



Australian Capital Territory Remuneration Tribunal

Determination 9 of 2018

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 Review is continuing with a number of issues, including travel entitlements to be further examined during 2018. A final report is expected by the end of the year.

The Government has advised the Tribunal that a new executive classification structure will commence from 1 July 2018. The new executive classification structure is being introduced through amendments to the *Public Sector Management Standards 2016*.

A new four band 16 point executive classification structure is being introduced from 1 July 2018. As part of implementing the new structure, the Tribunal is required to set remuneration for four new levels 1.1, 2.1, 3.1 and 4.1 as well as translate the existing remuneration from Determination 3 of 2018 to the new executive structure. The remuneration has been translated into the new structure as outlined in Table 2.1 of this Determination.

Decision

The Tribunal has set remuneration for the new executive structure from 1 July 2018 as outlined in this Determination.

29 June 2018



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1 Commencement

1.1 This instrument commences on 1 July 2018.

2 Remuneration

2.1 Column 1 in Table 2.1 shows the equivalent levels between the old and new executive structure as outlined in the *Public Sector Management Standards 2016*. A person engaged at the new executive classification level listed in column 2 of Table 2.1 is entitled to the remuneration mentioned in column 3 of Table 2.1.

TABLE 2.1

Column 1 Old Executive classification level	Column 2 New Executive classification level	Column 3 Remuneration
Level 3.12 (Head of Service)	Level 4.4 (Head of Service)	\$364,398
Level 3.11	Level 4.3	\$337,862
Level 3.10	Level 4.2	\$320,228
-	Level 4.1	\$313,608
Level 3.9	Level 3.4	\$304,474
Level 3.8	Level 3.3	\$288,726
Level 3.7	Level 3.2	\$273,057
-	Level 3.1	\$269,796
Level 2.6	Level 2.4	\$263,216
Level 2.5	Level 2.3	\$225,891
Level 2.4	Level 2.2	\$210,138
-	Level 2.1	\$199,397
Level 1.3	Level 1.4	\$184,627
Level 1.2	Level 1.3	\$168,878
Level 1.1	Level 1.2	\$153,125
-	Level 1.1	\$149,007

- 2.2 If a person engaged at a level listed in column 2 of Table 2.1 is also engaged in or appointed to another office, which is not a second job under the *Public Sector Management Act 1994*, the person must only receive remuneration for the office that has the highest remuneration.

3 Salary packaging

- 3.1 An executive may elect to take the remuneration mentioned in column 3 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.

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

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

Vehicle

- 4.2 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

- 4.3 An executive is only eligible for the employer's superannuation contribution if their superannuation entitlements are not provided elsewhere.
- 4.4 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.
- 4.5 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.
- 4.6 For an executive who is a member of any other superannuation fund, the employer's superannuation contribution is to be made at a rate no less than the Employer Superannuation Guarantee Charge Percentage as provided by the *Superannuation Guarantee (Administration) Act 1992*.
- 4.7 For 2016-17 onwards, the Territory's enhanced minimum employer superannuation contribution is 10.5%, as amended from time to time.
- 4.8 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.
- 4.9 The value of the employer's superannuation contribution must not be paid in cash to an executive.

Fringe benefit tax

- 4.10 The fringe benefits tax payable by the employer to the Australian Taxation Office 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*.
- 4.11 The executive vehicle and employer's superannuation contribution set out in the *Public Sector Management Standards 2016* are considered for calculating fringe benefits tax.
- 4.12 A provisional amount of \$7,000 is available to cover the cost of any fringe benefit tax for a vehicle or parking space. If the liability for fringe benefits tax is less than \$7,000, the excess is payable to the executive. If the liability for fringe benefits tax exceeds \$7,000, the executive will not be required to pay the excess to the employer. Any unused fringe benefit tax allowance paid to an executive will be subject to tax, if paid as remuneration.
- 4.13 The provisional amount of \$7,000 in fringe benefits tax is reduced proportionally if the executive is engaged for less than a fringe benefit year.

5 Relocation allowance

- 5.1 In this clause:
ACT includes the surrounding district, including Queanbeyan.
relocation means from a residence outside the ACT to a residence in the ACT.
- 5.2 Relocation allowance is provided to assist an individual with relocation.
- 5.3 Relocation allowance will not cover the total cost of relocation in all circumstances.

- 5.4 The maximum relocation allowance is \$51,533.
- 5.5 If a person relocates because of an engagement as an executive, 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 (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.
- 5.6 The maximum relocation allowance may be exceeded 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.
- 5.7 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.
- 5.8 Relocation allowance does not apply to any expenses incurred at the conclusion of employment.

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).

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*.

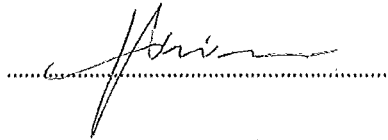
PSS means the Public Sector Superannuation Scheme.

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

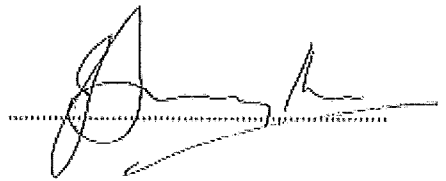
8 Revocation of previous Determination

8.1 Determination 3 of 2018 is revoked.

Dr Colin Adrian
Chair



Mr James Smythe PSM
Member



Ms Sandra Lambert AM
Member



29 June 2018