**EXPLANATORY STATEMENT**

Issued by the authority of the Minister Assisting the Prime Minister for the Public Service

*Remuneration Tribunal Act 1973*

*Remuneration Tribunal (Miscellaneous Provisions) Regulations 2017*

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 17 of the Act provides that the Governor‑General may make regulations, not inconsistent with the Act, prescribing 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.

The Remuneration Tribunal (Miscellaneous Provisions) Regulations 2017 will replace and repeal the *Remuneration Tribunal (Miscellaneous Provisions) Regulations 1976* (1976 Regulations), which are due to sunset on 1 October 2017.

The purpose of these Regulations is to prescribe:

* the appointments, by Letters Patent, of Royal Commissioners as appointments where remuneration is excluded from determination by the Tribunal; and
* that the staff-elected Director on the Board of the Australian Broadcasting Corporation is entitled to be paid remuneration determined by the Tribunal even though holding a ‘public office’ on a part-time basis and being an employee or in the service of the Australian Broadcasting Corporation.

Details of the proposed Regulations are set out in Attachment A.

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

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Remuneration Tribunal Secretariat was consulted in the making of these Regulations.

The Regulations are to commence on the day after the instrument is registered on the Federal Register of Legislation.

**Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

***Remuneration Tribunal (Miscellaneous Provisions) Regulations 2017***

This Disallowable Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Overview of the Legislative Instruments**

This Disallowable Legislative Instrument replaces the *Remuneration Tribunal (Miscellaneous Provisions) Regulations 1976* (the 1976 Regulations), which is due to sunset on 1 October 2017. The Regulations prescribe the remuneration arrangements for certain offices and appointments.

**Human rights implications**

This Disallowable Legislative Instrument engages the right to the enjoyment of just and favourable conditions of work, which includes a right to fair wages and equal remuneration, in Article 7 of the *International Covenant on Economic, Social and Cultural Rights*. The Disallowable Legislative Instrument maintains the principle of fair, and current, remuneration for work performed by ensuring the remuneration arrangements for certain offices and appointments can be determined, as appropriate, by the Remuneration Tribunal.

**Conclusion**

This Disallowable Legislative Instrument is compatible with human rights because it does not raise any human rights issues.

**Attachment A**

**Remuneration Tribunal (Miscellaneous Provisions) Regulations 2017**

**Section 1 – Name**

This section provides that the name of the Regulations is the *Remuneration Tribunal (Miscellaneous Provisions) Regulations 2017*.

**Section 2 – Commencement**

This section provides that the Regulations commence on the day after the instrument is registered.

**Section 3 – Authority**

This section provides that the Regulations are made under the *Remuneration Tribunal Act 1973*.

**Section 4 – Schedules**

This section provides that each instrument that is specified in a Schedule to the Regulations is amended or repealed as set out in the applicable terms in the Schedule concerned, and any other item in a Schedule to the Regulations has effect according to its terms.

**Section 5 – Definitions**

This section determines that in these Regulations, ‘Act’ means the *Remuneration Tribunal Act 1973*.

**Section 6 – Appointment of Commissioners by Letters Patent**

This section prescribes the appointments, by Letters Patent, of a person as a Commissioner to inquire into and report on matters specified in the Letters Patent is prescribed for the purposes of paragraph 3(4)(v) of the Act. The effect of this section is to exclude the remuneration of Royal Commission appointments from determination by the Remuneration Tribunal.

**Section 7 – Staff-elected Director of the Australian Broadcasting Corporation Board**

This section prescribes that subsection 7(11) of the Act does not apply to a person elected as the staff-elected Director in accordance with section 13A of the *Australian Broadcasting Corporation Act 1983*. The effect of this section is to entitle the staff-elected Director to be paid remuneration as determined by the Remuneration Tribunal in respect of holding, or performing the duties of, a public office on a part-time basis while also being an employee or in the service of the Australian Broadcasting Corporation.

**Schedule 1 – Repeals**

**Item 1 – The whole of the Regulations**

This item provides that the *Remuneration Tribunal (Miscellaneous Provisions) Regulations 1976* are repealed.