



AUSTRALIAN CAPITAL TERRITORY REMUNERATION TRIBUNAL

Statement Number 145

Chief Executives and Executives

Background

Subsections 10 (1) (j) and (k) of the *Remuneration Tribunal Act 1995* require the Tribunal to inquire into, and determine, the remuneration and allowances to be paid, and other entitlements to be granted, to a Chief Executive and a person who is an Executive within the meaning of the *Public Sector Management Act 1994*.

The Tribunal last reviewed the remuneration, allowances and other entitlements for Chief Executives and Executives in April 2003 and subsequently issued Determination Number 116, dated 8 April 2003.

This latest review, which sought submissions from interested parties, was advertised in the press on 4 and 7 February 2004.

Tribunal Consideration

No submissions were received from any of the Chief Executives. One Executive made a submission.

Remuneration

The Tribunal maintained its position that increases for Chief Executives and Executives should remain broadly consistent with any increases granted or proposed for staff of the ACT Public Service and within the prevailing economic conditions.

The Tribunal noted that an offer has been made to staff of the ACT Public Service which broadly equates to 3.4% per annum over three years. On this basis the Tribunal has determined that an increase of 3.4% would be appropriate. The new rates shown in the table in Schedule A of this Determination shall apply with effect from 1 July 2004.

Accompanied Travel Entitlements

The Tribunal considered whether the employer provided benefit for accompanied travel should be rolled into salary to simplify the administration of these payments. The Tribunal decided to defer any decision and requested that further information be provided to the Tribunal by the Tribunal Secretariat.

Motor Vehicle Allowance

The Tribunal considered a submission that a motor vehicle not be provided for Executives and that a cash amount replace this benefit. The Tribunal understood that there were operational considerations within agencies that would be adversely affected if changes of this nature were made to motor vehicle arrangements. The Tribunal did not make the changes proposed.

Motor Vehicle - Cash in lieu

The Tribunal considered whether there should be an increase in the cash in lieu where an Executive elects to take cash instead of the motor vehicle.

The Tribunal determined that the cash benefit of 75% be increased to 90% of the notional value of the motor vehicle.

Motor Vehicle – Prestige, Sports or Convertible Models

The Tribunal decided to amend the provision concerning restrictions on vehicles.

The Tribunal amended the prescription of restricted vehicles to include 'performance' vehicles with sports vehicles.

Relocation Allowance

The Tribunal is concerned at recent requests from individuals and agencies to exceed the maximum relocation allowance for Executives.

The Tribunal recognises that it is important to attract quality candidates for jobs in the Territory but also recognises that it is necessary to determine what is a reasonable level of assistance that can be provided by the Territory.

The Tribunal considered that individuals whose residence is outside the ACT and who are offered employment as an Executive should be provided with a copy of the relevant determination containing the relocation provisions when the offer of employment is made.

The Tribunal has amended the determination to emphasise that it is only in **unusual or exceptional** circumstances that it would consider a request from a department or an agency to exceed the maximum allowance.

The Tribunal decided to increase the maximum amount from \$35,000 to \$40,000 in recognition of increases in the cost of relocating since this allowance was last increased. The Tribunal considered that the entitlement is set at an amount that is reasonable to assist an Executive to defray some of the costs of relocation.

Other Entitlements

All other entitlements are as previously determined.



AUSTRALIAN CAPITAL TERRITORY
REMUNERATION TRIBUNAL

Determination Number 145

Chief Executives and Executives

Pursuant to subsections 10 (1) (j) and (k) of the *Remuneration Tribunal Act 1995* the Remuneration Tribunal has inquired into the remuneration and allowances to be paid, and other entitlements to be granted to Chief Executives and Executives within the meaning of the *Public Sector Management Act 1994*.

This Determination shall take effect from 1 July 2004.

Alan Kerr AM
Chair

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April 2004

Roberta McRae OAM
Member

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Jill Greenwell
Member

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AUSTRALIAN CAPITAL TERRITORY REMUNERATION TRIBUNAL

Determination Number 145

Chief Executives and Executives

The Tribunal determines as follows:

1. Remuneration

1.1 An Executive whose position is classified at a level shown in column 1 of Schedule A shall be entitled to the remuneration for that level shown in column 2 of Schedule A.

2. Employer Provided Benefits

2.1 In addition to the remuneration shown in Schedule A, an Executive shall be entitled to the various employer provided benefits or, where applicable, the relevant cash equivalents of the benefits, as shown in Schedule B.

3. Salary Packaging Scheme

3.1 Subject to the following conditions, an Executive may elect to take remuneration shown in Schedule A as salary or take a combination of salary and other benefits best suited to his or her personal needs and preferences.

3.2 The scheme is to be consistent with taxation laws and guidelines applicable to salary packaging schemes, as issued by the Australian Taxation Office.

3.3 The scheme is to be based on the ACT Public Service Salary Packaging Policy and Procedures issued by the Commissioner for Public Administration, with no more than 50% of the relevant remuneration shown in Schedule A to be taken as benefits and related costs such as fringe benefits tax. Executives working for Public Benevolent Institutions may not package more than 20%.

3.4 The scheme shall be operated and administered so that there will be no additional cost to the ACT Government. In particular, any fringe benefits tax associated with the provision of a benefit is to be included in the salary package.

3.5 The salary for superannuation purposes of each Executive is unaffected by participation in the salary packaging scheme.

4. Relocation Allowance

4.1 Relocation allowance is an amount provided to **assist** an Executive to relocate from a residence outside the ACT to Canberra. It is not intended that the allowance cover all costs in all circumstances.

4.2 Where an Executive is relocated from a residence outside the ACT to Canberra, as a result of a fixed-term appointment or engagement, he or she shall be entitled to be reimbursed the actual, receipted, reasonable costs of relocating his or her residence to the ACT subject to the following conditions.

4.3 Total maximum amount under this provision shall not exceed \$35,000, except where an Executive is appointed after 1 July 2004, when the maximum amount payable will be \$40,000. The maximum amount must not be exceeded unless the ACT Remuneration Tribunal agrees that there are **unusual or exceptional** circumstances prevailing which are unforeseen or unable to be addressed without exceeding the maximum relocation allowance.

4.4 Reimbursement may be made in respect of: -

- (a) packing of personal effects and furniture belonging to the Executive and his or her partner;
- (b) necessary storage of personal effects and furniture;
- (c) removal costs and associated insurance of personal effects and furniture;
- (d) unpacking of personal effects and furniture;
- (e) costs of travel, accommodation and meals between the former location and the ACT or Queanbeyan and surrounding district;
- (f) temporary accommodation costs at the former location and in the ACT or Queanbeyan and surrounding district subject to a maximum period in all of six months, or, in exceptional circumstances, nine months with the approval of the ACT Remuneration Tribunal;
- (g) costs of disconnection and reconnection of utilities;
- (h) cost of stamp duty and legal and professional services associated with the sale of the residence at the former location and the purchase of a residence or lease on a block of land in the ACT, or the purchase of a residence or block of land in Queanbeyan and surrounding district; and
- (i) subject to the approval of the ACT Remuneration Tribunal, any other reasonable expenses necessarily incurred in relocating to the ACT or Queanbeyan and surrounding district.

4.5 Where the Chief Executive of a department considers that unusual and exceptional circumstances exist in the relocation of an Executive to the ACT, then the Chief Executive of that department may request the ACT Remuneration Tribunal to consider the matter and determine whether the maximum allowance can be exceeded. In such circumstances the ACT Remuneration Tribunal will require the following information:

- details of the **unusual or exceptional** circumstances;
- details of the relocation;
- expenses incurred by the Executive;
- the expected total relocation expenses of the Executive;
- the level of assistance the Chief Executive considers should be provided to the Executive; and
- any other relevant information.

4.6 Where a Chief Executive relocates to the ACT as a result of a fixed-term appointment or engagement and considers that the circumstances support payment of relocation costs above the maximum, then that Chief Executive may directly request the ACT Remuneration Tribunal to consider the matter.

4.7 This entitlement does not apply to any expenses incurred at the conclusion of employment.

4.8 Notwithstanding the provisions of this or any earlier ACT Remuneration Tribunal Determination relating to Chief Executive and Executive Relocation Allowances, where the Chief Minister, Administering Chief Executive or delegate has certified the re-engagement of a Chief Executive or Executive in accordance with section 28C or 75 of the *Public Sector Management Act 1994*, the ACT Remuneration Tribunal may, having regard to the reasonable personal circumstances of the Chief Executive or Executive, approve the continuation of rental subsidy reimbursements where those entitlements existed before Determination 31 of 1998.

5. **Revocation of Previous Determinations**

5.1 Determination 116 made on 8 April 2003 is revoked.

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Schedule A

Remuneration Payable to Chief Executives and Executives (from 1 July 2004)

Column 1 Position Classification	Column 2 Remuneration (per annum)
Executive (Level 3.12)	\$242,256
Executive (Level 3.11)	\$224,507
Executive (Level 3.10)	\$212,712
Executive (Level 3.9)	\$202,175
Executive (Level 3.8)	\$191,641
Executive (Level 3.7)	\$181,161
Executive (Level 2.6)	\$174,578
Executive (Level 2.5)	\$149,613
Executive (Level 2.4)	\$139,078
Executive (Level 1.3)	\$122,014
Executive (Level 1.2)	\$111,478
Executive (Level 1.1)	\$100,943

Schedule B

Employer Provided Benefits - Chief Executives and Executives

Benefits

Benefit	Annual Cash Payment or Cash Payment In Lieu of Benefit
Employer's Superannuation Contribution	As set out in clause 2 of this schedule
Use of Government leased motor vehicle	As set out in clause 4 of this schedule
Parking	\$1,000
Accompanied travel	\$1,000
Private telephone accounts	Nil. Telephone allowance is included in basic salary
Fringe Benefits Tax allowance	\$5,000

Conditions

1. General

1.1 The value of the remuneration component and the employer-provided benefits (EPBs) shall be fixed and non-transferable to other components of the total remuneration package.

1.2 An Executive shall be entitled to the EPBs, or their cash equivalent (excluding the employer's contribution to superannuation and the FBT, except in accordance with Clause 3.2). Each EPB shall be separate, fixed and shall not be transferable so as to increase or decrease any other EPB.

2. Employer's Superannuation Contribution

2.1 The value of the employer's superannuation contribution shall not be paid in cash to the Executive.

2.2 Any EPB taken in cash shall not increase the remuneration component set out in column 2 of Schedule A for superannuation purposes.

2.3 In the case of an Executive who is a member of the Commonwealth Superannuation Scheme (CSS) or the Public Sector Superannuation Scheme (PSS): -

- (a) the employer shall continue to meet its requirements under the *Superannuation Act 1976* (C'wlth) and the *Superannuation Act 1990* (C'wlth) as they apply to those Executives who are contributory members of the CSS and PSS established under those Acts; and
- (b) for the purposes of calculating the entitlements component of the total remuneration package, the value of the employer's superannuation contribution shall be notionally deemed to be 16% of the remuneration component.

2.4 In the case of an Executive who is not a member of the CSS or PSS or, in the case of an Executive who became ineligible to remain as a contributory member of the PSS, by reason of having reached his or her reasonable benefit limit: -

- (a) the value of the employer's superannuation contribution shall be 16% of the remuneration component; and
- (b) the employer shall contribute an amount equal to this on behalf of the Executive to an agreed superannuation fund nominated by the Executive.

3. **Elections - Employer Provided Benefits (EPBs)**

3.1 Prior to signing the contract of employment an Executive shall elect which of the EPBs he or she wishes to retain or to be paid in cash.

3.2 The amount of the Fringe Benefits Tax Allowance payable to the Executive will be the amount remaining after the employer's liability for fringe benefits tax is calculated, as required under the *Fringe Benefits Tax Assessment Act 1986*.

3.3 If the liability for fringe benefits tax exceeds the sum of \$5,000 the Executive shall not be required to pay the excess to the employer.

3.4 An Executive's right to take an annual EPB (or cash in lieu) shall be reduced proportionally where the relevant employment comprises only part of a financial year.

3.5 Where an Executive elects to take an EPB in cash the total value of the elected EPB shall be paid to the Executive in equal fortnightly instalments.

4. **Motor Vehicle and Parking**

Entitlement to the Use of a Vehicle

4.1 An Executive shall, at his or her request, be entitled to the use of a private-plated passenger motor vehicle chosen by the Executive from within the Territory's leasing arrangements ("vehicle") in accordance with the following conditions.

Lease Rate

4.2 An Executive of a particular level is not entitled to choose a vehicle where the quoted lease rate for that vehicle exceeds the quoted lease rate for the benchmark vehicle for that Executive level.

The expression "quoted lease rate" for a vehicle means the monthly lease rate for that vehicle, based on a lease term of 24 months/40,000 kilometres, quoted by the Territory's fleet manager at the time an order is placed for that vehicle.

The Executive levels and benchmark vehicles are as follows:

Executive Level	Benchmark Vehicle
Up to and including Executive level 1.3	Holden Commodore Acclaim 3.8 litre auto wagon
Executive levels 2.4, 2.5 and 2.6	Holden Commodore Berlina 3.8 litre auto wagon
Executive level 3.7 and above	Holden Calais 3.8 litre auto sedan

Standard Vehicles

4.3 An Executive may choose:

- (a) an Australian-made vehicle having an engine capacity of over 1.8 litres; or
- (b) a vehicle having an engine capacity of 1.8 litres or less.

Australian made shall be taken to mean a motor vehicle that has undergone a process of colour coated painting in Australia and has passed final quality control at the end of a production line in Australia.

Non Standard Vehicle

4.4 Notwithstanding clause 4.3, an Executive may choose a non-Australian made vehicle having an engine capacity of over 1.8 litres, where:

- a) the lease rate for that vehicle does not exceed the maximum lease rate for that Executive determined in accordance with clause 4.2; and

- b) the Chief Executive of the employing agency of the Executive certifies in writing that, in the opinion of that Chief Executive, the particular vehicle is necessary for the operational requirements of the agency.

4.5 Notwithstanding clause 4.3, a Chief Executive may choose a non-Australian made vehicle having an engine capacity of over 1.8 litres, where:

- a) the lease rate for that vehicle does not exceed the maximum lease rate for that Chief Executive, determined in accordance with clause 4.2; and
- b) the Commissioner for Public Administration certifies in writing that in the opinion of the Commissioner, the particular vehicle is necessary for the operational requirements of the Chief Executive's agency.

No Access to Prestige, Performance/Sports or Convertible Models

4.6 An Executive is not entitled to choose a prestige, performance/sports model or convertible vehicle, even if such a vehicle would satisfy the other conditions of this Determination. Prestige vehicles include Ford Fairlane, Ford LTD, Holden Caprice, Holden Statesman and equivalent vehicles made by other manufacturers.

Upgrade of Benchmark Vehicle

4.7 Notwithstanding clause 4.2, but subject to the other provisions of clause 4, the Chief Executive of an employing agency of an Executive may approve the provision to an Executive of a vehicle one level above the benchmark vehicle for that executive as determined in accordance with clause 4.2. In such circumstances, the Executive must pay the Territory the amount by which the lease payments for the selected vehicle exceed the lease payments for the benchmark vehicle for that Executive. This amount is to be calculated as at the date of commencement of the lease of the vehicle, and on the assumption that the lease rates remain constant for the term of the lease. The Executive must pay this amount fortnightly in arrears.

4.8 If clause 4.7 applies then, subject to clause 3 of this Determination (Salary Packaging Scheme) and to the approval of the Chief Executive of the employing agency of the Executive, the amounts payable by the Executive under clause 4.7 may be made through an approved salary packaging arrangement.

Running and Maintenance Expenses

4.9 An Executive shall not be responsible for running and maintenance expenses except that, when an Executive uses a vehicle on more than two days consecutive leave, the Executive must meet the costs of fuel associated with that period of leave. An Executive will also be provided with a parking space for the Executive's vehicle at or near the Executive's principal place of work.

Vehicles Options and Modifications

- 4.10 a) if an Executive has a disability that affects his or her ability to drive a standard vehicle, the Executive shall be entitled to such modifications or options as the Chief Executive of the employing agency of the Executive certifies in writing as being reasonably necessary to enable the Executive to drive a vehicle.
- b) if a Chief Executive has a disability that affects his or her ability to drive a standard vehicle, the Chief Executive shall be entitled to such modifications or options as the Commissioner for Public Administration certifies in writing as being reasonably necessary to enable the Chief Executive to drive a vehicle.
- c) an Executive shall be entitled to choose optional items of equipment (in addition to those, which are provided as part of the standard fit-out of a vehicle) as follows:
- (i) a standard tow pack;
 - (ii) if the vehicle is a station wagon or similar vehicle, a cargo barrier; and
 - (iii) such other equipment as the Chief Executive of the employing agency of the Executive certifies in writing as being necessary or convenient for the operational requirements of the Executive's agency.
- d) a Chief Executive shall be entitled to choose optional items of equipment (in addition to those which are provided as part of the standard fit-out of a vehicle) as follows:
- (i) a standard tow pack;
 - (ii) if the vehicle is a station wagon or similar vehicle, a cargo barrier; and
 - (iii) such other equipment as the Commissioner for Public Administration certifies in writing as being necessary or convenient for the operational requirements of the Chief Executive's agency.

Remuneration Package Value

4.11 For the purposes of calculating the value of the total remuneration package the following notional values are set:

Executive Level	Total Remuneration Package Value
Up to and including Executive level 1.3	\$15,000
Executive levels 2.4, 2.5 and 2.6	\$15,500
Executive level 3.7 and above	\$17,000

General

4.12 When an Executive is working at his or her normal place of work then, except where the vehicle is being repaired or serviced, the Executive must bring the vehicle to work and make it available for use by other staff of the Executive's agency during normal business hours.

4.13 An Executive may use a vehicle for private purposes outside normal business hours. However, an Executive must not use the vehicle for personal gain or permit the vehicle to be used by others for personal gain.

4.14 The Administering Chief Executive may issue guidelines in relation to the operation and administration of this entitlement.

Cash in Lieu

4.15 Where an Executive elects to take the cash benefit instead of the motor vehicle, the cash benefit shall be 90% of the notional value, as set out below:

Executive Level	Cash in Lieu Value
Up to and including Executive level 1.3	\$13,500
Executive levels 2.4, 2.5 and 2.6	\$13,950
Executive level 3.7 and above	\$15,300

Such an Executive is not entitled to any other cash payment or benefit relating to the use or non use of a vehicle.

4.16 Where an Executive elects not to take a Government provided vehicle, the Executive may still elect to have a parking space. If an Executive does not wish to have an employer provided parking space then the Executive shall be paid the cash benefit in lieu.

4.17 Where an Executive elects to be provided with an Employer provided vehicle, the Executive must also be provided with a parking space.

5. **Accompanied travel**

5.1 An Executive may nominate a person to accompany the Executive while the Executive is travelling outside Canberra.

5.2 Where an Executive elects to retain the EPB of accompanied travel the employer shall provide the benefit up to the value of \$1,000 each year upon application being made, provided that the nominee is accompanying the Executive and the Executive is travelling on official business.

5.3 For the purposes of this clause, reimbursement may be made for the return fares in the same class of travel as that of the Chief Executive or Executive, and the reasonable additional cost of accommodation expenses associated with that travel up to the allowable benefit of \$1,000. The benefit may be used on one or more occasions each year (subject to the value of the benefit not exceeding \$1,000).

6. **Definitions**

In this Determination: -

“Act” means the *Public Sector Management Act 1994*.

“Administering Chief Executive” means the Chief Executive of the administrative unit responsible for administering the Act.

“Agreed superannuation fund” means a fund complying with the requirements of the *Income Tax Assessment Act 1936* (C’wlth) and complying with the *Superannuation Industry (Supervision) Act 1993* (C’wlth) where relevant.

“Employer” means the Australian Capital Territory and includes any person authorised to act on behalf of the Australian Capital Territory in relation to any act, approval or direction to be done, granted or exercised, by or on behalf of the Australian Capital Territory.

“Executive” means (except in Clauses 4.5 of the determination and Clauses 4.4, 4.5, 4.7, 4.8 and 4.10 of Schedule B) both an Executive and a Chief Executive within the meaning of the Act. In Clauses 4.5 and 4.6 of the determination and Clauses 4.4, 4.5, 4.7, 4.8 and 4.10 of Schedule B “Executive” means an Executive within the meaning of the Act, and “Chief Executive” means a Chief Executive within the meaning of the Act.

“Fringe Benefits Tax” means the tax assessed under the *Fringe Benefits Tax Assessment Act 1986*.