



REMUNERATION TRIBUNAL

Explanatory Statement: Determination 2017/11 Remuneration and Allowances for Holders of Full-Time Public Office

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 Parliament, Judges of Federal Courts, most full-time and part-time holders of public offices including Specified Statutory Offices and Principal Executive Offices.

Consultation

2. Section 11 of the Act advises that in the performance of its functions the Tribunal:
 - may inform itself in such manner as it thinks fit;
 - may receive written or oral statements;
 - is not required to conduct any proceeding in a formal manner; and
 - is not bound by the rules of evidence.
3. The Tribunal normally receives submissions on remuneration from a portfolio minister, or a Secretary, program manager or employing body (in respect of a Principal Executive Office) with responsibility for the relevant office(s). The Tribunal will normally seek the views of the relevant Portfolio Minister prior to determining remuneration for an office.
4. The Tribunal may reach a decision based on the information provided in the submission and other publicly available information such as portfolio budget statements, annual reports, corporate plans, legislation and media releases. On occasion it may wish to meet with relevant parties or seek further information from the relevant minister or person making the submission.
5. Amongst other relevant matters in deliberating on appropriate remuneration for an office the Tribunal informs itself on:
 - the main functions, responsibilities and accountabilities of the office;
 - the organisational structure, budget and workforce;
 - the requisite characteristics, skills or qualifications required of the office holder(s); and
 - the remuneration of similar, comparator, offices within its jurisdiction.

Annual review

6. The Tribunal has an obligation, under sub-sections 7(1), (2), (3) and 8(1) of the Act to make determinations in respect of remuneration for various offices within its jurisdiction at periods of not more than one year. In meeting this obligation the Tribunal decides whether any general adjustment to remuneration should occur. The Tribunal issued determinations in December 2016 and at that time made no general adjustments to remuneration.

7. In considering whether any general adjustment should occur the Tribunal takes account of a range of economic conditions in Australia, including trends in public and private sector remuneration. In order to inform its conclusions the Tribunal draws upon authoritative external sources such as the published material available from the Government, the Reserve Bank of Australia and the Australian Bureau of Statistics. It is obliged by the Act also to consider the Annual Wage Reviews of the Fair Work Commission. The Commission's 2017 decision was released on 6 June 2017.
8. The Tribunal did not receive any submissions on this matter.
9. On 22 June 2017 the Tribunal notified its decision to increase remuneration by 2 per cent for public offices in its jurisdiction with effect from 1 July 2017. A statement setting out the Tribunal's reason for decision is available at www.remtribunal.gov.au.
10. Determination 2017/11 implements the Tribunal's decision for Full-time Public Offices.
11. Consultation on these amendments was considered unnecessary given the matters considered by the Tribunal in making its decision.

Superannuation

12. The term 'Base Salary' has been removed and replaced with the term 'Superannuation Salary'. Changes to the wording of the clauses regarding superannuation aim to simplify and clarify the existing arrangements for members of defined benefit funds. The changes have no impact on any individual's entitlement.
13. The Tribunal will no longer set individual superannuation salaries for each office in its determination. The base salary column has been deleted from the remuneration table (Table 2A) and superannuation salary has been set as either 70 per cent or 73 per cent of Total Remuneration. Where there are exceptions to these rates they are listed in a separate table.
14. The Tribunal consulted with the Funds and Superannuation Branch of the Department of Finance on these changes to ensure they complied with legislation covering the respective superannuation schemes.

Pharmaceutical Benefits Advisory Committee, Chair and Deputy Chair

15. The Tribunal received a submission from the Minister for Health, the Hon Greg Hunt MP seeking review of the remuneration for the Committee, including remuneration for a new deputy chair position. The submission detailed changes to the workload of the Committee both in volume and complexity over recent years.

Clean Energy Regulator, Chair/CEO

16. There was no consultation on this matter as the amendment removes the person specific allowance based on advice received from the Department of the Environment and Energy. The accommodation and reunion travel allowance provisions for the office holder were removed as the appointee's term has ceased.

Productivity Commission, Deputy Chair

17. There was no consultation on this matter as the amendment removes the person specific remuneration allowance provision for the office holder whose term of appointment has ceased. The Productivity Commission website confirms there is a new Deputy Chair and the allowance does not apply to that person.

Australian Skills Quality Authority (ASQA), Chief Commissioner and Chief Executive Officer

18. There was no consultation on this matter as the amendment removes the person specific remuneration allowance provision for the office holder following his resignation from the office based on advice received from the Australian Skills Quality Authority.

Classification Board, Director and Deputy Director

19. The Tribunal received a submission from the Minister for Communications, Senator the Hon Mitch Fifield seeking a review of remuneration for these offices. The submission detailed the significant changes to the functions and responsibilities of

these offices in recent years particularly as a result of the deregulation reforms and the reduced demand for classification services.

Australian Organ and Tissue Donation and Transplantation Authority, CEO

20. The Tribunal received a submission from the former Assistant Minister for Health and Aged Care, the Hon Ken Wyatt MP, seeking revised remuneration for the CEO due to structural changes to the Authority and the establishment of the Board effective from 1 July 2017.

Classification Board, Senior Classifier

21. There was no consultation on this matter as the amendment removes the redundant entry that is no longer required on advice from the Attorney-General's Department.

Infrastructure Australia, CEO

22. The Tribunal received a submission from the Minister for Urban Infrastructure, the Hon Paul Fletcher MP seeking a review of remuneration of the office on the basis of significant increases in the workload of the office and that remuneration was below that of like offices.

Fair Work Commission

23. The Tribunal has deleted sub-clause 2.2.6 relating to transitional arrangements for Members of the Fair Work Commission appointed to predecessor bodies with grandfathered entitlements. Both the Vice-presidents to whom the clause applied have retired. The sub-clause also provided a reference point in relation to appointment of a Judge as a Fair Work Commissioner. After consultation with officials of the Fair Work Commission the provision was considered unnecessary as no appointments have been made to which that provision would apply.

Retrospectivity

24. 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.

Details of the determination are as follows:

PART 1 - GENERAL

25. Part 1 specifies the authority for and the commencement date of the determination and revokes and supersedes the previous principal Determination 2016/19 (as amended) applying to the offices covered by this determination. This Part also contains definitions of certain words used in the determination.
26. The other provisions in Part 1 are unchanged from those contained in Part 1 of the superseded determination.

PART 2 – REMUNERATION AND RELATED MATTERS

27. Part 2 sets out the Total Remuneration and other related matters (such as some personal loadings) effective from 1 July 2017 unless specified.
28. Changes to Table 2A:
- Pharmaceutical Benefits Advisory Committee (PBAC), Chair and Deputy Chair: Remuneration for the Chair has been increased due to the increase in responsibilities, and a new office of Deputy Chair has been included due to the expanded roles of PBAC.
 - Classification Board, Director, Deputy Director and Senior Classifier: Remuneration for the Director and Deputy Director has been reduced due to the significant changes to the functions and responsibilities of these offices and as a result of the deregulation reforms and the reduced demand for classification services. A clause has been included to preserve the remuneration of the current Deputy Director

until her retirement. The office of Senior Classifier has been deleted as it is not in use.

- Australian Organ and Tissue Donation and Transplantation Authority, CEO: Remuneration for the office has been reduced due to structural changes in the Authority and the establishment of a Board from 1 July 2017.
- Infrastructure Australia, CEO: Remuneration for the office has been increased due to changes in focus and activities as well as the additional public exposure for the office.
- Removes all reference to person specific clauses for: the Clean Energy Regulator Chair/CEO, Productivity Commission, Deputy Chair and the Australian Skills Quality Authority, Chief Commissioner and CEO as they are no longer required.
- Column 2 listing Base Salary for each office has been deleted.

29. Clause 2.5 has been amended to include superannuation salary arrangements for offices and specified office holders, replacing the Base Salary column of Table 2A.

30. Other changes in this determination, compared with the superseded determination, include changing the order of certain entries in the Tables (and the associated explanatory clauses) and consolidating changes made over the life of the previous determination.

PART 3 - ALLOWANCES

31. Part 3 sets out the allowance provisions.

32. Changes to Tables 3A and 3B

- Accommodation and Reunion Travel Allowances provisions for the Chair/Chief Executive Officer, Clean Energy Regulator, have been removed for the office holder whose term of appointment has ceased.

33. There are no other changes from those contained in the superseded determination.

PART 4 – OFFICIAL TRAVEL

34. Part 4 sets out the entitlements for official travel which are contained in Determination 2016/07 (or any determination that supersedes 2016/07).

PART 5 – RECREATION LEAVE

35. Part 5 refers to the recreation leave provisions which are contained in Determination 2012/11. The provisions of this Part are unchanged from those contained in the superseded determination.

PART 6 – COMPENSATION FOR EARLY LOSS OF OFFICE

36. Part 6 refers to the compensation for early loss of office provisions which are contained in Determination 2014/17. The provisions of this Part remain unchanged from those contained in the superseded determination.

Authority: Sub-sections 7(3) and 7(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 Determination 2017/11

This 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 legislative instrument

The legislative instrument, or determination, applies the Tribunal's 2017 annual review decision of a 2 per cent remuneration increase (rounded as appropriate) to Full-time Public Offices from 1 July 2017.

The determination revokes and supersedes the previous *Determination 2016/19 – Remuneration and Allowances for Holders of Full-Time Public Office* (as amended).

The changes follow a review of remuneration (and significantly related matters) carried out by the Tribunal consistent with sub-section 7(3) of the *Remuneration Tribunal Act 1973*.

The determination:

- sets increased remuneration for the Chair due to the increase in responsibilities and remuneration for a new office of Deputy Chair due to the expanded roles of the Pharmaceutical Benefits Advisory Committee.
- sets reduced remuneration for the Director and Deputy Director, Classification Board, due to the significant changes to the functions and responsibilities of these offices and as a result of the deregulation reforms and the reduced demand for classification services, and removes the entry for Senior Classifier as it is no longer required.
- sets reduced remuneration for the CEO of the Australian Organ and Tissue Donation and Transplantation Authority, due to structural changes in the Authority and the establishment of the Board from 1 July 2017.
- sets increased remuneration for the CEO Infrastructure Australia to changes in focus and activities as well as the additional public exposure for the office.
- removes reference to a number of office holders who have ceased.

The instrument maintains the principle of fair, and current, remuneration for work performed.

Human rights implications

This legislative instrument does not engage any of the applicable rights or freedoms.

Conclusion

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

The Remuneration Tribunal