



Australian Capital Territory Remuneration Tribunal

## Determination 2 of 2021

### 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

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

In April 2021, the Tribunal commenced its Autumn Sitting to consider the remuneration, allowances and other entitlements of the following position holders:

- Members of the Legislative Assembly (including the Chief Minister, Deputy Chief Minister, and other Ministers and Members of the Legislative Assembly holding particular offices);
- the Head of Service, Directors-General and ACT Public Service Executives; and
- Full-time Statutory Office Holders, referred to in Section 10(1) of the *Remuneration Tribunal Act 1995*, including the Clerk of the Legislative Assembly, the Auditor-General and Electoral Commissioner.

The Tribunal advertised its Autumn Sitting on its website and in the Canberra Times on Saturday 20 February 2021. The Tribunal also wrote to the relevant position holders requesting submissions.

At its meeting in April 2021, the Tribunal met with the Chief Minister, ACT Government Treasury officials and officials responsible for the Enterprise Agreement bargaining for ACT Public Sector non-executive employees. The Tribunal reconvened for additional

briefings from Treasury officials in June and July 2021, in particular to pay further attention to the economic circumstances of the Territory.

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

The Tribunal balanced this consideration with the importance of the Territory providing competitive and equitable remuneration, allowances and other entitlements so that it can continue to attract and retain high calibre individuals to deliver high quality services to the ACT community. In this context, the Tribunal noted the wage policies and recent remuneration determinations by its Commonwealth and State/Territory counterparts<sup>1</sup>.

The pay increases that were provided to the ACT Public Sector non-executive workforce during 2020 and 2021 under the Enterprise Agreements were also considered by the Tribunal. An outcome of the Tribunal's *Major Review into the ACT Public Service Senior Executive Service remuneration, allowances and other entitlements in 2019*, was a commitment to continuing to monitor the relativities between executive salaries and the salaries for non-executives in particular to avoid any further lag to these relativities.

The Tribunal had regard to the 2020-21 ACT Budget that was released in February 2021 by the Chief Minister which predicted growth in 2021-22 of 1.75 per cent in WPI and 1.25 per cent in CPI<sup>2</sup>.

The Australian Bureau of Statistics released the Consumer Price Index June Quarter 2021 on 28 July 2021 which included an increase of 0.8 per cent to the ACT during the June quarter, with a 4.8 per cent increase over the year (June 2020 to June 2021)<sup>3</sup>. Notwithstanding this, the Tribunal notes the national trimmed mean inflation was 1.6 per cent over the year<sup>4</sup>.

The Tribunal considered the statements from the Governor of the Reserve Bank of Australia released during April 2021 and July 2021 and noted his views concerning the importance of increasing wages to stimulate consumption.

The Tribunal also noted the outcome of the Annual Wage Review of the Fair Work Commission<sup>5</sup> released in June 2021.

---

<sup>1</sup> Executive pay increases in the Australian Public Service are being capped in line with the Private Sector WPI of 1.7 per cent according to the Public Sector Workplace Relations Policy 2020 from the most recently released June quarter, see Australian Bureau of Statistics, Wage Price Index (June 2020), <https://www.abs.gov.au/statistics/economy/price-indexes-and-inflation/wage-price-index-australia/jun-2020#main-features>

<sup>2</sup> ACT Budget 2020-21, Chapter 1, Overview, Table 1.2.1 Economic Parameters, 2020-21 Budget, baseline forecasts, percentage change, p.11

<sup>3</sup> Australian Bureau of Statistics, Consumer Price Index (July 2021), <https://www.abs.gov.au/statistics/economy/price-indexes-and-inflation/consumer-price-index-australia/jun-2021>

<sup>4</sup> The trimmed mean is designed to remove large, one-off price impacts. Australian Bureau of Statistics Media Release: CPI rose 0.8% in the June 2021 quarter (28 July 2021), <https://www.abs.gov.au/media-centre/media-releases/cpi-rose-08-june-2021-quarter>

<sup>5</sup> The Fair Work Commission announced a 2.5% increase to the national minimum wage and all award wages, see Annual Wage Review 2021, <https://www.fairwork.gov.au/about-us/news-and-media-releases/website-news/annual-wage-review-2021>

**Decision**

The Tribunal has taken a later decision than usual due to the ongoing uncertainty created by both the COVID-19 pandemic and its potential impact on the economic situation of the Territory. The Tribunal acknowledges that there continues to be uncertainty due to the outbreak of the COVID-19 Delta variant. However, the Tribunal believes that it would not be prudent to delay further its decision on the remuneration of the position holders covered by this Determination.

Given the reasons outlined above, the Tribunal has decided to provide an increase of 1.8 per cent to the remuneration of position holders covered by this Determination. The increase is taken to have commenced on 1 July 2021.

August 2021



## Australian Capital Territory Remuneration Tribunal

# Determination 2 of 2021

## Head of Service, Directors-General and Executives

made under the

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

---

### 1 Commencement

1.1 This instrument is taken to have commenced on 1 July 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.

**TABLE 2.1**

Column 1 <b>Executive classification level</b>	Column 2 <b>Remuneration</b>
Level 1.1	\$158,818
Level 1.2	\$172,249
Level 1.3	\$185,671
Level 1.4	\$199,039
Level 2.1	\$212,527
Level 2.2	\$231,249
Level 2.3	\$249,963
Level 2.4	\$268,758
Level 3.1	\$287,561
Level 3.2	\$299,098
Level 3.3	\$310,970
Level 3.4	\$322,663
Level 4.1	\$334,258
Level 4.2	\$343,922
Level 4.3	\$356,325
Level 4.4 (Head of Service)	\$388,391

- 2.2 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.
- 2.3 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**

- 4.4 An executive is entitled to a vehicle and associated arrangements, including a parking space in accordance with the *Public Sector Management Standards 2016* and the *Guidelines for the Management and Use of Executive Vehicles*.

#### **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* (which at the commencement of this Determination is 9.5%).
- 4.9 The employer provides an additional employer superannuation contribution. The additional employer superannuation contribution is the same rate provided under clause D7 of the ACT Public Sector Administrative and Related Classifications Enterprise Agreement 2018-2021, as follows:
- (a) From 1 July 2019: 1.50%.
  - (b) From 1 July 2020: 2%.
- 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.

#### **Fringe benefit tax – vehicle**

- 4.12 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 benefits tax year is 1 April of a year to 31 March of the following year.
- 4.13 During the fringe benefits tax year, where the executive elects to receive an employer-provided vehicle instead of a payment, if the employer's liability in relation to the executive's vehicle provided by the employer for the fringe benefits tax year is less than \$7,500, the difference is payable to the executive as an allowance at the end of the fringe benefits tax year.

- 4.14 To avoid doubt, if the assessed liability for fringe benefits tax exceeds the \$7,500 threshold, the executive will not be required to pay any component in excess of the \$7,500.
- 4.15 During the fringe benefits tax year, where the executive 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 executive on a fortnightly basis.
- 4.16 The fringe benefits tax allowance of \$7,500 under clause 4.13 is reduced proportionally where the executive is engaged for less than a full fringe benefits tax year.

## **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

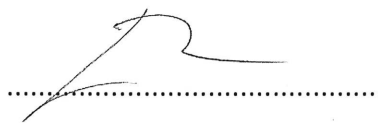
8.1 Determination 2 of 2020 is revoked.



Ms Sandra Lambert AM  
Chair

A handwritten signature in cursive script, reading "Sandra Lambert", written over a horizontal dotted line.

Dr James Popple  
Member

A handwritten signature in cursive script, reading "Dr James Popple", written over a horizontal dotted line.

Mr Dale Boucher PSM  
Member

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

August 2021