



Australian Capital Territory Remuneration Tribunal

ACT Civil and Administrative Tribunal

Amended Determination 11 of 2016

made under the

Remuneration Tribunal Act 1995

SUPPLEMENTARY 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 the ACT Civil and Administrative Tribunal (ACAT) Presidential Members and non-Presidential Members, other than Assessors.

Previous determination: Determination 16 of 2015 (Amended) (commenced 1 January 2016)

The Tribunal determined the remuneration for the following roles commencing on 1 January 2016: General President, Full-time Presidential Member, Half-time Presidential Member, Acting Presidential Member, Full-time Senior Member, Senior Member, Ordinary Member.

Considerations for the 2016 review

The Tribunal's 2016 review of remuneration and entitlements for ACAT was advertised in August 2016. Meetings of the Tribunal were held in November 2016, and this determination sets out the Tribunal's decisions following the review.

In conducting its review, the Tribunal considered an oral and written submission from the General President. The Tribunal was mindful of the economic and financial considerations facing the ACT and as outlined by the Chief Minister in his government submission.

ACT Treasury provided a comprehensive briefing to the Tribunal on the prevailing economic circumstances for 2016 and forecasts for the coming years.

The Tribunal also noted:

- the Australian Government Remuneration Tribunal expects to finalise its annual review into judicial positions by the end of 2016;
- the submission provided by the General President, Ms Linda Crebbin; and
- information provided by officials of the Justice and Community Safety Directorate.

Decision

The Tribunal determined the salary for the following positions:

- General President is \$344,084 per annum;
- Full-time Presidential Member is \$258,063 per annum;
- Part-time Presidential Member is \$172,042 per annum;
- Full-time Senior Member is \$161,528 per annum.

Senior Member and Ordinary Member

During the review it was brought to the Tribunal's attention that adjustments had not been made to the per diem rate for Senior Members and Ordinary Members for a period of time.

The Tribunal noted the per diem rate for the abovementioned positions was set in 2009, and only the rate for the Senior Member was adjusted later in that year. One further adjustment was made in 2012 for both positions, and no further adjustments have been made since then.

Accordingly, the position of Senior Member has been adjusted to receive \$1040 per diem, and the position of Ordinary Member has been adjusted to receive \$480 per diem (both adjustments also received a 2.5% increase).

Amendments to Determination 11 of 2016

The Tribunal was advised of discrepancies in nomenclature.

Determination 11 of 2016 has been amended to update the title of 'General President' to 'President' to reflect legislative amendments.

ACT Remuneration Tribunal
March 2017



Australian Capital Territory Remuneration Tribunal

ACT Civil and Administrative Tribunal Amended Determination 11 of 2016

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Remuneration Tribunal Act 1995

1 Commencement

1.1 This instrument commenced on 1 November 2016.

2 Remuneration

2.1 A person appointed on or after 1 January 2016 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
President, ACAT	\$344,084 per annum
Full-time Presidential Member, ACAT	\$258,063 per annum
Part-time Presidential Member, ACAT	\$172,042 per annum
Acting Presidential Member, ACAT	At the rate applicable to the presidential member they are acting for, paid pro rata
Full-time Senior Member, ACAT	\$161,528 per annum
Senior Member, ACAT	\$1040 per diem
Ordinary Member, ACAT	\$480 per diem

2.2 A person appointed prior to 1 January 2016 to an office listed in column 1 of Table 2.1 is entitled to the salary that they were entitled to on 31 December 2015 or the salary provided under column 2 of Table 2.1, whichever is the greater.

3 Salary packaging

- 3.1 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**).
- 3.2 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 like 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 Member 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
President, ACAT	Schedule 1
Full-time Presidential Member, ACAT	Schedule 1
Half-time Presidential Member, ACAT	Schedule 1
Acting Presidential Member, ACAT	Schedule 4
Full-time Senior Member, ACAT	Schedule 2
Senior Member, ACAT	Schedule 3
Ordinary Member, ACAT	Schedule 3

- 4.2 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.

5 Travelling Allowance

- 5.1 If a Member is required to travel for official purposes, the employer must pay the cost of—
- travel; and
 - accommodation; and
 - meals; and
 - incidental expenses.

Travel

- 5.2 A Member may travel by one or more of the following:
- a) commercially provided road or rail transport;
 - b) commercially provided flights;
 - c) private motor vehicle.
- 5.3 Commercially provided travel should be selected on the basis of—
- a) what is most convenient to the Member; and
 - b) seeking the most reasonable costs.
- 5.4 If a Member travels on commercially provided road or rail transport the employer will pay the fares for that travel.
- 5.5 If a Member 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.
- 5.6 If a Member 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 the Administrative and Related Classifications Enterprise Agreement 2013-2017.

Accommodation

- 5.7 If a Member must stay overnight while on official travel, the employer will pay the costs for commercial accommodation to the following default standard:
- a) for domestic accommodation—4.5 stars; and
 - b) for international accommodation—4.5 stars.
- 5.8 The employer will pay for a Member to stay in commercial accommodation above the default standard if—
- a) the cost is reasonable; and
 - b) to do so would better enable business objectives to be met.

Example where business objectives may be better met:

- to allow a Member to stay in the commercial accommodation where a meeting, conference or seminar they are attending is being held

Meals

- 5.9 If a Member is absent from Canberra for more than ten hours while on official travel, the employer will reimburse actual, reasonable expenses for meals.

Incidental expenses

- 5.10 The employer will 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

- 5.11 Frequent flyer points accrued by a Member as a result of travel and accommodation paid for by the employer may only be used for further official travel.
- 5.12 Frequent flyer points may not be used to upgrade the standard of air travel to a level above the Member's entitlement.

6 Definitions

- 6.1 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*.

international travel means official travel to a destination outside Australia.

PSS means the Public Sector Superannuation Scheme.

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

total remuneration package includes remuneration set out in Table 2.1, all employer provided benefits, and all allowances.

7 Revocation of previous Determinations

- 7.1 Determination 16 of 2015 (Amended) is revoked.

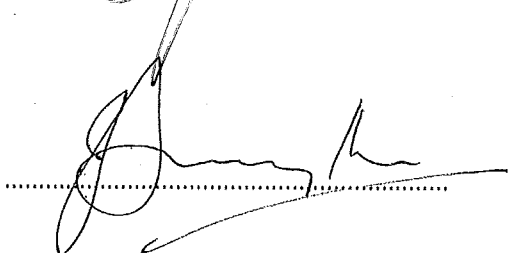
Anne Cahill Lambert AM
Chair



Dr Colin Adrian
Member



James Smythe, PSM
Member



March 2017

SCHEDULE 1—PRESIDENTIAL MEMBERS

8 Employer provided benefits

- 8.1 A Presidential Member is entitled to either the employer provided benefits mentioned in column 1 of Table 8.1 or the relevant cash payment in lieu of the benefit mentioned in column 2 of Table 8.1.

TABLE 8.1

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 <i>Public Sector Management Standards 2006</i>
parking space	under the <i>Public Sector Management Standards 2006</i>
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

- 8.2 A Presidential Member is only eligible for the employer's superannuation contribution if their superannuation entitlements are not provided elsewhere.
- 8.3 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.
- 8.4 A Presidential Member who is a member of the CSS or PSS—
- 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
 - 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.
- 8.5 If a Presidential Member 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—
- the value of the employer's superannuation contribution is 16% of the remuneration component; and
 - the employer will contribute an amount equal to this on behalf of the Presidential Member to an agreed superannuation fund nominated by the Presidential Member.

- 8.6 The value of the employer's superannuation contribution must not be paid in cash to a Presidential Member.

Fringe benefit tax

- 8.7 The fringe benefits tax payable to a Presidential Member 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*.
- 8.8 The executive vehicle and employer's superannuation contribution set out in the *Public Sector Management Standards 2006* are considered for calculating fringe benefits tax.
- 8.9 If the liability for fringe benefits tax exceeds \$7,000 a Presidential Member will not be required to pay the excess to the employer.
- 8.10 Fringe benefits tax is reduced proportionally if the Presidential Member is appointed for less than a financial year.

9 Relocation allowance

- 9.1 In this clause:

ACT includes the surrounding district, including Queanbeyan.

relocation means from a residence outside the ACT to a residence in the ACT.

- 9.2 Relocation allowance is provided to assist an individual with relocation.
- 9.3 Relocation allowance will not cover the total cost of relocation in all circumstances.
- 9.4 The maximum relocation allowance is \$49,790.
- 9.5 If a person relocates because of appointment as a Presidential Member, 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 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.
- 9.6 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.
- 9.7 If a Presidential 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; and
 - d) the expected total relocation expenses of the Presidential Member; and
 - e) the level of assistance the Presidential Member considers should be provided; and
 - f) any other relevant information.
- 9.8 Relocation allowance does not apply to any expenses incurred at the conclusion of employment.

10 Leave

- 10.1 A Presidential Member is eligible for leave as set out in the ACT Public Service Administrative and Related Classifications Enterprise Agreement 2013 – 2017, as if a reference to the head of service in that Enterprise Agreement was a reference to the President, ACAT.

SCHEDULE 2—FULL-TIME SENIOR MEMBERS

11 Employer's superannuation contribution

- 11.1 A full-time Senior Member is only eligible for the employer's superannuation contribution if their superannuation entitlements are not provided elsewhere.
- 11.2 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.
- 11.3 A full-time Senior Member 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.
- 11.4 If a full-time Senior Member 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 Senior Member to an agreed superannuation fund nominated by the full-time Senior Member.
- 11.5 The value of the employer's superannuation contribution must not be paid in cash to a full-time Senior Member.

12 Leave

- 12.1 A full-time Senior Member is eligible for leave as set out in the ACT Public Service Administrative and Related Classifications Enterprise Agreement 2013 – 2017, as if a reference to the head of service in that Enterprise Agreement was a reference to the President, ACAT.

13 Employer provided benefits

- 13.1 A full-time Senior Member is entitled to either the employer provided benefits mentioned in column 1 of Table 12.1 or the relevant cash payment in lieu of the benefit mentioned in column 2 of Table 12.1.

TABLE 12.1

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 <u>Public Sector Management Standards 2006</u>
parking space	under the <u>Public Sector Management Standards 2006</u>
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.

14 Fringe benefit tax

- 14.1 The fringe benefits tax payable to a full-time Senior Member 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*.
- 14.2 The executive vehicle and employer's superannuation contribution set out in the *Public Sector Management Standards 2006* are considered for calculating fringe benefits tax.
- 14.3 If the liability for fringe benefits tax exceeds \$7,000 a full-time Senior Member will not be required to pay the excess to the employer.
- 14.4 Fringe benefits tax is reduced proportionally if a full-time Senior Member is appointed for less than a financial year.

15 Relocation allowance

- 15.1 In this clause:
ACT includes the surrounding district, including Queanbeyan.
relocation means from a residence outside the ACT to a residence in the ACT.
- 15.2 Relocation allowance is provided to assist an individual with relocation.
- 15.3 Relocation allowance will not cover the total cost of relocation in all circumstances.
- 15.4 The maximum relocation allowance is \$49,790.
- 15.5 If a person relocates because of appointment as a full-time Senior Member, the person is entitled to be reimbursed up to the maximum relocation allowance, for receipted, reasonable costs of the following:
- packing personal effects and furniture belonging to the person and their family;
 - necessary storage of personal effects and furniture;
 - removal costs and associated insurance of personal effects and furniture;
 - 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.
- 15.6 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.
- 15.7 If a 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 full-time Senior Member; and
 - d) the expected total relocation expenses of the Presidential Member; and
 - e) the level of assistance the full-time Senior Member considers should be provided; and
 - f) any other relevant information.
- 15.8 Relocation allowance does not apply to any expenses incurred at the conclusion of employment.

SCHEDULE 3—PART-TIME NON-PRESIDENTIAL MEMBERS

16 Conditions of payment of daily fees

- 16.1 A part-time non-Presidential Member must be paid the percentage of the daily fee set out in column 3 of Table 12.1 if the Member undertakes the corresponding type of work for the number of hours set out in columns 2 and 1 respectively.

TABLE 12.1

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	<ul style="list-style-type: none"> • ACAT business on a day when there is no formal meeting 	100%
3 hours or more, in a single period	<ul style="list-style-type: none"> • formal meetings; and/or • ACAT business 	100%
between 2 and 3 hours, in a single period	<ul style="list-style-type: none"> • formal meetings; or • formal meetings and ACAT business 	60%
less than 2 hours, in a single period	<ul style="list-style-type: none"> • formal meetings 	40%

- 16.2 The maximum payment that a part-time non-Presidential Member can receive for one day is 100% of the daily fee.
- 16.3 The daily fee for a formal meeting includes a component to cover normal preparation time, however, if the relevant full-time Presidential Member considers it appropriate that a period of preparation time beyond this warrants recognition, the relevant full-time Presidential Member may determine that payment in accordance with the scheduled fee is be payable for such periods as if it was ACAT business.
- 16.4 For each day a daily fee is paid the relevant full-time Presidential Member must certify the hours worked including reasonable travelling time of the part-time, non-Presidential Member.
- 16.5 In this clause:
- ACAT business** means any approved ACAT business conducted by a part-time, non-Presidential Member of ACAT other than attendance at a formal meeting.
- relevant full-time Presidential Member** means the President for general matters and the Appeals President for appeal matters.

17 Additional payment – presiding members

- 17.1 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.
- 17.2 The additional payment applies to all hours worked, including preparation time, the hearing and any post hearing work.

SCHEDULE 4—ACTING PRESIDENTIAL MEMBERS

18 Employer's superannuation contribution

- 18.1 An Acting Presidential Member is only eligible for the employer's superannuation contribution if their superannuation entitlements are not provided elsewhere.
- 18.2 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.
- 18.3 An Acting Presidential Member 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.
- 18.4 If an Acting Presidential Member 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 Acting Presidential Member to an agreed superannuation fund nominated by the Acting Presidential Member.
- 18.5 The value of the employer's superannuation contribution must not be paid in cash to an Acting Presidential Member.