



Australian Capital Territory Remuneration Tribunal

Determination 1 of 2022

Head of Service, Directors-General and Executives

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 Act), the Remuneration Tribunal (the Tribunal) is required to inquire into, and determine, the remuneration, allowances and other entitlements for holders of certain public offices. This includes the Head of Service, directors-general and people engaged as an executive (known collectively as executives) under the *Public Sector Management Act 1994*.

Considerations

During 2017, the Tribunal initiated a *Major Review: ACT Public Service Executive Remuneration, Allowances and Other Entitlements*, with a discussion paper released in September 2017. The final report into the major review was released in March 2019.

Decision 13 of the Tribunal recommended the removal of the option for executives to lease a vehicle at the territory's expense and to replace it with a payment to be known as a 'supplementary base salary'.

The Government has advised the Tribunal that this recommendation will be partially implemented through amendments to the *Public Sector Management Standards 2016* which took effect on 23 December 2021.

As a consequence of these amendments to the *Public Sector Management Standards 2016* and the Government's decision to remove the entitlement to an employer-provided vehicle, consequential amendments need to be made to that part of the Tribunal's determination relating to the fringe benefit tax payment which is made to executives.

Statutory office holders receive a number of entitlements that are similar to those that apply to executives. The amendments to the *Public Sector Management Standards 2016* and the removal of the employer-provided vehicle entitlement only apply to executives; statutory office holders continue to receive these entitlements for the time being.

Decision

Given the Government's decision to amend the *Public Sector Management Standards 2016* to remove the entitlement to an employer-provided vehicle, the Tribunal has decided to roll the amount of the fringe benefit tax payment (\$7,500) into the base remuneration for executives, consistent with the removal of this entitlement.

The amendments to the *Public Sector Management Standards 2016* commenced on 23 December 2021. The Tribunal considers it appropriate for this determination to be taken to have commenced on the same date.

March 2022



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1 Commencement

1.1 This instrument is taken to have commenced on 23 December 2021.

2 Remuneration

2.1 The following table sets out the full-time base remuneration per year for a person engaged at an executive classification level specified in column 1, where an executive does not have an employer-provided vehicle.

TABLE 2.1

Column 1 Executive classification level	Column 2 Remuneration
Level 1.1	\$166,318
Level 1.2	\$179,749
Level 1.3	\$193,171
Level 1.4	\$206,539
Level 2.1	\$220,027
Level 2.2	\$238,749
Level 2.3	\$257,463
Level 2.4	\$276,258
Level 3.1	\$295,061
Level 3.2	\$306,598
Level 3.3	\$318,470
Level 3.4	\$330,163
Level 4.1	\$341,758
Level 4.2	\$351,422
Level 4.3	\$363,825
Level 4.4 (Head of Service)	\$395,891

- 2.2 If an executive has an employer-provided vehicle, Determination 2 of 2021 continues to apply until such time as the lease of the vehicle ends.
- 2.3 If a person engaged at a level listed in column 1 of Table 2.1 is also engaged in or appointed to another office under ACT legislation, the person must only receive remuneration for the office that has the highest remuneration.
- 2.4 The person engaged as the Head of Service is to be paid additional remuneration of \$10,000 per annum above the remuneration of an executive level 4.4 specified in column 2 of Table 2.1. This additional remuneration is included as base remuneration and is recognised as salary for superannuation purposes.

3 Salary packaging

- 3.1 An executive may elect to take the remuneration mentioned in column 2 of Table 2.1 as:
 - a) salary; or
 - b) a combination of salary and other benefits (a *salary package*).
- 3.2 Salary packaging must be consistent with:
 - a) taxation laws and guidelines issued by the Australian Taxation Office; and
 - b) any salary packaging policy and/or procedures issued for the ACT Public Service, with up to 100% of the remuneration able to be taken as benefits and related costs such as fringe benefits tax.
- 3.3 If an executive is working for a Public Benevolent Institution, the benefit items that normally incur fringe benefits tax must not incur more than \$17,000 grossed up taxable value per fringe benefits tax year, without prior approval from:
 - a) for directors-general—the head of service; and
 - b) for executives—the relevant director-general.
- 3.4 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.
- 3.5 Salary for superannuation purposes is not affected by salary packaging.

4 Employer provided benefits

- 4.1 An executive is entitled to either the employer provided benefits mentioned below or the relevant cash payment in lieu of the benefit mentioned below.
- 4.2 An employer-provided benefit, or cash payment in lieu of an employer-provided benefit, is in addition to the remuneration specified in clause 2 of this determination, and does not affect salary for superannuation purposes.
- 4.3 For the avoidance of doubt, 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.

Note: travel entitlements are provided under the *Public Sector Management Standards 2006 (repealed)*.

Vehicle parking space

- 4.4 An executive is entitled to a parking space in accordance with the *Public Sector Management Standards 2016*.

Employer's superannuation contribution

- 4.5 An executive is only eligible for the employer's superannuation contribution if their superannuation entitlements are not provided elsewhere.
- 4.6 An executive who is a member of the Commonwealth Superannuation Scheme (CSS) or Public Sector Superannuation (PSS) Scheme:
- a) the person's annual rate of remuneration for the purpose of the scheme is the base remuneration as provided in clause 2.1 of this Determination; and
 - b) the value attributed to the employer's superannuation contribution is taken to be a notional 16% of the person's base remuneration.
- 4.7 For an executive who is not currently a member of the CSS or PSS but was a member of the PSS Accumulation Plan (PSSap) until it closed to the Territory on 30 June 2006, and has maintained continuous employment with the Territory:
- a) the value of the employer's superannuation contribution is a notional 16% of the base remuneration as provided in clause 2.1 of this Determination; and
 - b) the employer will contribute that amount to an agreed superannuation fund nominated by the executive.
- 4.8 For an executive who is a member of any other superannuation fund, the employer's superannuation contribution is to be made at a rate equivalent to the Employer Superannuation Guarantee Charge Percentage as provided by the *Superannuation Guarantee (Administration) Act 1992*.
- Note: at the commencement of this Determination, the Employer Superannuation Guarantee Charge Percentage is 10% and increases to 10.5% on 1 July 2022.
- 4.9 The employer provides an additional employer superannuation contribution. The additional employer superannuation contribution is the same rate provided under clause D7 in the *ACT Public Sector Administrative and Related Classifications Enterprise Agreement 2021-2022*.
- 4.10 Section 53 of the *Public Sector Management Standards 2016*, or this section's replacement, applies to persons who are not current CSS or PSS members or appointed to or engaged by the Territory before 30 June 2006 and maintained continuous employment with the Territory.
- 4.11 The value of the employer's superannuation contribution must not be paid in cash to an executive.

5 Relocation allowance

- 5.1 In this clause, **ACT** means the Australian Capital Territory and its surrounding district, including Queanbeyan.
- 5.2 Relocation allowance is provided to assist an individual with the costs to relocate from their home location to the ACT in order to take up the engagement as an executive.
- 5.3 The executive may be reimbursed an amount of up to \$55,000, 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 the approval of the ACT Remuneration Tribunal (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 specific approval of the Tribunal, any other reasonable expenses necessarily incurred in relocating to the ACT.
- 5.4 The Tribunal may decide to reimburse a higher amount of allowance if the 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 \$55,000.
- 5.5 If an executive thinks that unusual and exceptional circumstances exist, they may ask the 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 executive; and
 - d) the expected total relocation expenses of the executive; and
 - e) the level of assistance the executive considers should be provided; and
 - f) any other relevant information.
- 5.6 If the executive terminates their employment with the Territory as an executive within twelve months of the date of their engagement, the executive may be required by the Head of Service to repay the following amount:
- a) If the executive terminates employment within six months from the date of their engagement—100% of the amount reimbursed under section 5.3;

- b) If the executive terminates employment more than six months and less than twelve months from the date of their engagement—50% of the amount reimbursed under section 5.3.

Note: Relocation allowance does not apply to any expenses incurred at the conclusion of employment with the Territory.

6 Other entitlements

- 6.1 For the avoidance of doubt, under section 113 and 115 of the *Public Sector Management Standards 2016*, the following provisions of the *Public Sector Management Standards 2006 (repealed)* continue to apply to executives:
- a) part 3.6 (recognition of prior service on appointment or engagement);
 - b) part 4.1 (continuity of service);
 - c) part 5.5 (payment in lieu of entitlements on cessation of employment or death);
 - d) part 9.6 (executive employee and statutory office-holder leave and other entitlements).
- 6.2 Leave entitlements, salary sacrifice arrangements and vacation childcare subsidy are provided to executives under Division 5.6 of the *Public Sector Management Standards 2016*, as amended from time to time.

7 Definitions

- 7.1 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.

executive means the Head of Service, a Director-General or an ACTPS Executive.

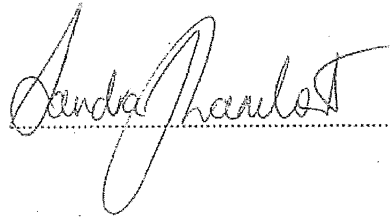
fringe benefits tax means the tax assessed under the *Fringe Benefits Tax Assessment Act 1986*.

PSS means the Public Sector Superannuation Scheme.

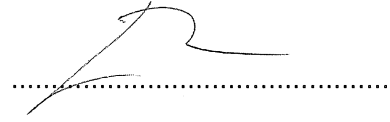
8 Revocation of previous Determination

- 8.1 Determination 2 of 2021 is revoked.

Ms Sandra Lambert AM
Chair

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Dr James Popple
Member

A handwritten signature in cursive script, appearing to read "Dr James Popple", written above a horizontal dotted line.

Mr Dale Boucher PSM
Member

A handwritten signature in cursive script, reading "Dale Boucher", written above a horizontal dotted line.

March 2022