EXPLANATORY STATEMENT

Select Legislative Instrument 2005 No. 290

Issued by the authority of the Minister for Employment and Workplace Relations.

Remuneration Tribunal Act 1973

Remuneration Tribunal (Miscellaneous Provisions) Amendment Regulations 2005 (No. 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 members of the Parliament, Judges of federal courts and Territory Supreme Courts, most full-time and part-time holders of public offices (which include Royal Commissioners) and Principal Executive Offices.

Section 13 of the Act provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Subsection 3(4) of the Act defines ‘public office’, and lists a number of offices or appointments which are not to be treated as ‘public office’. In particular, paragraph 3(4)(v) of the Act provides in part that a reference to a public office does not include an appointment which has been prescribed for the purposes of the paragraph. The effect of this is to remove designated appointments from the jurisdiction of the Tribunal.

Regulation 5 of the Remuneration Tribunal (Miscellaneous Provisions) Regulations 1976 (Remuneration Tribunal Regulations) prescribes offices and appointments for the purposes of paragraph 3(4)(v) of the Act. These Regulations prescribe the appointments of Royal Commissioners as appointments to which paragraph 3(4)(v) of the Act applies, thus excluding the remuneration of Royal Commission appointments from determination by the Tribunal.

Remuneration for Royal Commissioners has in the past been established by a number of processes, including determination by the Tribunal or by the Government, based on legal or consultancy fees. Amendments have previously been made to the Remuneration Tribunal Regulations to exclude specific Royal Commissioner appointments. These Regulations standardise the approach in respect of all future Royal Commissioners.

The Act specifies no conditions that need to be met before the power to make the proposed Regulations may be exercised.

No consultation has taken place in relation to the Regulations as they are machinery in nature.
The proposed Regulations would be a legislative instrument for the purposes of the *Legislative Instruments Act 2003.*

The Regulations commenced on the day after they were registered.