



Remuneration Tribunal

Explanatory Statement: Remuneration Tribunal Amendment Determination (No. 2) 2024

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.

High Speed Rail Authority, Chief Executive Officer

6. On 21 February 2024, the Chair of the High Speed Rail Authority Board, Ms Jill Rossouw, wrote to the Tribunal seeking its consideration of a personal loading for Mr Timothy Parker, the recently appointed inaugural Chief Executive

Officer of the High Speed Rail Authority. Ms Roussouw's letter outlined the skills, qualifications and experience which warranted such a loading.

Asbestos Safety and Eradication Agency, Chief Executive Officer, Chair and Member

7. There was no consultation on this matter. The entity known as the 'Asbestos Safety and Eradication Agency' was renamed the 'Asbestos and Silica Safety and Eradication Agency' from 15 December 2023, as provided in the *Fair Work Legislation Amendment (Closing Loopholes) Act 2023*.

Aboriginal and Torres Strait Islander Social Justice Commissioner

8. There was no consultation on this matter. The amendment removes accommodation and reunion travel allowances for Ms June Oscar who completed her appointment as Aboriginal and Torres Strait Islander Social Justice Commissioner on 3 April 2024.

Australian Research Council Board, Chair, Deputy Chair, and Member

9. On 6 March 2024, the Hon Jason Clare MP, Minister for Education wrote to the Tribunal seeking an indicative determination of remuneration and travel tier for the new part-time offices of Chair, Deputy Chair and Member of the Australian Research Council Board. The accompanying submission outlined the roles and responsibilities of the offices.

Nature Repair Market Committee, Chair and Member

10. On 26 March 2024, the Department of Climate Change, Energy, the Environment and Water advised the Tribunal's Secretariat of an incorrect reference in the Tribunal's part-time determination. The name of the 'Nature Repair Committee' was incorrectly reflected as the 'Nature Repair Market Committee'.

Retrospectivity

11. 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.

12. With respect to the Chief Executive Officer of the High Speed Rail Authority, Mr Timothy Parker, the retrospective application of this provision does not disadvantage any person as it provides an entitlement from the date of Mr Parker's appointment.

Exemption from sunseting

13. Under section 12, item 56 of the *Legislation (Exemptions and Other Matters) Regulation 2015*, an instrument required to be laid before the Parliament under subsection 7(7) of the *Remuneration Tribunal Act 1973* is exempt from the provisions of paragraph 54(2)(b) of the *Legislation Act 2003*.

14. This exemption has been granted by the Attorney-General because the Remuneration Tribunal has a statutory role independent of government.

15. As the Remuneration Tribunal makes new principal determinations annually, the principal instrument amended by this determination are unlikely to have any practical effect beyond the usual 10 year sunset period. As such, the exemption from sunset will not have a practical impact on parliamentary oversight of the relevant measures.

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

16. 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:

17. Section 1 specifies the name of the instrument.

18. Section 2 specifies when the instrument commences.

19. Section 3 specifies the authority for the instrument.

20. Section 4 outlines the effect of instruments specified in a Schedule to the instrument.

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

SCHEDULE 1—AMENDMENTS

Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination (No.2) 2023

22. Item 1 inserts a reference to a special provision for the Chief Executive Officer of the High Speed Rail Authority in Table 2A.

23. Item 2 amends the name of the 'Chief Executive Officer, Asbestos Safety and Eradication Agency' to the 'Chief Executive Officer, Asbestos and Silica Safety and Eradication Agency' in Table 2A.

24. Item 3 establishes a personal loading for Mr Timothy Parker, Chief Executive Officer, High Speed Rail Authority in Table 2B.

25. Item 4 repeals the provision for accommodation assistance for the former Aboriginal and Torres Strait Islander Social Justice Commissioner, Ms June Oscar in Table 5A.

26. Item 5 repeals the provision for reunion travel assistance for the former Aboriginal and Torres Strait Islander Social Justice Commissioner, Ms June Oscar in Table 5B.

Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination (No.2) 2023

27. Item 6 sets remuneration and travel tier for the offices of Chair, Deputy Chair and Member of the Australian Research Council in Table 3A.

28. Item 7 amends the name of the 'Asbestos Safety and Eradication Council' to the 'Asbestos and Silica Safety and Eradication Council' in Table 3A.
29. Item 8 amends the name of the 'Nature Repair Market Committee' to 'Nature Repair Committee' in Table 4A.
30. Item 9 amends the name of the 'Asbestos Safety and Eradication Council' to the 'Asbestos and Silica Safety and Eradication Council' in Table 4A.
31. Item 10 amends the name of the 'Nature Repair Market Committee' to 'Nature Repair Committee' in Table 8A.

Authority: Sub-sections 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) 2024

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 the principal determinations:

- Remuneration Tribunal (Remuneration and Allowances for Holders of Full-time Public Office) Determination (No. 2) 2023
- Remuneration Tribunal (Remuneration and Allowances for Holders of Part-time Public Office) Determination (No. 2) 2023.

The determination:

- sets a personal loading for Mr Timothy Parker, Chief Executive Officer, High Speed Rail Authority;
- repeals accommodation and reunion travel assistance for Ms June Oscar, former Aboriginal and Torres Strait Islander Social Justice Commissioner;
- sets remuneration and travel tier for the part-time offices of the Australian Research Council Board;
- amends the name of the 'Asbestos Safety and Eradication Council' to the 'Asbestos and Silica Safety and Eradication Council'; and
- amends the name of the 'Nature Repair Market Committee' to the 'Nature Repair Committee'.

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