

EXPLANATORY STATEMENT

Issued by Authority of the Minister for Resources and Water

Water Act 2007

*Water (Remuneration and Allowances of the Inspector-General of Water Compliance)
Determination 2021*

Legislative Authority

The *Water Act 2007* (Water Act) makes provision for the management of the water resources of the Murray-Darling Basin, and for other matters of national interest in relation to water and water information, and for related purposes.

The *Water Legislation Amendment (Inspector-General of Water Compliance and Other Measures) Act 2021* (Amendment Act), once commenced, will amend the Water Act by establishing the role of an Inspector-General of Water Compliance (Inspector-General). The role of the Inspector-General is to monitor, and provide independent oversight of, water compliance across the Basin Plan. The Amendment Act will commence on 5 August 2021.

The Amendment Act inserts a new section 215L that deals with the remuneration and allowances to be paid to the Inspector-General.

Subsection 215L(1) provides that the Inspector-General is to be paid the remuneration that is determined by the Remuneration Tribunal (Tribunal). If no determination of that remuneration by the Tribunal is in operation, the Inspector-General is to be paid the remuneration that is determined under subsection 215L(5). Subsection 215L(5)(a) provides that the Minister may, by legislative instrument, determine remuneration for the purposes of subsection 215L(1).

Subsection 215L(2) provides that the Inspector-General is to be paid the allowances that are determined under subsection 215L(5). Subsection 215L(5)(b) provides that the Minister may, by legislative instrument, determine allowances for the purposes of subsection 215L(2).

Purpose

The purpose of the *Water (Remuneration and Allowances of the Inspector General of Water Compliance) Determination 2021* (Determination) is for the Minister to determine the remuneration to be paid to the Inspector-General for the purposes of subsection 215L(1) and the allowances to be paid to the Inspector-General for the purposes of subsection 215L(2).

Background

The Amendment Act received Royal Assent on 30 June 2021. The *Water Legislation Amendment (Inspector-General of Water Compliance and Other Measures) Commencement Proclamation 2021* fixes 5 August 2021 as the day on which the whole of the Amendment Act commences.

The Amendment Act inserts a new section 215B into the Water Act, which provides that there is to be an Inspector-General.

Impact and Effect

It is intended that an Inspector-General will be appointed with effect on 5 August 2021. No determination by the Remuneration Tribunal will be in operation by 5 August 2021. The Determination will enable the Inspector-General to receive the remuneration and allowances determined by the Minister.

Consultation

The Office of Best Practice Regulation (OBPR) advised the proposal would appear to be non-regulatory and a Regulation Impact Statement is not required (OBPR ID 44286). The department consulted with the Australian Public Service Commission in the drafting of the Determination. The Determination will apply only to the appointee to the role of Inspector-General and broader consultation was not undertaken.

Details/Operation

Details of the Determination are set out at [Attachment A](#).

Other

The Determination is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in [Attachment B](#).

The Determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

Details of the *Water (Remuneration and Allowances of the Inspector General of Water Compliance) Determination 2021*

Section 1 – Name

This section provides that the name of this instrument is the *Water (Remuneration and Allowances of the Inspector General of Water Compliance) Determination 2021* (Determination).

Section 2 – Commencement

This section provides that the whole of the Determination commences at the same time as the *Water Legislation Amendment (Inspector-General of Water Compliance and Other Measures) Act 2021*.

Section 3 – Authority

This section provides that the Determination is made under subsection 215L(5) of the *Water Act 2007*.

Section 4 – Remuneration and allowances

This section provides the determination of remuneration and allowances to be paid to the Inspector-General of Water Compliance (Inspector-General).

Subsection 4(1) provides that the Inspector-General is to be paid the same remuneration and allowances as if:

- a reference in the *Remuneration Tribunal (Remuneration and Allowances for Holders of Full time Public Office) Determination 2021* (Remuneration Tribunal Determination) to an officer holder included a reference to the Inspector-General; and
- Table 2A in section 10 of the Remuneration Tribunal Determination:
 - included a reference in column 1 to the office of the Inspector-General; and
 - a reference in column 2 to a total remuneration (per year) of \$360,250 for that office.

The reference to the Remuneration Tribunal Determination means a reference in the Remuneration Tribunal Determination as in force at the commencement of the Determination.

The effect of this subsection is that the total remuneration (per year) is \$360,250.

Subsection 4(2) provides that the Inspector-General is to be paid the same allowances in relation to travel for business pertaining to or required by the office as if:

- a reference in Parts 4, 5 and 6 of the *Remuneration Tribunal (Official Travel) Determination 2019* (Official Travel Determination) to an office holder included a reference to the Inspector-General; and
- the travel tier specified for the Inspector-General for the purposes of the Official Travel Determination was tier 2.

The reference to Official Travel Determination means a reference in the Official Travel Determination as in force at the commencement of the Determination.

Part 4 of the Official Travel Determination sets out travel expenses and travel allowance.

Part 5 of the Official Travel Determination provides provisions for official travel by motor vehicle, including motor vehicle allowance.

Part 6 of the Official Travel Determination provides rates of travel allowance.

The effect of this subsection is that the allowances in relation to travel for business pertaining to, or required by, the duties of the office of the Inspector-General is paid in accordance with tier 2 of the Official Travel Determination.

Statement of Compatibility with Human Rights

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

Water (Remuneration and Allowances of the Inspector-General of Water Compliance) Determination 2021

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 *Water Legislation Amendment (Inspector-General of Water Compliance and Other Measures) Act 2021* (Amendment Act) was enacted on 30 June 2021.

Once commenced, the Amendment Act will amend the *Water Act 2007* (Water Act) by establishing the role of an Inspector-General of Water Compliance (Inspector-General). The role of the Inspector-General is to monitor, and provide independent oversight of, water compliance across the Basin Plan. The Amendment Act will commence on 5 August 2021.

The Amendment Act inserts a new section 215B into the Water Act which provides that there is to be an Inspector-General.

The Amendment Act also inserts a new section 215L that deals with the remuneration and allowances of the Inspector-General.

Subsection 215L(1) provides that the Inspector-General is to be paid the remuneration that is determined by the Remuneration Tribunal (Tribunal). If no determination of that remuneration by the Tribunal is in operation, the Inspector-General is to be paid the remuneration that is determined under subsection 215L(5). Subsection 215L(5)(a) provides that the Minister may, by legislative instrument, determine remuneration for the purposes of subsection 215L(1).

Subsection 215L(2) provides that the Inspector-General is to be paid the allowances that are determined under subsection 215L(5). Subsection 215L(5)(b) provides that the Minister may, by legislative instrument, determine allowances for the purposes of subsection 215L(2).

It is intended that an Inspector-General will be appointed with effect on 5 August 2021. No determination by the Remuneration Tribunal will be in operation by 5 August 2021.

The purpose of the *Water (Remuneration and Allowances of the Inspector General of Water Compliance) Determination 2021* is for the Minister to determine the remuneration to be paid to the Inspector-General for the purposes of subsection 215L(1) and the allowances to be paid to the Inspector-General for the purposes of subsection 215L(2). This will enable the Inspector-General to receive remuneration and allowances from the date of appointment.

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 Hon. Keith Pitt MP
Minister for Resources and Water Resources