



Australian Capital Territory Remuneration Tribunal

Full-time Statutory Office Holders

Determination 3 of 2013

made under the

Remuneration Tribunal Act 1995, section 10 (Inquiries about holders of certain positions)

ACCOMPANYING STATEMENT

Background

Under section 10 of the *Remuneration Tribunal Act 1995* the Remuneration Tribunal (Tribunal) is required to inquire into, and determine, the salary, allowances and other entitlements for certain full-time public offices. Of those offices, this Determination covers the:

- Auditor-General
- Director of Public Prosecutions
- Electoral Commissioner
- Chief Planning Executive, ACT Planning and Land Authority
- Chief Executive Officer, Land Development Agency
- Chief Executive Officer, Legal Aid Commission (ACT)
- Assistant Executive Officer, Legal Aid Commission (ACT)
- Director, Canberra Institute of Technology
- Human Rights Commissioner
- Children and Young People Commissioner
- Disability and Community Services Commissioner
- Discrimination Commissioner
- Health Services Commissioner
- Public Advocate
- Victims of Crime Commissioner
- Domestic Violence Project Coordinator

The Tribunal's last inquiry into salary, allowances and other entitlements for Full-time Statutory Office Holders was in March 2012. Following the inquiry the Tribunal issued Determination 3 of 2012 in May 2012.

The Tribunal called for submissions in February 2013 and inquired into the salary, allowances and other entitlements for full-time Statutory Office Holders in April 2013. This Determination sets out the Tribunal's decisions following that inquiry.

Changes to salary, allowances and other entitlements and reasoning

The Tribunal considered information from a number of sources as part of its inquiry. On this occasion the Tribunal was most interested in:

- the increase in remuneration for full-time Statutory Office Holders in recent years relative to other categories of office in the ACT jurisdiction, in particular, ACT Public Service staff covered by Enterprise Agreements;
- national economic indicators, in particular the Labour Price Index, Average Weekly Earnings and the Consumer Price Index;
- the Government Submission; and
- Oral and written submissions received in relation to the remuneration of the Electoral Commissioner and Public Advocate.

No other submissions were received in relation to the Tribunal's call for submissions.

Having balanced these considerations the Tribunal decided to:

- increase the salary for full-time Statutory Office Holders by 2.0% per annum (clause 2 of the Determination).

Since 1 November 2012, the Director of Public Prosecutions is covered in a Determination specifically for that position. A further review of the remuneration for the Director of Public Prosecutions will be conducted in the latter half of 2013.

ACT Remuneration Tribunal
May 2013



Australian Capital Territory Remuneration Tribunal

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Commencement

- 1.1 This instrument commences on 1 July 2013.

Remuneration

- 1.2 A person appointed to an office listed in column 1 of Table 2.1 is entitled to the salary mentioned in column 2 of Table 2.1.

TABLE 2.1

Column 1 Office	Column 2 Salary
Auditor-General	\$271,755.54
Chief Planning Executive, ACT Planning and Land Authority	\$257,699.94
Chief Executive Officer, Land Development Agency	\$243,714.72
Director, Canberra Institute of Technology	\$243,714.72
Chief Executive Officer, Legal Aid Commission (ACT)	\$201,616.26
Public Advocate	\$187,556.58
Children and Young People Commissioner	\$187,556.58
Human Rights Commissioner	\$187,556.58
Discrimination Commissioner	\$187,556.58
Health Services Commissioner	\$187,556.58
Assistant Executive Officer, Legal Aid Commission (ACT)	\$164,787.12
Disability and Community Services Commissioner	\$164,787.12

Column 1 Office	Column 2 Salary
Electoral Commissioner	\$164,787.12
Victims of Crime Commissioner	\$136,670.82
Domestic Violence Project Coordinator	\$121,520.76

- 1.3 A person appointed to an office listed in column 1 of Table 2.1 must not receive the salary mentioned in column 2 if the person is paid a higher salary for that office from another source.
- 1.4 If a person appointed to an office listed in column 1 of Table 2.1 is also appointed to another office, which is not a second job under the *Public Sector Management Act 1994*, the person must only receive salary for the office that has the highest remuneration.

Salary packaging

- 1.5 A person appointed to an office listed in column 1 of Table 2.1 may elect to take the remuneration mentioned in column 2 of Table 2.1 as:
- salary; or
 - a combination of salary and other benefits (a **salary package**).
- 1.6 Salary packaging must be consistent with:
- taxation laws and guidelines issued by the Australian Taxation Office; and
 - the [ACT Public Service Salary Packaging Policy and Procedures](#) issued by the Commissioner for Public Administration, with up to 100% of the remuneration able to be taken as benefits and related costs such as fringe benefits tax.
- 1.7 Salary packaging must be administered without additional cost to the employer and any fringe benefits tax associated with the provision of a benefit must be included in the salary package.
- 1.8 Salary for superannuation purposes is not affected by salary packaging.

Employer provided benefits

- 1.9 A full-time Statutory Office Holder is entitled to either the employer provided benefits mentioned in column 1 of Table 4.1 or the relevant cash payment in lieu of the benefit mentioned in column 2 of Table 4.1.

TABLE 4.1

Column 1 employer provided benefit	Column 2 cash payment in lieu of benefit
employer's superannuation contribution	no option for cash payment in lieu
executive vehicle	under the Public Sector Management Standards 2006
parking space	under the Public Sector Management Standards 2006

Column 1 employer provided benefit	Column 2 cash payment in lieu of benefit
fringe benefits tax	\$7,000

Note: employer provided benefits or cash payment in lieu of the benefit do not change the remuneration component of the total remuneration package.

Employer's superannuation contribution

- 1.10 A full-time Statutory Office Holder is only eligible for the employer's superannuation contribution if their superannuation entitlements are not provided elsewhere.
- 1.11 The employer's superannuation contribution is subject to the *Superannuation Act 1976* (Cth), *Superannuation Act 1990* (Cth) and *Superannuation Act 2005* (Cth).
- Note: section 642 of the *Public Sector Management Standards 2006* sets out superannuation for some statutory office holders appointed from 1 July 2006.
- 1.12 A full-time Statutory Office Holder who is a member of the CSS or PSS—
- a) may elect that the employer continues to meet its requirements under the *Superannuation Act 1976* (Cth) and the *Superannuation Act 1990* (Cth) as they apply to people who are contributory members of the CSS and PSS; and
 - b) for the purposes of calculating this component of the total remuneration package, the value of the employer's superannuation contribution will notionally be deemed to be 16% of their remuneration.
- 1.13 If a full-time Statutory Office Holder who is not a member of the CSS or PSS was appointed to or engaged by the Territory before 30 June 2006, and maintained continuous employment with the Territory—
- a) the value of the employer's superannuation contribution is 16% of the remuneration component; and
 - b) the employer will contribute an amount equal to this on behalf of the full-time Statutory Office Holder to an agreed superannuation fund nominated by the full-time Statutory Office Holder.
- 1.14 The value of the employer's superannuation contribution must not be paid in cash to a full-time Statutory Office Holder.

Fringe benefit tax

- 1.15 The fringe benefits tax payable to a full-time Statutory Office Holder is the amount remaining after the employer's liability for fringe benefits tax is calculated, as required under the *Fringe Benefits Tax Assessment Act 1986*.
- 1.16 The executive vehicle and employer's superannuation contribution set out in the *Public Sector Management Standards 2006* are considered for calculating fringe benefits tax.
- 1.17 If the liability for fringe benefits tax exceeds \$7,000 a full-time Statutory Office Holder will not be required to pay the excess to the employer.
- 1.18 Fringe benefits tax is reduced proportionally if the full-time Statutory Office Holder is appointed for less than a financial year.

Relocation allowance

- 1.19 In this clause:
ACT includes the surrounding district, including Queanbeyan.
relocation means from a residence outside the ACT to a residence in the ACT.
- 1.20 Relocation allowance is provided to assist an individual with relocation.
- 1.21 Relocation allowance will not cover the total cost of relocation in all circumstances.
- 1.22 The maximum relocation allowance is \$51,533.
- 1.23 If a person relocates because of appointment as a full-time Statutory Office Holder, the person is entitled to be reimbursed up to the maximum relocation allowance, for receipted, reasonable costs of the following:
- a) packing personal effects and furniture belonging to the person and their family;
 - 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;
 - f) temporary accommodation costs at the former location and in the ACT up to a maximum aggregate period of six months, or, in exceptional circumstances, nine months with specific 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/or the purchase of a residence or lease on a block of land in the ACT;
 - i) subject to the approval of the ACT Remuneration Tribunal, any other reasonable expenses necessarily incurred in relocating to the ACT.
- 1.24 The maximum relocation allowance may be exceeded if the ACT Remuneration Tribunal agrees—
- a) there are unusual or exceptional circumstances; and
 - b) the unusual or exceptional circumstances were unforeseen or unable to be dealt with without exceeding the maximum relocation allowance.
- 1.25 If a full-time Statutory Office Holder thinks that unusual and exceptional circumstances exist, they may ask the ACT Remuneration Tribunal to consider the matter and determine whether the maximum relocation allowance can be exceeded. A request must be in writing and must include—
- a) details of the unusual or exceptional circumstances; and
 - b) details of the relocation; and
 - c) expenses incurred by the full-time Statutory Office Holder; and
 - d) the expected total relocation expenses of the full-time Statutory Office Holder; and
 - e) the level of assistance the full-time Statutory Office Holder considers should be provided; and

- f) any other relevant information.
- 1.26 Relocation allowance does not apply to any expenses incurred at the conclusion of employment.

Travelling Allowance

- 1.27 In this clause:

domestic travel means official travel to a destination within Australia.

international travel means official travel to a destination outside Australia.

reasonable expenses means legitimate work-related expenses incurred while conducting official business efficiently and effectively.

- 1.28 If a full-time Statutory Office Holder is required to travel for official purposes, the employer must pay the cost of—
 - a) travel; and
 - b) accommodation; and
 - c) meals; and
 - d) incidental expenses.

Travel

- 1.29 A full-time Statutory Office Holder may travel by one or more of the following:
 - a) commercially provided road or rail transport;
 - b) commercially provided flights;
 - c) private motor vehicle.
- 1.30 Commercially provided travel should be selected on the basis of—
 - a) what is most convenient to the full-time Statutory Office Holder; and
 - b) seeking the most reasonable costs.
- 1.31 If a full-time Statutory Office Holder travels on commercially provided road or rail transport the employer will pay the fares for that travel.
- 1.32 If a full-time Statutory Office Holder travels on commercially provided flights the employer will pay the fares to the following standard:
 - a) for domestic flights less than 4 hours—economy class;
 - b) for domestic flights of 4 hours or more—business class;
 - c) for international flights—business class.
- 1.33 If a full-time Statutory Office Holder has approval to travel by private motor vehicle, the employer will pay the owner of the vehicle an allowance calculated in accordance with the Motor Vehicle Allowance set out in the Justice and Community Safety Directorate Enterprise Agreement 2011 – 2013.

Accommodation

- 1.34 If a full-time Statutory Office Holder must stay overnight while on official travel, the employer will pay the for commercial accommodation to the following standard:
 - a) for domestic accommodation—4.5 stars;

- b) for international accommodation—4.5 stars.
- 1.35 The employer will pay for a full-time Statutory Office Holder to stay in commercial accommodation above the 4.5 star standard if—
- a) the cost is reasonable; and
- b) to do so would better enable business objectives to be met.

Examples where business objectives may be better met:

- to allow a full-time Statutory Office Holder to stay in the commercial accommodation where a meeting, conference or seminar they are attending is being held
- to allow a full-time Statutory Office Holder who is traveling with a Minister to stay in the commercial accommodation that Minister if they are entitled to a higher standard of accommodation

Meals

- 1.36 If a full-time Statutory Office Holder is absent from Canberra for more than ten hours while on official travel, the employer will reimburse actual, reasonable expenses for meals.

Incidental expenses

- 1.37 The employer will be reimburse reasonable expenses directly related to official travel, including—
- a) taxi or bus fares to or from an airport; and
- b) taxi and public transport costs at a temporary location; and
- c) airport taxes or charges.

Frequent Flyer Program

- 1.38 Frequent flyer points accrued by a full-time Statutory Office Holder as a result of travel and accommodation paid for by the employer may only be used for further official travel.
- 1.39 Frequent flyer points may not be used to upgrade the standard of air travel to a level above the full-time Statutory Office Holder's entitlement.

Definitions

- 1.40 In this Determination:

agreed superannuation fund means a fund complying with the requirements of:

- the *Income Tax Assessment Act 1936* (Cth); and
- the *Superannuation Industry (Supervision) Act 1993* (Cth).

CSS means the Commonwealth Superannuation Scheme.

employer means the Australian Capital Territory and includes any person authorised to act on behalf of the Australian Capital Territory.

fringe benefits tax means the tax assessed under the *Fringe Benefits Tax Assessment Act 1986*.

full-time Statutory Office Holder means a person appointed to an office listed in column 1 of Table 2.1.

PSS means the Public Sector Superannuation Scheme.

total remuneration package includes remuneration set out in Table 2.1, all employer provided benefits, and all allowances. The value of an allowance or entitlement set out in this Determination is fixed and cannot be transferred to any other component of the total remuneration package.

Revocation of previous Determination

1.41 Determination 3 of 2012 (Full-Time Holders of Public Office) is revoked.

Anne Cahill Lambert AM
Chair

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James Smythe PSM
Member

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May 2013