



REMUNERATION TRIBUNAL

Replacement Explanatory Statement: Remuneration Tribunal Amendment Determination (No. 6) 2020

This Explanatory Statement replaces the Explanatory Statement registered on 9 October 2020 for *Remuneration Tribunal Amendment Determination (No.6) 2020*. It corrects the consultation information in paragraphs 6 and 7 regarding the National Skills Commissioner.

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 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.

National Skills Commissioner

6. On 27 August 2020, Senator the Hon Michaelia Cash, Minister for Employment, Skills, Small and Family Business wrote to the Tribunal seeking indicative remuneration for the proposed new office of the National Skills Commissioner, to be established by the *National Skills Commissioner Act 2020*. The letter was accompanied by a submission detailing the roles and responsibilities of the office, the functions of the National Skills Commission and the skills and qualifications required of the office holder. The legislation received Royal Assent on 2 September 2020, formally establishing the office from 3 September 2020.
7. The Minister's submission on 27 August 2020 included a request for an additional loading for the inaugural National Skills Commissioner given the challenges that will be faced by the office in establishing the National Skills Commission; the pressure of the current reform period; a higher than usual pace of deliverables; and the key role the Commissioner will play in aiding Australia's economic recovery from the COVID-19 pandemic. On 25 September 2020, it was announced that Mr Adam Boyton was appointed as the inaugural National Skills Commissioner, on a full-time basis for a period of five years, with the appointment taking effect on 13 October 2020.

Aboriginal Hostels Limited, Chief Executive Officer

8. On 10 September 2020, Aboriginal Hostels Limited advised the Tribunal's Secretariat of an error in the appointment date of the Chief Executive Officer, Mr David Chalmers, specified in a submission to the Tribunal for accommodation and reunion travel assistance for Mr Chalmers.

Torres Strait Regional Authority Member Advisory Committees

9. There was no consultation on this matter. The amendment corrects a minor error in the *Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2020*. Remuneration for these offices has not changed.

Retrospectivity

10. 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

11. 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:

12. Section 1 specifies the name of the instrument.
13. Section 2 specifies when the instrument commences.
14. Section 3 specifies the authority for the instrument.
15. Section 4 outlines the effect of instruments specified in a Schedule to the

instrument.

16. Schedule 1 sets out the amendments made to the instruments specified in Schedule 1.

SCHEDULE 1—AMENDMENTS

Part 1—Main amendments

Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination 2020

17. Item 1 inserts remuneration, travel tier and special provisions for the new office of the National Skills Commissioner.
18. Item 2 sets a person-specific fixed annual loading for Mr Adam Boyton, National Skills Commissioner.
19. Item 3 corrects the start and end date of accommodation assistance for Mr David Chalmers, Chief Executive Officer of Aboriginal Hostels Limited.
20. Item 4 corrects the start and end date of reunion travel assistance for Mr David Chalmers, Chief Executive Officer of Aboriginal Hostels Limited.

Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2020

21. Item 5 corrects the name of the Torres Strait Regional Authority Member Advisory Committees.

Authority: subsections 7(3) and (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 Amendment Determination (No. 2) 2020

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 determinations:

- *Remuneration Tribunal (Remuneration and Allowances for Holders of Full-Time Public Office) Determination 2020*; and
- *Remuneration Tribunal (Remuneration and Allowances for Holders of Part-Time Public Office) Determination 2020*.

The determination:

- sets the remuneration, travel tier and special provisions for the office of the National Skills Commissioner in the full-time office jurisdiction, including a fixed annual loading for Mr Adam Boyton, the inaugural office holder;
- corrects the start and end date for accommodation and reunion travel assistance provisions for Mr David Chalmers, Chief Executive Officer of Aboriginal Hostels Limited; and
- corrects the name of the Torres Strait Regional Authority Member Advisory Committees.

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