



## REMUNERATION TRIBUNAL

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### **Explanatory Statement: Determination 2018/05: Remuneration and Allowances for Holders of Public Office**

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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 expenses of key Commonwealth office holders. These include Judges of Federal Courts and most full-time and part-time holders of public offices, including Specified Statutory Offices. An additional function of the Tribunal is to determine a classification structure for Principal Executive Offices and the terms and conditions applicable to each classification within the structure.

#### **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.

*Deputy Electoral Commissioner, Australian Electoral Officers for New South Wales, Victoria, Queensland, Western Australia, South Australia, Northern Territory and Tasmania*

6. The Tribunal decided indicative remuneration for these offices in February 2018, following a submission from the Special Minister of State, the Hon Mathias Cormann MP. Minister Cormann wrote to the Tribunal and to the Minister Assisting the Prime Minister for the Public Service, the Hon Kelly O'Dwyer MP, requesting the revocation of the declaration of these offices as Principal Executive Offices (PEO), and transition to the Tribunal's Full-time Office determinative jurisdiction.

7. The Tribunal consulted with the Minister for Urban Infrastructure (now Minister for Urban Infrastructure and Cities), the Hon Paul Fletcher MP, on this matter. Advice from the Department of Infrastructure, Regional Development and Cities was received confirming the reappointment of Mr Philip Davies to the office of CEO until April 2023.

### **Retrospectivity**

8. Any retrospective application of this determination is in accordance with subsection 12(2) of the *Legislation Act 2003* as it does not affect the rights of a person (other than the Commonwealth or an authority of the Commonwealth) to that person's disadvantage, nor does it impose any liability on such a person.

### **The power to repeal, rescind and revoke, amend and vary**

9. Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

### **Details of the determination are as follows:**

#### **PART 1 – FULL-TIME OFFICES**

10. Clause 1.1 specifies the Principal Determination (Number 11 of 2017 as amended) for the purposes of Part 1 of the Determination.
11. Clauses 1.2 to 1.6 set remuneration for the Deputy Electoral Commissioner, and the Australian Electoral Officers for each State.
12. Clause 1.7 sets person specific remuneration for the current Australian Electoral Officer for Queensland, Mr Thomas Ryan, for the term of his appointment.
13. Clause 1.8 amends the date of the expiration of the additional fixed loading of \$75,000 for the Chief Executive Officer, Infrastructure Australia, Mr Philip Davies, on his reappointment to the office.

**Authority:** Subsections 7(3) and 7(4)  
*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 2018/05**

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**

This determination amends Principal Tribunal Determination:

2017/11: Remuneration and Allowances for Holders of Full-Time Public Office;

The determination:

- sets remuneration for the Deputy Electoral Commissioner and the Australian Electoral Officers for each State. These officers were previously in the Tribunal's jurisdiction within the Principal Executive Office Structure;
- sets person specific remuneration for the Australian Electoral Officer for Queensland, Mr Thomas Ryan, for the term of his appointment; and
- amends the date of the expiration of the additional fixed loading of \$75,000 for the Chief Executive Officer, Infrastructure Australia, Mr Philip Davies, on his reappointment to the office.

This 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.

**Remuneration Tribunal**