



AUSTRALIAN CAPITAL TERRITORY REMUNERATION TRIBUNAL

Statement Number 158

Full-Time Holders of Public Office Remuneration and Leave Entitlements

Background

Remuneration

As part of its annual review of remuneration and entitlements in April 2004, the Tribunal determined a 3.4% increase for Full-Time Holders of Public Office from 1 July 2004.

The Tribunal has maintained a practice of granting similar increases to those granted to Chief Executives and Executives, as the positions undergo a similar job-sizing process.

The Tribunal has further reviewed the remuneration for Chief Executives and Executives and decided to provide these offices with a total increase of 5% from 1 July 2004.

Leave Entitlements

In relation to leave entitlements, Clause 5.1 of the current Determination for Full-Time Holders of Public Office (Number 146) states, inter alia, that a person holding such an office shall be entitled to the leave or other entitlements as would be available to an Executive under section 72 of the *Public Sector Management Act 1994*.

It is important to make it clear that leave credits accrued while employed in the ACT Public Service will be recognised where an ACT Public Service employee is appointed as a Full-time Statutory Office Holder.

Tribunal Decision

Remuneration

The Tribunal has determined that remuneration for Full-Time Holders of Public Office be increased by a further 1.6% per annum with effect from 1 July 2004, making a total of a 5% increase over the remuneration applicable at 30 June 2004.

Leave Entitlements

The Tribunal decided that accrued leave credits would be recognised where the office holder was employed in the ACT Public Service immediately prior to taking up the appointment and payment has not been made in respect of such credits.

ACT Remuneration Tribunal
September 2004



AUSTRALIAN CAPITAL TERRITORY
REMUNERATION TRIBUNAL

Determination Number 158

Full-Time Holders of Public Office
Remuneration and Leave Entitlements

Pursuant to sub-section 10(1) 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 Full-Time Holders of Public Office.

This Determination shall take effect from 1 July 2004.

Alan Kerr AM
Chair

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September 2004

Roberta McRae OAM
Member

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Jill Greenwell
Member

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AUSTRALIAN CAPITAL TERRITORY REMUNERATION TRIBUNAL

Determination Number 158

Full-Time Holders of Public Office Remuneration and Leave Entitlements

The Tribunal determines as follows:

1. Remuneration

1.1 With effect from 1 July 2004 a person holding an office shown in column 1 of the following table shall be entitled to the rate of remuneration specified in column 2: -

Director of Public Prosecutions	\$224,144
Auditor-General	\$205,303
Chief Planning Executive ACT Planning and Land Authority	\$194,606
Chief Executive Officer Land Development Agency	\$183,964
Director, Canberra Institute of Technology	\$177,279
Chief Executive Officer Legal Aid Commission (ACT)	\$151,928
Community Advocate	\$132,817
Electoral Commissioner	\$123,901
Clerk of the Legislative Assembly	\$123,901
Discrimination Commissioner	\$123,901
Community and Health Services Complaints Commissioner	\$123,901
Occupational Health and Safety Commissioner	\$123,901
Deputy Executive Officer Legal Aid Commission (ACT)	\$123,901
President of the Administrative Appeals Tribunal	* refer to Determination No. 151

2. Employer Provided Benefits

2.1 Except in circumstances covered by section 11 of the *Remuneration Tribunal Act 1995* (that is, where the instrument by which the person was appointed, engaged, authorised or requested to perform the functions and duties of the office or appointment specifies otherwise), a person holding an office mentioned in the table in clause 1 above shall be entitled to the various employer provided benefits or, where applicable, the relevant cash equivalents of the benefits, as shown in Schedule A.

3. Salary Packaging Scheme

3.1 Subject to the following conditions, a person holding an office mentioned in the table in clause 1 above may elect to take remuneration shown in the table in clause 1 above 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, issued by the Australian Taxation Office and policy and procedure guidelines on salary packaging issued by the Commissioner for Public Administration from time to time.

3.3 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.

3.4 The salary for superannuation purposes of each person holding a Full-time Public Office is unaffected by participation in the salary packaging scheme.

3.5 No more than 50% of the relevant remuneration shown in Schedule A is to be taken as benefits and related costs such as fringe benefits tax.

3.6 The benefits available to be included in a salary package shall be decided by the Commissioner for Public Administration from time to time, or when there are changes to the taxation treatment of the benefits.

4. Relocation Allowance

4.1 Relocation allowance is an amount provided to **assist** an individual 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 a person holding an office mentioned in the table in clause 1 above 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 individual 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 individual 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 a person holding an office mentioned in the table in clause 1 above considers that unusual and exceptional circumstances exist in their relocation to the ACT, then they 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 office holder;
- the expected total relocation expenses of the office holder;
- the level of assistance the office holder considers should be provided; and

- any other relevant information.

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

5. **Leave and other entitlements where no specific provisions**

5.1 Except in exceptional circumstances covered by section 11 of the *Remuneration Tribunal Act 1995* (that is, where a law of the Territory or the Commonwealth or the instrument by which the person is appointed, engaged, authorised or requested to perform the functions and duties of the office or appointment specifies otherwise), and except when there is in force any other determination of the Tribunal specifying the leave or any other entitlements to be granted to the holder of an office mentioned in the table in clause 1 above, a person holding such an office shall be entitled to the leave or other entitlements as would be available to an Executive under section 72 of the *Public Sector Management Act 1994*.

5.2 For the avoidance of doubt, this entitlement includes recognition of accrued leave credits where such credits have been accrued in employment in the ACT Public Service by the office holder immediately before taking up an office mentioned in the table in Clause 1 above, provided that a payment equivalent to the value of the unused credits has not been made or the accrued credits otherwise accounted for by the Territory.

6. **Revocation of Previous Determinations**

6.1 Determination No 146 of 27 April 2004 is revoked.

The date of effect of this Determination is 1 July 2004

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Schedule A

Employer Provided Benefits - Full-Time Statutory Office Holders

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 allowance for Full Time Holders of Public Office	\$1,000
Private telephone accounts for the President, Administrative Appeals Tribunal	To the value of standard Telstra telephone rental and 200 untimed local calls
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 office holder shall be entitled to the EPBs, or their cash equivalent (except 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 office holder.

2.2 Any EPB taken in cash shall not increase the remuneration component for salary purposes, as set out in column 2 of the table in clause 1 of this Determination.

2.3 In the case of an office holder 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 persons 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 office holder who is not a member of the CSS or PSS, or in the case of an office holder 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 office holder to an agreed superannuation fund nominated by the office holder.

- 2.5
- a) In respect of the current occupant of the office of Auditor-General appointed prior to 28 March 2003, the value of the employer's superannuation contribution shall be 22% of the remuneration component.
 - b) In respect of future occupants of the office of Auditor-General appointed after 28 March 2003, the value of the employer's superannuation contribution shall be 16% of the remuneration component.

3. Elections - Employer Provided Benefits (EPBs)

3.1 Prior to signing the contract of employment, an office holder 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 office holder 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 office holder shall not be required to pay the excess to the employer.

3.4 An office holder'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 office holder elects to take an EPB in cash the total value of the elected EPB shall be paid to the office holder in equal fortnightly instalments.

4. **Motor Vehicle and Parking**

4.1 Where an office holder elects to retain the EPB of the use of a government-leased motor vehicle the vehicle shall be provided on the same basis as motor vehicles provided to Executives. The level of vehicle entitlement shall be on the same basis as the notional package value set out in subclause 4.4 of Schedule A.

4.2 Notwithstanding subclause 4.1 vehicles provided under this clause shall be Australian made, except for those vehicles up to and including 1.8 litre engine capacity where no limitations apply in relation to country of manufacture.

4.3 Where an office holder elects to retain the EPB of the use of a government leased motor vehicle the office holder cannot elect to take the annual cash payment in lieu of the parking benefit, and the employer shall provide the office holder with parking for the vehicle.

4.4 For the purposes of calculating the value of the total remuneration package the notional values are set out in the table below:

4.5 Where an office holder elects to take the cash benefit instead of the motor vehicle, the cash benefit shall be 90% of the notional value, as set out in the table below:

Office Holder	Total Remuneration Package Value	Cash in Lieu Value
Office holders unless otherwise specified (entitlement equivalent to Executive level 1.3)	\$15,000	\$13,500
Director of the Canberra Institute of Technology Chief Executive Officer of the Legal Aid Commission (ACT) President of the Administrative Appeals Tribunal (entitlement equivalent to Executive level 2.6)	\$15,500	\$13,950
Director of Public Prosecutions Auditor-General Chief Planning Executive of the ACT Planning and Land Authority Chief Executive Officer of the Land Development Agency Commissioner, Emergency Services Authority (entitlement equivalent to Executive level 3.7 and above)	\$17,000	\$15,300

5. **Accompanied Travel Entitlement**

5.1 The office holder may nominate a person to accompany the office holder while the office holder is travelling outside Canberra.

5.2 Where the office holder 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 office holder and the office holder 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 office holder, 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. **Private Telephone Accounts**

6.1 Where the President, Administrative Appeals Tribunal elects to retain the EPB of a personal telephone account, the office holder must provide to the employer a copy of, or copies, of the relevant paid account for reimbursement.

6.2 The account may be for a telephone(s) in the home of the office holder, or mobile telephones, and the account may be in the name of the office holder, or the spouse of the office holder, or a member of the office holder's immediate family.

6.3 The EPB shall comprise the telephone rental and up to 200 local calls (or equivalent).

7. **Definitions**

In this schedule: -

“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* (Cwlth) 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 under contract.

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

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