2000

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

**HOUSE OF REPRESENTATIVES**

# REMUNERATION TRIBUNAL AMENDMENT BILL 2000

EXPLANATORY MEMORANDUM

(Circulated by authority of the
Minister for Finance and Administration,
the Honourable John Fahey, MP)

# REMUNERATION TRIBUNAL AMENDMENT BILL 2000

## OUTLINE

This Bill amends the Remuneration Tribunal's role relating to principal executive offices by:

- allowing the Remuneration Tribunal to make recommendations to the Minister on the classification and commencing remuneration to apply to each principal executive office;
- specifying that the employing body of a principal executive office may determine terms and conditions for the office only in a manner that is consistent with the Remuneration Tribunal's classification structure for principal executive offices or in accordance with specific written advice received from the Remuneration Tribunal; and
- allowing for transitional arrangements for offices that were declared by regulation to be a principal executive office, before drafting of this Bill commenced.

## Financial impact statement

There will be no financial impact.

**REMUNERATION TRIBUNAL AMENDMENT BILL 2000**

**NOTES ON CLAUSES**

**Clause 1: Short Title**

1. Clause 1 cites the Bill as the *Remuneration Tribunal Amendment Act 2000*.

**Clause 2: Commencement**

2. Clause 2 specifies the commencement dates for each section of the Bill:

- sections 1 to 4 of the Bill will commence on the day the Bill receives royal assent; and
- the remaining provisions of the Bill will commence on a day to be fixed by Proclamation but no later than 6 months from the date of Royal Assent.

**Clause 3: Schedules**

3. Clause 3 provides for the *Remuneration Tribunal Act 1973* to be amended as set out in Schedule 1.

**Clause 4: Exercise of certain powers before commencement of provision conferring the powers**

4. Clause 4 allows the Minister to declare before the Bill's commencement date:

- an office to be a principal executive office;
- the classification within the classification structure determined by the Remuneration Tribunal for principal executive offices to which a principal executive office is assigned; and
- the employing body for the office.

5. This provision will ensure that any public office declared as a principal executive office before the commencement date of this Bill and not specifically listed in the new definition of principal executive office under item 2 of Schedule 1 of this Bill, will continue to exist as a principal executive office after the commencement date.

**Schedule 1 Amendment of the *Remuneration Tribunal Act 1973***

6. Item 1 amends the definition of employing body to allow the Minister to declare a person(s), authority or body as the employing body for a principal executive office.

7. Item 2 amends the definition of principal executive office. It lists all offices that were regulated by the Governor-General as principal executive offices when this Bill was presented and includes any other office or appointment declared by the Minister to be a principal executive office under item 6 of Schedule 1.

8. Items 4 and 5 are consequential amendments flowing from the amendment proposed by item 2 of Schedule 1.

9. Item 6 spells out the Minister's authority to make declarations for principal executive offices. The Minister will have the power to declare an office to be a principal executive office, to declare the person(s) or body who will be defined as the employing body, to declare the classification of an office and to notify the employing body of the commencing remuneration for the office.

10. The power to create a principal executive office and to nominate an employing body is currently vested in the Governor-General, who must issue a regulation. No provision exists for the Governor-General to identify the remuneration applying to that office when it is created as a principal executive office. This item gives the Minister the authority to declare an office to be a principal executive office, to identify the employing body, to declare the classification for each office and to advise the employing body of the commencing remuneration of the office, rather than taking these matters through regulation. These measures are designed to improve accountability.

11. There may be instances where it is appropriate to temporarily assign an office into a particular classification and/or assign temporarily a particular commencing remuneration to an office. These instances include when a person with specific or highly valued skills or experience occupies an office for a particular period and there is an intention to review the level of remuneration when the office falls vacant. To allow for this, item 6 provides that the classification and commencing remuneration for each office may be either a temporary or permanent assignment and that any temporary assignment will expire at the end of the office holder's term of appointment.

12. Before the Minister can create a principal executive office, assign an office to a particular classification or assign the office a commencing remuneration, the Minister must first seek the advice of the Remuneration Tribunal. This is a new requirement in relation to principal executive offices and is designed to ensure that a consistent approach and independent scrutiny is applied to the creation of principal executive offices.

13. All declarations made by the Minister under this item must be published in the *Commonwealth of Australia Gazette*.

14. Items 7 to 10 provide for the Remuneration Tribunal to determine and/or make recommendations on the classification structure for principal executive offices and on the terms and conditions applying to principal executive offices in general or in relation to a particular office(s) or classification(s).

15. Item 9 requires the Remuneration Tribunal to take into account the superannuation entitlements of principal executive offices when determining the classification structure.

16. Items 11 and 12 strengthens the role of the Remuneration Tribunal in relation to the principal executive office structure. These items ensure that an employing body can not determine terms and conditions for a principal executive office that are inconsistent with terms and conditions determined by the Remuneration Tribunal for the classification into which the principal executive office is assigned, unless it has gained the written consent of the Remuneration Tribunal.

17. Item 13 provides for transitional arrangements where an office has been regulated as a principal executive office before this Bill was presented. It allows for the employment arrangements that are in place before the commencement date of Schedule 1 of this Bill to continue, even where those arrangements are inconsistent with a determination made by the Remuneration Tribunal. The transitional provisions will cease to exist at the end of the person's current period of appointment to the principal executive office in question, or when the person is re-appointed to the same office.