Australian Capital Territory Remuneration Tribunal

ACT Civil and Administrative Tribunal

Determination 8 of 2021

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 (the Tribunal) is required to inquire into, and determine, the remuneration, allowances and other entitlements for the ACT Civil and Administrative Tribunal (ACAT) Presidential Members and non-Presidential Members, other than Assessors.

Considerations

In September 2020, the Tribunal decided to determine no adjustment to remuneration, allowances or entitlements for the position holders within its jurisdiction.

At its 2021 Autumn Sitting, the Tribunal determined a 1.8% increase to the remuneration of certain position holders within its jurisdiction, including Members of the Legislative Assembly, ACT Public Service Executives and other full-time statutory officer holders.

At the time, the Tribunal gave considerable weight to community standards and expectations, in particular in terms of the continuing uncertainty of circumstances faced in the Territory by the outbreak of the COVID-19 Delta variant across the country.

As part of the 2021 Autumn Sitting deliberations, the Tribunal acknowledged the Wage Price Index (WPI) and Consumer Price Index (CPI) in the 2020-21 ACT Budget released in February 2021 and subsequent data released by the Australian Bureau of Statistics. In addition, the Tribunal considered the statements from the Governor of the Reserve Bank of Australia concerning the importance of increasing wages to stimulate consumption and the outcome of the Annual Wage Review of the Fair Work Commission released in June 2021. The Tribunal was also aware that no adjustments in remuneration creates a lag and impacts on maintaining existing relativities with other office holders.

In September 2021, the Tribunal commenced its Spring Sitting. The Tribunal advertised its Spring Sitting on its website and in *The Canberra Times* on Saturday, 4 September 2021. The Tribunal also wrote to the relevant office holders requesting submissions.

At its meetings on 11 and 12 November 2021, the Tribunal met with the Chief Minister, ACT Treasury officials, and officials responsible for the Enterprise Agreement bargaining for ACT Public Sector non-executive employees.

In its deliberations, the Tribunal continued to give consideration to community standards and expectations. In particular, the Tribunal noted the economic uncertainty in the Territory, and the nation, caused by the spread of the COVID-19 Delta variant a few months ago.

The Tribunal noted the wage policies and recent remuneration determinations by its Commonwealth and State/Territory counterparts for comparable office holders being considered as part of the Spring Sitting.

The Tribunal noted the pay increases that applied to the ACT Public Sector non-executive workforce during 2020 and 2021 under Enterprise Agreements. The submission received from the Chief Minister advised that the majority of those Enterprise Agreements expired on 31 October 2021 and that, while negotiations had commenced early in 2021, these negotiations had been severely impacted by the second COVID-19 outbreak which placed increased demand on both unions and the public service. The Tribunal noted the Government's intention to finalise and ballot new Enterprise Agreements with no substantial changes with an expiry date of 31 October 2022. These 12-month Enterprise Agreements would provide two pay rises of 1.35 per cent from December 2021 and June 2022, providing a cumulative pay rise of 2.7 per cent.

In addition, the Tribunal considered the pay increases for the ACT Civil and Administrative Tribunal in the context of the pay increases that were provided to executives in the ACT Public Service and other statutory office holders from the 2021 Autumn Sitting.

The Tribunal had regard to the 2021–22 ACT Budget, released in August 2021, which forecasted a WPI of 1.75 per cent and CPI of 1.75 per cent.[1]

The Australian Bureau of Statistics released the CPI for the 2021 September quarter on 27 October 2021, which included an increase of 0.8 per cent for the ACT during that quarter, with a 3.7 per cent increase over the year (June quarter 2020 to June quarter 2021).[2] The Tribunal noted that since making its decision as part of the 2021 Autumn Sitting, the national trimmed mean inflation rate increased to 2.1 per cent, from 1.6 per cent in the June 2021 quarter.[3]

The Australian Bureau of Statistics released the WPI for the 2021 September quarter on 17 November 2021, which included an increase of 1.0 per cent for the ACT during that quarter — the equal highest quarterly growth rate of all jurisdictions. Over the year, to the September 2021 Quarter, the WPI in the ACT increased by 2.1 per cent, which was marginally lower than the national average. There was a 2.0 per cent growth in the ACT public sector WPI over the year which was higher than the national average of 1.7 per cent,

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[1] ACT Budget 2021-22, Chapter 1, Overview, Table 1.1.1 Economic Parameters, 2021-22 Budget, baseline forecasts, percentage change, p.12

[2] Australian Bureau of Statistics, Consumer Price Index (October 2021), https://www.abs.gov.au/statistics/economy/price-indexes-and-inflation/consumer-price-index-australia/latest-release

[3] The trimmed mean is designed to remove large, one-off price impacts. Australian Bureau of Statistics Media Release: CPI rose 0.8% in the September 2021 quarter (27 October 2021), https://www.abs.gov.au/media-centre/media-releases/cpi-rose-08-september-2021-quarter

for the first time since the September 2013 quarter. The ACT private sector WPI had a growth of 2.4 per cent, equal with the national average.[4]

The Tribunal had discussions with the President of ACT Civil and Administrative Tribunal, Chief Minister and officials from the Justice and Community Safety Directorate.

The Tribunal noted the Commonwealth Remuneration Tribunal issued the *Remuneration Tribunal (Judicial and Related Offices—Remuneration and Allowances) Determination 2021*, which made no adjustment to the remuneration, allowances or entitlements to a range of judicial and related offices.

Further examination of the remuneration, allowances and other entitlements for judicial and related offices

At the 2019 Spring Sitting, the Tribunal determined that it would undertake a further examination of the remuneration, allowances and other entitlements for judicial and related offices. This examination would include consideration of the allowance payable to the Chief Justice and the remuneration payable to the Associate Judge, Magistrates (including the Chief Magistrate), and to various related offices (the ACT Civil and Administrative Tribunal, the Sentence Administration Board, and the Director of Public Prosecutions).

As a result of a reallocation of government resources and changed priorities, in response to the COVID-19 pandemic, the further examination was placed in abeyance in 2020. At its 2021 Autumn Sitting, the Tribunal decided to proceed with the further examination.

The Tribunal invited the judicial and related officers to provide any new or additional information to support the further examination, and considered the information provided. The Tribunal also considered the remuneration of judicial and related positions, in other Australian jurisdictions, comparable to positions within the ACT. In particular, the Tribunal had regard to the additional information which demonstrates that the ACT Civil and Administrative Tribunal has jurisdiction in relation to as many, if not more, types of matters than other civil and administrative tribunals across Australia (see Attachment B of the letter dated 26 August 2021).

As part of the further examination, the Tribunal was provided a comprehensive briefing on the history of the ACT Civil and Administrative Tribunal (ACAT), related judicial positions under its jurisdiction and the decisions of previous Tribunals. When the ACAT was established, it involved the consolidation of 16 jurisdictions and tribunals in order to maximise the access to justice in an efficient and cost-effective way.

The Tribunal is aware of the increased workload of ACAT in relation to residential tenancies, retirement villages, unit titles, motor vehicle accident injuries and conversion practices.

The Tribunal has formed the view that there is a change in the work value and complexity of ACAT's jurisdiction. The President is responsible for the orderly and prompt discharge of all ACAT business and ensuring that decisions are made according to law, including internal appeals and referrals to the Supreme Court. The President also allocates ACAT members to deal with applications and has a number of other statutory functions relating to the operation of the ACAT. This includes the management and co-ordination of approximately

[4] Australian Bureau of Statistics, Wage Price Index (November 2021), https://www.abs.gov.au/statistics/economy/price-indexes-and-inflation/wage-price-index-australia/latest-release; https://www.abs.gov.au/media-centre/media-releases/wage-price-index-reverts-pre-pandemic-pattern and https://www.treasury.act.gov.au/__data/assets/pdf_file/0006/399993/WPI.pdf/_recache

50 sessional members of ACAT and ensuring that the relevant work health and safety obligations are met.

Full-time Presidential Members preside in most internal appeals and in a range of other complex matters including under the *Mental Health Act 2015*. In addition, Presidential Members undertake leadership and management functions within ACAT. Full-time Presidential Members have a range of case management responsibilities. In addition, the full-time Senior Members are also allocated aspects of ACAT's case management work.

Full-time Senior Members also undertake leadership and administrative functions within ACAT in addition to hearing and deciding on a range of complex matters determined by the President.

ACAT has argued that the salary of full-time Senior Members should not fall below that payable to other ACT public sector positions which are broadly comparable to the role performed by Senior Members, particularly the ACAT Registrar and ACT Government lawyers appearing before ACAT.

The Tribunal were not persuaded that there is a case for a fixed nexus between the remuneration of President and that of the Chief Magistrate (or Magistrates). Additionally the Tribunal's legislative obligation is to review the remuneration, allowances and other entitlements for members of the ACT Civil and Administrative Tribunal (and other office holders) on an annual basis. If the Tribunal were to establish a fixed nexus it would still be required to consider the appropriateness of that nexus, annually. In the Tribunal's view, a fixed nexus could only be implemented legislatively. For example, the remuneration, allowances and entitlements of resident judges of the ACT Supreme Court are linked, by section 37U(2) of the *Supreme Court Act 1933*, to those of a Federal Court judge, from time to time.

Decision

The Tribunal has decided to determine that the remuneration of the following offices will be adjusted as follows:

- President: $405,316;
- Full-time Presidential Members: $303,987;
- Full-time Senior Members: $206,275.

The Tribunal has decided that the Part-time Non-Presidential Members will receive a 2% increase and rounded up to the nearest $5 as follows:

- Senior Member: $1,155 per diem;
- Ordinary Member: $540 per diem.

The changes to the remuneration, allowances and other entitlements made in this determination will be taken to have commenced on 1 November 2021.

The Tribunal decided to make some technical adjustments to the arrangements associated with sessional members (see Schedule 2 and 3 of this determination).

The retrospective application of this Determination does not affect the rights of a person (other than the ACT Government) in a manner prejudicial to that person, nor does it impose any liability on such person.

December 2021

Australian Capital Territory Remuneration Tribunal

ACT Civil and Administrative Tribunal Determination 8 of 2021

made under the

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

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1 Commencement

1.1 This instrument is taken to have commenced on 1 November 2021.

2 Remuneration

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

TABLE 2.1

Column 1 **Office**	Column 2 **Remuneration**
Presidential Members	
President, ACAT	$405,316 per annum
Full-time Presidential Member, ACAT	$303,987 per annum
Sessional Acting Presidential Member	
Sessional Acting Presidential Member, ACAT	Paid at the daily rate of 1/230 of the rate paid to the President
Full-time Senior Member	
Full-time Senior Member, ACAT	$206,275 per annum
Part-time Non-Presidential Members	
Senior Member, ACAT	$1,155 per diem
Ordinary Member, ACAT	$540 per diem

3 Salary packaging

3.1 A person appointed to an office listed in clause 2.1 of this Determination may elect to take the remuneration outlined in clause 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 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.

3.4 Salary for superannuation purposes is not affected by salary packaging.

4 Allowances and entitlements

4.1 A person appointed to an office listed in column 1 of Table 4.1 of this Determination is entitled to the allowances and entitlements set out in the schedule mentioned in column 2 of Table 4.1.

TABLE 4.1

Column 1 **Office**	Column 2 **Schedule**
Presidential Members	
President, ACAT	Schedule 1
Full-time Presidential Member, ACAT	Schedule 1
Sessional Acting Presidential Member	
Sessional Acting Presidential Member, ACAT	Schedule 2
Full-time Senior Member	
Full-time Senior Member, ACAT	Schedule 1
Part-time Non-Presidential Members	
Senior Member, ACAT	Schedule 3
Ordinary Member, ACAT	Schedule 3

5 Employer's superannuation contribution

5.1 A person, appointed to an office in clause 2.1 of this Determination, is only eligible for the employer's superannuation contribution if their superannuation entitlements are not provided elsewhere.

5.2 For a person, appointed to an office in clause 2.1 of this Determination, 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 purposes 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.

5.3 For a person, appointed to an office in clause 2.1 of this Determination, 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 person appointed to an office in clause 2.1 of this Determination.

5.4 For a person, appointed to an office listed in clause 2.1 of this Determination, 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.

5.5 The employer provides an additional employer superannuation contribution. The additional employer superannuation contribution is the same rate provided under clause D7 in one of the following:

(a) the *ACT Public Sector Administrative and Related Classifications Enterprise Agreement 2018-2021* while it is in force; or

(b) the *ACT Public Sector Administrative and Related Classifications Enterprise Agreement 2021-2022* on its commencement.

5.6 In respect of a person, appointed to an office listed in clause 2.1 of this Determination, who is not a CSS or PSS member or appointed to or engaged by the Territory before 30 June 2006 and has maintained continuous employment with the Territory:

- for each pay period the person contributes 3% or more of their base remuneration to their nominated superannuation fund in the form of employee contributions (either in pre or post tax dollars), the Territory will contribute an additional 1% employer superannuation contribution pro-rata per pay above the

entitlement in clause 5.5, based on the person's gross fortnightly OTE (or other methods where prescribed by the nominated superannuation fund rules).

5.7 If the legislated minimum Superannuation Guarantee rate mentioned in clause 5.4 of this Determination is increased, it will be absorbed by the additional employer contribution provided in clause 5.5, but will not affect the entitlement in clause 5.6.

5.8 The value of the employer's superannuation contribution must not be paid in cash to a person appointed to an office listed in clause 2.1 of this Determination.

6 Travelling arrangements

6.1 In this clause:

home base means the town or city in which the traveller's principal place of residence is located.

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.

traveller means a person, listed under clause 2.1 of this Determination, who is travelling away from their home base for official purposes.

6.2 If a traveller is required to travel for official purposes, the employer must pay the cost of the transport and accommodation expenses outlined below. The reasonable amounts set out in the relevant Australian Taxation Office Determination[5] relating to meal and incidental expenses will be paid to the traveller as a reimbursement. These expenses are not to be paid to the traveller where their home base is within the ACT or surrounding districts and the travel for official purposes is within the ACT or surrounding districts.

6.3 All reasonable expenses incurred by a traveller can be reimbursed. It is the intention of these travel arrangements that no traveller who travels for official purposes should be out of pocket, however they must be reasonable expenses.

Travel

6.4 All official travel is to be appropriately authorised prior to travel and must not be authorised by the traveller under any circumstances. This includes all official travel paid for privately or by the Territory.

6.5 A traveller may travel by one or more of the following:

a) commercially provided road or rail transport;

b) commercially provided flights;

c) private motor vehicle.

6.6 Commercially provided travel should be selected on the basis of—

a) what is most convenient to the person; and

b) seeking the most reasonable costs.

6.7 If a traveller travels on commercially provided road or rail transport the employer will pay the fares for that travel.

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[5] Australian Taxation Office – Taxation Determination 2021/6 Income tax: what are the reasonable travel and overtime meal allowance expense amounts for the 2021-22 income year?

6.8 A traveller must use the Territory's travel manager, which has been procured through a competitive process, as a preferred provider of travel and related services. The travel manager has been instructed to book all travel at the lowest logical fare.

6.9 If a traveller 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; and

c) for international flights—business class.

6.10 If a traveller is approved 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 one of the following:

a) the *ACT Public Sector Administrative and Related Classifications Enterprise Agreement 2018-2021* while it is in force; or

b) the *ACT Public Sector Administrative and Related Classifications Enterprise Agreement 2021-2022* on its commencement.

Accommodation

6.11 It is standard practice that where an executive traveller must stay overnight while on official travel, the employer will pay the costs for commercial accommodation to the following standard:

a) for domestic accommodation—4.5 stars; and

b) for international accommodation—4.5 stars.

6.12 The employer will pay for a traveller to stay in commercial accommodation above the 4.5 star standard and the amounts set out in the relevant Australian Taxation Office Determinations 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 traveller to stay in the commercial accommodation where a meeting, conference or seminar they are attending is being held;
- to allow a traveller who is traveling with a Minister to stay in the same commercial accommodation as the Minister, if the Minister is entitled to a higher standard of accommodation.

Meals

6.13 If a traveller is absent from their home base for more than ten hours while on official travel, the employer will reimburse actual, reasonable expenses for meals up to the amounts set out in the relevant Australian Taxation Office Determinations.

Incidental expenses

6.14 The employer will reimburse all reasonable expenses and legitimate expenses directly related to official travel up to the amounts set out in the relevant Australian Taxation Office Determinations, including:

a) taxi, ridesharing service (such as uber) or bus fares to or from an airport; and

b) taxi, ridesharing service (such as uber) and public transport costs at a temporary location; and

c) airport taxes or charges.

Frequent Flyer points

6.15 Frequent flyer points cannot be accrued or used by a traveller as a result of travel and accommodation paid for by the employer for official travel.

7 Incidental travel in conjunction with official travel

7.1 Authorised travellers wishing to take personal leave during, or at the conclusion of official travel should obtain the appropriate prior approval consistent with the agreed travel arrangements.

7.2 Travellers may combine incidental personal travel with official travel, provided there is no additional cost to the Territory. Expenses incurred during leave are at the traveller's own cost. If the period of such incidental travel is greater than 40% of the period of official travel, a pro rata contribution must be made to the overall cost of the travel.

7.3 If insurance has been obtained for official travel at official expense, such insurance must not cover the traveller for the duration of the personal leave.

8 Travel insurance

8.1 Travel insurance decisions should be based on risk management principles and include factors such as the nature and destination of the trip.

8.2 International travel will normally require travel insurance.

8.3 If necessary, the cost of travel insurance will be met as a reasonable work related expense by the Territory.

8.4 All legitimate and reasonable work related claims will be covered by the Territory.

9 Definitions

9.1 In this Determination:

ACAT means the ACT Civil and Administrative Tribunal.

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.

domestic travel means official travel to a destination within Australia.

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*.

home base means the town or city in which the traveller's principal place of residence is located.

international travel means official travel to a destination outside Australia.

PSS means the Public Sector Superannuation Scheme.

PSSap means the PSS Accumulation Plan.

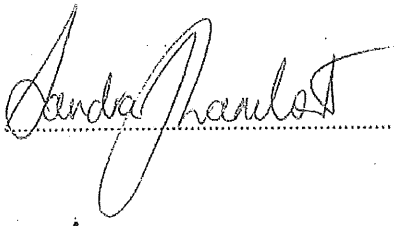
reasonable expenses means legitimate work-related expenses incurred while conducting official business efficiently and effectively.

traveller means a person, appointed under clause 2.1 of this Determination, who is travelling away from their home base for official purposes.

10 Revocation of previous Determination

10.1 Determination 9 of 2020 is revoked.

Ms Sandra Lambert AM
Chair



Mr Dale Boucher PSM
Member

December 2021

SCHEDULE 1—PRESIDENTIAL MEMBERS AND FULL-TIME SENIOR MEMBERS

11 Employer provided benefits

11.1 A Presidential Member and Full-time Senior Member is entitled to either the employer provided benefits mentioned below or the relevant cash payment in lieu of the benefit mentioned below.

11.2 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.

11.3 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.

12 Vehicle

12.1 A person appointed to an office, outlined below, is entitled to an executive vehicle and associated arrangements, including a parking space, in accordance with the same entitlements as a Senior Executive Service (SES) member under the *Public Sector Management Standards* and the *Guidelines for the Management and Use of Executive Vehicles*:

- President, ACAT: same arrangements as a Band 4 SES member;
- Full-time Presidential Members, ACAT: same arrangements as a Band 2 SES member;
- Full-time Senior Members, ACAT: same arrangements as a Band 1 SES member.

12.2 For the avoidance of doubt and despite anything to the contrary, the Remuneration Tribunal determines that Part 9.5 (Executive and Statutory Office-Holder vehicle entitlements) of the *Public Sector Management Standards 2006* (repealed) applies to the offices specified in clause 2.1 of this Determination.

12.3 In relation to the full-time Presidential Members and the full-time Senior Member, any references to the Head of Service or Director-General in these specific sections should be read as the President.

12.4 In relation to the President, any references to the Head of Service or Director-General in these specific sections should be read as the Attorney-General.

Fringe benefit tax – vehicle

12.5 The employer incurs fringe benefits tax liabilities for vehicles provided to their employees. Fringe benefits tax is determined and calculated under the *Fringe Benefits Tax Assessment Act 1986*. For the purposes of this section, the fringe benefit tax year commences 1 April of a year to 31 March of the following year.

12.6 During the fringe benefits year, where the person appointed to the office mentioned in clause 2.1 elects to receive an employer-provided vehicle instead of a payment, if the employer's liability in relation to the office holder's vehicle provided by the

employer for the fringe benefits tax year is less than $7,500, the difference is payable to the statutory office holder as an allowance at the end of the fringe benefits tax year.

12.7 To avoid doubt, if the assessed liability for fringe benefits tax exceeds the $7,500 threshold, the office holder will not be required to pay any component in excess of the $7,500.

12.8 During the fringe benefits tax year, where the office holder elects to receive a payment instead of an employer provided vehicle, the amount of $7,500 per annum is paid as an allowance to the office holder on a fortnightly basis.

12.9 The fringe benefits tax allowance of $7,500 under clause 12.8 is reduced proportionally where the officer holder is engaged for less than a full fringe benefits tax year.

13 Relocation allowance

13.1 In this clause, ***ACT*** means the Australian Capital Territory and its surrounding district, including Queanbeyan.

13.2 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 an appointment as a statutory office holder.

13.3 If a Presidential Member or Full-time Senior Member relocates because of this appointment, the person is entitled to be reimbursed up to the maximum relocation allowance of $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;

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.

13.4 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 the maximum relocation allowance.

13.5 If a Presidential Member or Full-time Senior Member 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 Presidential Member or Full-time Senior Member; and

d) the expected total relocation expenses of the Presidential Member or Full-time Senior Member; and

e) the level of assistance the Presidential Member considers should be provided; and

f) any other relevant information.

13.6 If a Presidential Member or a Full-time Senior Member terminates their employment with the Territory within twelve months of the date of their appointment, the person may be required to repay the following amount:

a) If the person terminates employment within six months from the date of their appointment – 100% of the amount reimbursed under clause 13.3;

b) If the person terminates employment more than six months and less than twelve months from the date of their appointment – 50% of the amount reimbursed under clause 13.3.

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

14 Leave

14.1 A Presidential Member or Full-time Senior Member is eligible for leave as set out in the *ACT Public Sector Administrative and Related Classifications Enterprise Agreement 2018 – 2021*, or its replacement.

14.2 In relation to the full-time Presidential Members and the full-time Senior Member, any reference to the Head of Service in the Enterprise Agreement should be read as the President, ACAT.

14.3 In relation to the President, any reference to the Head of Service in the Enterprise Agreement should be read as the Attorney-General.

15 Other entitlements for the Full-time Senior Members

15.1 The following provisions of the *Public Sector Management Standards 2006 (repealed)* apply to a Full-time Senior Member:

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 9.4 (statutory office-holder financial entitlements); and

e) part 9.6 (executive employee and statutory office-holder leave and other entitlements).

Note: the above provisions of the Public Sector Management Standards 2006 (repealed) already apply to Presidential Members by virtue of section 115 of the Public Sector Management Standards 2016. This determination will prevail in relation to Full-time Senior Members to the extent of any inconsistency.

SCHEDULE 2—SESSIONAL ACTING PRESIDENTIAL MEMBERS

16 Conditions of payment of daily fees

16.1 When Sessional Acting Presidential Members are acting for the President, they are paid at the daily rate of 1/230 of the rate paid to the President.

16.2 When Sessional Acting Presidential Members are acting for a Presidential Member, they must be paid the percentage of the daily fee set out in column 3 of Table 15 if they undertake the corresponding type of work for the number of hours set out in columns 2 and 1 respectively.

TABLE 15

Column 1 **Hours worked in one day**	Column 2 **Type of work**	Column 3 **Percentage of daily fee**	Column 4 **Calculation Rate**
5 hours or more, comprised of periods each at least 1 hour long.	• ACAT business on a day when there is no formal meeting.	100%	1/230
3 hours or more, in a single period	• Formal meetings; and/or • ACAT business	100%	1/230
Between 2 and 3 hours in a single period	• Formal meetings; or • Formal meetings and ACAT business	60%	1/230 x 60%
Less than 2 hours, in a single period	• Formal meetings; or • Formal meetings and ACAT business	40%	1/230 x 40%

16.3 The maximum payment that a Sessional Acting Presidential Member can receive for one day is 100% of the daily fee.

16.4 The hours to be worked for ACAT business (if any) will be at the President's discretion having regard to the type of proceedings and their complexity.

16.5 For each day a daily fee is paid, the President must certify the hours worked including reasonable travelling time of the Sessional Acting Presidential Member from the home base. Reasonable travel time on a day away from the home base is capped at 1.5 hours for other than exceptional circumstances.

16.6 In this clause:

ACAT business means any ACAT business conducted by or on behalf of the ACAT (such as approved training) or undertaken by an Acting Presidential Member of ACAT other

than attendance at a formal meeting (such as preparing for a formal meeting and preparing reasons for decision) with approval by the President.

Formal meeting means any hearing, conference or mediation conducted by an Acting Presidential Member of ACAT with approval by the President.

SCHEDULE 3—PART-TIME NON-PRESIDENTIAL MEMBERS (Senior Members, Ordinary Members)

17 Conditions of payment of daily fees

17.1 A part-time non-Presidential Member must be paid the percentage of the daily fee referred in Table 2.1, as set out in column 3 of Table 16 if the person undertakes the corresponding type of work for the number of hours set out in columns 2 and 1 respectively.

TABLE 16

Column 1 **Hours worked in one day**	Column 2 **Type of work**	Column 3 **Percentage of daily fee**
5 hours or more, comprised of periods each at least 1 hour long	• ACAT business on a day when there is no formal meeting	100%
3 hours or more, in a single period	• formal meetings; and/or • ACAT business	100%
between 2 and 3 hours, in a single period	• formal meetings; or • formal meetings and ACAT business	60%
less than 2 hours, in a single period	• formal meetings; or • formal meetings and ACAT business	40%

17.2 The maximum payment that a part-time non-Presidential Member can receive for one day is 100% of the daily fee.

17.3 The hours to be worked for ACAT business (if any) will be at the President's discretion having regard to the type of proceedings and their complexity.

17.4 For each day a daily fee is paid, the President must certify the hours worked including reasonable travelling time of the part-time, non-Presidential Member from the home base. Reasonable travel time on a day away from the home base is capped at 1.5 hours for other than exceptional circumstances.

17.5 In this clause:

ACAT business means any ACAT business conducted by or on behalf of the ACAT (such as approved training) or undertaken by a part-time, non-Presidential Member of ACAT other than attendance at a formal meeting (such as preparing for a formal meeting and preparing reasons for decision) with approval by the President.

Formal meeting means any hearing, conference or mediation conducted by a part-time non-Presidential Member of ACAT with approval by the President.

18 Additional payment – Senior Members and Ordinary Members acting as Presiding Members

18.1 If a tribunal has two or more members, an additional payment of 10% of the daily fee is payable to any member who is the presiding member.

18.2 The additional payment applies to all hours worked, including preparation time, the hearing and any post hearing work.