

Dear Chair,

The Tribunal has invited submissions for its 2017 review of statutory office holders remuneration. It would be appreciated if the Tribunal would consider clarifying the Travel Allowance provisions currently set out at clause 6 of its determination No 2 of 2016 in respect of the Clerk of the Legislative Assembly.

The 2016 determination introduced, for the first time, references to the ATO's annual determination on reasonable travel allowance rates. However, unlike the arrangements determined by the Tribunal for MLAs, the travel clauses of the Clerk's determination continue to include the requirement that the employer will pay for the accommodation and that the Clerk will be reimbursed actual costs for meals and incidentals.

When the Tribunal adopted the references to the ATO determination in its determination for MLAs, the outcome was an administratively simple arrangement where members who travel on Assembly business are paid the relevant reasonable rates contained in the ATO determination and there is no longer any requirement for the member to acquit or to supply receipts for expenditure. Members are free to choose what standard of accommodation they wish to utilise (for domestic travel at least – overseas accommodation is not prescribed in the ATO determination) and what to eat for breakfast, lunch and dinner - but the Assembly simply pays them the ATO reasonable rate. The only further limitation (which is imposed by the Speaker in travel Guidelines) is that non-Executive MLAs are not paid for meals and accommodation when either of these are provided by the travel host (which is quite common).

However, for the Clerks' determination, the reference to the ATO reasonable travel allowance rates seems simply to act as a cap in what can be paid – whereas the ATO determination largely imposes that effect anyway because any payments above the reasonable amounts have taxation implications.

It would better align MLA and the Clerk's entitlements if the Tribunal was prepared to make the relevant ATO reasonable rates the amounts that the Clerk is actually paid. As is the case for non-Executive MLAs, the Assembly's own travel guidelines would continue to prevent payment for meals or accommodation provided by the host. Such an arrangement would also remove the need for the Tribunal to refer, at least for domestic purposes, to 4.5 star commercial accommodation entitlements. The Tribunal might note that, over the past decade, star ratings for accommodation establishments have become very subjective and are increasingly a self assessed measure of quality. Nevertheless, because the ATO reasonable travel allowance determination does not capture accommodation rates abroad, the retention of such a rating may be a better measure than none at all for any overseas travel.

I have discussed this submission with the Clerk and it was agreed that, because it dealt with administrative matters, it may be more appropriate for the submission to come from me as the General Manager of Business Support, rather than the Clerk himself.

Ian Duckworth

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