



Remuneration Tribunal

Explanatory Statement: Remuneration Tribunal Amendment Determination (No. 3) 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.

Director of Public Prosecutions

6. On 24 April 2024, the Hon Mark Dreyfus KC MP, Attorney-General, wrote to the Tribunal seeking a review of remuneration for the office of Director of Public

Prosecutions. The accompanying submission outlined changes to the role and responsibilities of the office.

National Disability Insurance Agency, Chief Executive Officer, Board Committees

7. On 12 April 2024, the Hon Bill Shorten MP, Minister for the National Disability Insurance Scheme, wrote to the Tribunal providing information to assist it in its review of the remuneration of the office of Chief Executive Office of the National Disability Insurance Agency. The information provided outlined changes in the role and responsibilities of the office since its establishment.
8. On 24 April 2024, Mr Matthew Curtis, Board Secretary of the National Disability Insurance Agency wrote to the Tribunal advising its Audit and Risk committees had merged into one Audit & Risk committee.

Infrastructure Australia, Chief Commissioner, Commissioner, Chair and Member

9. On 23 August 2023, the Hon Catherine King MP, Minister for Infrastructure, Transport, Regional Development and Local Government wrote to the Tribunal seeking an indicative determination of remuneration for the proposed new offices of Chief Commissioner and Commissioner of Infrastructure Australia. The accompanying submission outlined the proposed roles and responsibilities of the offices.
10. The Infrastructure Australia Board, and its offices of Chair and Member, was abolished on Proclamation of Schedule 1, Part 2 of the *Infrastructure Australia Amendment (Independent Review) Act 2023*. There was no consultation on this matter.

Defence Families of Australia, Defence Family Advocate

11. On 18 April 2024, the Hon Matt Keogh MP, Minister for Veterans' Affairs and Minister for Defence Personnel, wrote to the Tribunal seeking a determination of remuneration for the full-time office of Defence Family Advocate. The accompanying submission outlined the role and responsibilities of the office.

NDIS Quality and Safeguards Commission, Commissioner

12. On 17 May 2024, the Department of Social Services confirmed Ms Tracy Mackey, the former NDIS Quality and Safeguards Commissioner had resigned with effect 3 May 2024.

Workplace Gender Equality Agency, Chief Executive Officer

13. On 8 May 2024, Senator the Hon Katy Gallagher, Minister for Women, wrote to the Tribunal seeking approval for accommodation and reunion travel assistance for the Hon Mary Wooldridge, Chief Executive Officer of the Workplace Gender Equality Agency.

Clean Energy Finance Corporation Board, Chair and Member

14. On 18 January 2024, Ms Luise McCulloch, acting Secretary of the Department of Climate Change, Energy, the Environment and Water wrote to the Tribunal seeking a review of remuneration for the part-time offices of Chair and Member of the Clean Energy Finance Corporation. The accompanying submission

outlined changes to the roles and responsibilities of the offices. The views of the shareholder ministers, Senator the Hon Katy Gallagher, Minister for Finance, and the Hon Chris Bowen MP, Minister for Climate Change and Energy, were received on 20 March 2024.

Retrospectivity

15. 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.
16. With respect to the Chief Executive Officer of the Workplace Gender Equality Agency, the Hon Mary Wooldridge, the retrospective application of these provisions does not disadvantage any person as it provides an entitlement that would not otherwise apply, noting the previous provision for the office holder ceased to have effect from 18 May 2024.
17. With respect to the offices of Chief Commissioner and Commissioner of Infrastructure Australia, the retrospective application of these provisions do not disadvantage any person as they provide an entitlement from the date the relevant legislation was proclaimed.
18. With respect to the offices of Chair and Member of the Infrastructure Australia Board, the retrospective removal of these provisions do not disadvantage any person as they ceased to apply to once the relevant legislation was proclaimed.

Exemption from sunseting

19. 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*.
20. This exemption has been granted by the Attorney-General because the Remuneration Tribunal has a statutory role independent of government.
21. 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 sunseting period. As such, the exemption from sunseting will not have a practical impact on parliamentary oversight of the relevant measures.

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

22. 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:

23. Section 1 specifies the name of the instrument.

24. Section 2 specifies when the instrument commences.
25. Section 3 specifies the authority for the instrument.
26. Section 4 outlines the effect of instruments specified in a Schedule to the instrument.
27. 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

28. Item 1 sets new remuneration and maintains travel tier for the office of the Director of Public Prosecutions in Table 2A.
29. Item 2 sets new remuneration and travel tier of the office of the Chief Executive Officer of the National Disability Insurance Agency in Table 2A.
30. Item 3 repeals the previous item for the office of the Director of Public Prosecutions in Table 2A.
31. Item 4 repeals the previous item for the Chief Executive Officer of the National Disability Insurance Agency in Table 2A.
32. Item 5 establishes remuneration and travel tier for the office of Chief Commissioner of Infrastructure Australia in Table 2A.
33. Item 6 removes a reference to a special provision for the NDIS Quality and Safeguards Commissioner from Table 2A.
34. Item 7 establishes remuneration and travel tier for the office of the Defence Family Advocate of Defence Families of Australia in Table 2A.
35. Item 8 removes a special provision for the NDIS Quality and Safeguards Commissioner from Table 2B.
36. Item 9 amends a special provision for the Chief Executive Officer of the National Disability Insurance Agency in Table 2B.
37. Item 10 amends the operative dates of the provision for accommodation assistance for the Chief Executive Officer of the Workplace Gender Equality Agency in Table 5A.
38. Item 11 amends the value of the accommodation assistance for Chief Executive Officer of the Workplace Gender Equality Agency detailed in the provision in Table 5A.
39. Item 12 amends the operative dates of the provision for reunion travel assistance for the Chief Executive Officer of the Workplace Gender Equality Agency in Table 5B.
40. Item 13 amends the value of the reunion travel assistance for the Chief Executive Officer of the Workplace Gender Equality Agency detailed in the provision in Table 5B.

41. Item 14 sets application and transition provisions for the items dealing with the Chief Executive Officer of the National Disability Insurance Agency and the Chief Commissioner of Infrastructure Australia in Table 6A.

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

42. Item 15 establishes annual fees and travel tier for the offices of the Chair and Member of the Clean Energy Finance Corporation in Table 3A.

43. Item 16 repeals the item for the offices of Chair and Member of the Infrastructure Australia Board in Table 3A.

44. Item 17 repeals the previous provision for the offices of the Chair and Member of the Clean Energy Finance Corporation in Table 3A.

45. Item 18 establishes an annual fee and travel tier for the office of Commissioner, Infrastructure Australia in Table 3A.

46. Item 19 amends the name of the NDIA Board Audit Committee so that it is the NDIA Audit and Risk Committee in Table 3B.

47. Item 20 sets application and transition provisions for the item dealing with the office of Commissioner, Infrastructure Australia 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. 3) 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:

- Amends the remuneration of the office of the Director of Public Prosecutions;
- Amends the remuneration and travel tier of the office of the Chief Executive Officer of the National Disability Insurance Agency;
- Amends the personal loading provision for Ms Rebecca Falkingham, Chief Executive Officer of the National Disability Insurance Agency;
- Establishes remuneration and travel tier for the offices of Chief Commissioner and Commissioner of Infrastructure Australia;
- Establishes full-time remuneration and travel tier for the office of Defence Family Advocate, Defence Families of Australia;
- Removes the personal loading for Ms Tracy Mackey, former NDIS Quality and Safeguards Commissioner;
- Amends the accommodation and reunion travel assistance provisions for the Hon Mary Wooldridge, Chief Executive Officer, Workplace Gender Equality Agency;
- Amends the annual fees for the offices of Chair and Member of the Clean Energy Finance Corporation Board;
- Removes the offices of Chair and Member of the Infrastructure Australia Board;
- Amends the name of the NDIA Board Audit and Risk 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