(ii) refer the Commissioner’s decision to the President, or refer the complaint to the Commission, under section 24 of the old RDA if that section had not been repealed by this Act; or

(iii) refer the Commissioner’s decision to the President, or refer the complaint to the Commission, under section 52 of the old SDA if that section had not been repealed by this Act.

(2) On the starting day, the President is taken to have terminated the complaint under section 46PH of the new HREOCA.

Note: The President is required to give a notice of termination of the complaint under section 14 of this Act.

### 10 Presidential review of Commissioner’s decision to dismiss complaint

(1) A complaint is treated in the way set out in subsection (2) if, before the starting day:

(a) the appropriate Commissioner decided not to inquire, or not to continue to inquire, into the complaint; and

(b) the complainant required the appropriate Commissioner to refer the complaint, or the Commissioner’s decision, to the President; and

(c) the President had not made a decision under whichever of the following sections is applicable:

(i) section 101 of the old DDA;
(ii) section 24AA of the old RDA;
(iii) section 52A of the old SDA.

(2) On the starting day, the President is taken to have terminated the complaint under section 46PH of the new HREOCA.

Note: The President is required to give a notice of termination of the complaint under section 14 of this Act.

11 Administrative review of President’s decision

(1) A complaint is treated in the way set out in subsection (2) if:
   (a) before the starting day, the President made a decision in relation to the complaint under:
      (i) section 101 of the old DDA; or
      (ii) section 24AA of the old RDA; or
      (iii) section 52A of the old SDA; and
   (b) on or after the starting day, the Court makes an order under the Administrative Decisions (Judicial Review) Act 1977 to refer the matter to which the decision relates to the Commission for further consideration.

(2) On the day the order is made, the President is taken to have terminated the complaint under section 46PH of the new HREOCA.

Note: The President is required to give a notice of termination of the complaint under section 14 of this Act.

12 Complaint referred to Commission but inquiry not started

(1) A complaint is treated in the way set out in subsection (2) if, before the starting day:
   (a) the appropriate Commissioner referred the complaint to the Commission; and
   (b) a holding of an inquiry into the complaint had not started under the old DDA, old RDA or old SDA; and
   (c) the complaint had not been withdrawn under whichever of the following sections is applicable:
      (i) section 79 of the old DDA;
      (ii) section 25A of the old RDA;
      (iii) section 59 of the old SDA.
Notes to the *Remuneration Tribunal Act 1973*

**Table A**

(2) On the starting day, the President is taken to have terminated the complaint under section 46PH of the new HREOCA.

Note: The President is required to give a notice of termination of the complaint under section 14 of this Act.

**13 Inquiry started**

(1) A complaint is treated in the way set out in subsection (2) if, before the starting day:

   (a) a holding of an inquiry into the complaint had started under the old DDA, old RDA or old SDA; and
   
   (b) the complaint had not been withdrawn under whichever of the following sections is applicable:

   (i) section 79 of the old DDA;
   
   (ii) section 25A of the old RDA;
   
   (iii) section 59 of the old SDA.

(2) The amendments made by Schedule 1 to this Act do not apply in relation to the complaint.

**Subdivision B—Other rules about complaints lodged before starting day**

**14 Notice of termination**

(1) If the President is taken to have terminated a complaint under section 9, 10, 11 or 12, then the President must notify the complainants in writing of the termination and the reasons for the termination.

(2) Subsection (1) does not apply if all the complainants requested the appropriate Commissioner not to inquire into the complaint.

(3) The President must give a person a copy of the notice that was given to the complainants under subsection (1) if:

   (a) the person was a person on whose behalf the complaint was lodged; and
   
   (b) the person requested the President for a copy of the notice.

(4) The President is not required to notify any person under section 46PH of the new HREOCA.
15 **Work done by Commissioner is taken to have been done by President**

Any thing done, or information obtained, by the appropriate Commissioner in relation to a complaint that is referred to the President under section 8 is taken to have been done or obtained by the President.

16 **Special rules apply to proceedings to enforce a determination**

Sections 46PQ, 46PR and 46PT of the new HREOCA apply for the purposes of proceedings in the Court:

(a) for an order to enforce a determination in relation to a complaint; or

(b) for an order directing a Commonwealth agency (or the principal executive of a Commonwealth agency) to comply; if the proceedings started on or after the starting day under:

(c) section 105A or 106F of the old DDA; or

(d) section 25ZC or 25ZI of the old RDA; or

(e) section 83A or 84F of the old SDA.

**Division 3—Other transitional and application provisions**

17 **Protection from civil actions**

The amendments made by items 30, 31, 83, 84, 119 and 120 of Schedule 1 do not apply to a complaint lodged before the starting day under the old DDA, old RDA or old SDA.

18 **Referrals under the old SDA**

The amendments made by items 1, 2, 85, 86, 97, 100, 122, 123, 124 and 125 of Schedule 1 do not apply to a complaint lodged before the starting day under section 50A, 50C or 50E of the old SDA.

19 **Inquiries started by Human Rights Commissioner**

The amendment made by item 52 of Schedule 1 does not apply in relation to an inquiry that the Human Rights Commissioner started before the starting day.
Table A

20 When a person cannot lodge a complaint under the new HREOCA

A person cannot lodge a complaint under section 46P of the new HREOCA if:

(a) the person is a class member for a representative complaint in respect of the same subject matter; and

(b) a holding of an inquiry into the representative complaint had started under the old DDA, old RDA or old SDA.

21 Regulations

(1) The Governor-General may make regulations prescribing matters:

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) In particular, regulations may be made in relation to matters of a transitional or saving nature arising out of the enactment of this Act.

22 Transitional—powers of a Secretary

A thing done by the Commission before the commencement of this section in exercising powers referred to in subsection 43(2) of the Human Rights and Equal Opportunity Commission Act 1986 has effect, for the purpose of the exercise by the President after the commencement of this section of powers referred to in that subsection, as if the thing had been done by the President.

Remuneration Tribunal Amendment Act 2001 (No. 27, 2001)

4 Exercise of certain powers before commencement of provision conferring the powers

The Minister may, before the commencement of item 6 of Schedule 1, exercise any of the powers conferred by the sections inserted in the Remuneration Tribunal Act 1973 by that item as if that item had commenced. However, any declaration made or
notice given in the exercise of those powers before that commencement does not have any effect until that commencement.

Schedule 1

13 Saving and transitional

(1) If:

(a) at the commencement of this item, a person holds a principal executive office referred to any of paragraphs (a) to (l) of the definition of principal executive office in subsection 3(1) of the Remuneration Tribunal Act 1973; and

(b) under subsection 7(3D) of that Act, the Remuneration Tribunal determines any terms and conditions applicable to the classification to which the office is assigned; and

(c) any of the terms and conditions (the existing terms and conditions) applicable at the commencement of this item in respect of the office under subsection 12C(1) of that Act are inconsistent with terms and conditions so determined by the Tribunal;

the validity of the existing terms and conditions is not affected by the amendment made by item 12.

(2) However, at the end of the period for which the person was appointed to the office, the employing body must (whether the person is re-appointed, or another person is appointed, to the office) make a new determination of the terms and conditions applicable in respect of the office in compliance with section 12C of the Remuneration Tribunal Act 1973.
Table B

Modifications

A.C.T. Self-Government (Consequential Provisions) Regulations

Subsection 3(1):

Insert the following definition:

enactment has the same meaning as in section 3 of the Australian Capital Territory (Self-Government) Act 1988.

Add “or a corporation established for a public purpose by a law of the Australian Capital Territory” at the end of the definition of public statutory corporation.

Subsection 3(4):

Insert in paragraph (b) “(other than an enactment)” after “Territory”.

Omit paragraph (fb), substitute:

(fb) an executive education office;

(fc) an office established by, or an appointment made under, an enactment, being an office or appointment, or an office or appointment included in a class of offices or appointments, specified by a Minister within the meaning of the Australian Capital Territory (Self-Government) Act 1988, by a notice given to the Chairman, to be an office or appointment or a class of offices or appointments to which this Part is to apply;

(fd) an appointment, otherwise than under an enactment, made by a Minister within the meaning of the Australian Capital Territory (Self-Government) Act 1988, being an appointment, or an appointment included in a class of appointments, specified by the Minister, by a notice given to the Chairman, to be an appointment or a class of appointments to which this Part is to apply;

(fe) an appointment in the service or employment of a public statutory corporation established under an enactment, being an office or appointment that is specified by a Minister within the meaning of the Australian Capital Territory (Self-Government) Act 1988, by a notice given to the Chairman to be a senior office or senior appointment, as the case may be,
in the service or employment of the corporation to which this Part is to apply;

(ff) an appointment as a director of an incorporated company limited by guarantee where the interests and rights of the members in or in relation to the company are beneficially owned by the Australian Capital Territory, being an appointment that is specified by a Minister within the meaning of the *Australian Capital Territory (Self-Government) Act 1988*, by a notice given to the Chairman, to be an appointment to which this Part is to apply;

(fg) an appointment as a director of an incorporated company all the stock or shares in the capital of which is or are beneficially owned by the Australian Capital Territory;

(fh) an office or appointment in the service or employment of an incorporated company referred to in paragraph (ff) or (fg), being an office or appointment that is specified by a Minister within the meaning of the *Australian Capital Territory (Self-Government) Act 1988*, by a notice given to the Chairman, to be a senior office or senior appointment, as the case may be, in the service or employment of the Company to which this Part is to apply.

Omit from paragraph (k) “Commonwealth Teaching Service”, substitute “Australian Capital Territory public service established under subsection 54(1) of the *Australian Capital Territory (Self-Government) Act 1988*”.

Omit from paragraph (t) “or (f)”, substitute “(f), (ff) or (fg)”.

**Subsection 7(3):**

Omit “and to the holders of”, substitute “, the offices of Head of Administration and Associate Head of Administration within the meaning of the *Australian Capital Territory (Self-Government) Act 1988* and”.

**Section 7:**

Add at the end of the following subsection:

“(15) In spite of the preceding provisions of this section, remuneration or allowances:

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Remuneration Tribunal Act 1973
**Table B**

(a) payable to a person who holds an office or appointment referred to in subsection 3(3) or paragraph 3(4)(fc), (fd), (fe), (ff), (fg) or (fh); and

(b) to which a determination applies;

may be paid in accordance with the determination out of the public money of the Australian Capital Territory within the meaning of the *Australian Capital Territory (Self-Government) Act 1988*.

**Subsection 8(4):**

After “1922” insert “or the office of Head of Administration or Associate Head of Administration within the meaning of the *Australian Capital Territory (Self-Government) Act 1988*.”