

EXPLANATORY STATEMENT

Issued by authority of the Assistant Treasurer and Minister for Financial Services

Australian Securities and Investments Commission Act 2001

Australian Securities and Investments Commission (Financial Services and Credit Panels—Remuneration) Instrument 2022

Subsection 143(4) of the *Australian Securities and Investments Commission Act 2001* (the Act) provides that the Minister may, by legislative instrument, prescribe remuneration for the purposes of subsection 143(1) and allowances for the purposes of subsection 143(2) of the Act.

The purpose of the *Australian Securities and Investments Commission (Financial Services and Credit Panels—Remuneration) Instrument 2022* (the Instrument) is to prescribe remuneration and allowances to be paid to a member of a Financial Services and Credit Panel (FSC Panel).

Section 143 of the Act outlines that a member of an FSC Panel is to be paid the remuneration as determined by the Remuneration Tribunal. If no determination by the Remuneration Tribunal is in operation, the panel member is to be paid the remuneration as prescribed by a legislative instrument made under subsection 143(4).

The Remuneration Tribunal is yet to make a determination on remuneration for members of an FSC Panel. Until the Remuneration Tribunal makes such a determination, the Instrument prescribes the remuneration and allowances for a member of an FSC Panel. The remuneration prescribed by the Instrument will apply only until the Remuneration Tribunal makes a relevant determination. The Remuneration Tribunal's existing determinations have been used as the baseline in setting the remuneration prescribed by the Instrument.

The Act does not specify any particular matters that the Minister must be satisfied of before making this Instrument.

Public consultation on the Instrument was not undertaken as the Instrument is a transitional measure, being minor and machinery in nature, designed to provide remuneration details for a member of a FSC Panel until the Remuneration Tribunal makes a relevant determination on remuneration and allowances for those members.

Details of the Instrument are set out in Attachment A.

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

The Instrument commenced on the day after the Instrument is registered on the Federal Register of Legislation.

The Instrument applies from the day after the Instrument is registered and ceases to have effect on 30 June 2023.

The Instrument is repealed on 30 June 2023.

A statement of Compatibility with Human Rights is at Attachment B.

Details of the *Australian Securities and Investments Commission (Financial Services and Credit Panels—Remuneration) Instrument 2022*

Section 1 – Name of the Instrument

This section provides that the name of the Instrument is the *Australian Securities and Investments Commission (Financial Services and Credit Panels—Remuneration) Instrument 2022* (the Instrument).

Section 2 – Commencement

This section provides that the whole of the Instrument commences on the day after the Instrument is registered on the Federal Register of Legislation.

Section 3 – Authority

This section provides that the Instrument is made under the *Australian Securities and Investments Commission Act 2001* (the Act).

Section 4 – Definitions

This section provides that in the Instrument the term ‘the Act’ means the *Australian Securities and Investments Commission Act 2001*. A note is also included to explain that expressions in the Instrument have the same meaning as in the Act.

Section 5 – Prescribed remuneration

This section prescribes remuneration and allowances that are to be paid to a member of a Financial Services and Credit Panel where the Remuneration Tribunal has not determined such remuneration.

Subsection 5(1) outlines that a daily fee and official travel entitlement are to be paid to a panel member using the payment and calculation methodologies determined by the Remuneration Tribunal. This is achieved by incorporating payment and calculation methodologies contained in the *Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2022* in the Instrument and applying them to the members. Paragraph 5(1)(b) also outlines that the official travel entitlement is to be paid by incorporating the requirements contained in the *Remuneration Tribunal (Official Travel) Determination 2022* and applying them to the members.

Subsection 5(2) explains how to modify the *Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination 2022* so as to apply it members. The modification prescribes the daily fees for a member of a Financial Services and Credit Panel. The daily fee prescribed is \$1,233 with a Tier 1 travel entitlement which is consistent with similar determinations by the Remuneration Tribunal.

Section 6 – Sunset

This section provides that the Instrument ceases and is repealed on 30 June 2023.

Statement of Compatibility with Human Rights

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

Australian Securities and Investments Commission (Financial Services and Credit Panels—Remuneration) Instrument 2022

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

Section 143 of the Act outlines that a member of Financial Services and Credit Panel (FSC Panel) is to be paid the remuneration as determined by the Remuneration Tribunal. If no such determination is in operation, the panel member is to be paid the remuneration as prescribed by a Legislative Instrument made under subsection 143(4) of the Act.

The Remuneration Tribunal is yet to make a determination of the remuneration for members of an FSC Panel. In lieu of a determination by the Tribunal, this Legislative Instrument prescribes remuneration and allowances to be paid to a member of an FSC Panel until the Tribunal makes such a determination.

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.