



Australian Capital Territory Remuneration Tribunal

Determination 2 of 2020

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

At its meeting on 18 and 19 March 2020, the Tribunal noted the exceptional and unprecedented circumstances being faced by Australia as a result of the COVID-19 pandemic and decided not to make any adjustments to remuneration, allowances or other entitlements for office holder considered at the 2020 Autumn Sitting until there was more clarity about the ACT Budget position and the wider economic context.

Matters considered by the Tribunal since this time, include the receipt by the Tribunal of a letter from the Chief Minister strongly requesting the Tribunal to determine a pause to any proposed pay rises during the COVID-19 pandemic and the period of immediate economic and community recovery following. The Chief Minister recommended that the Tribunal reconsider its Autumn determinations to reflect the government's commitment to support the ACT community during the current health emergency. The Tribunal noted that this corresponded with its earlier decision.

The Tribunal met again on 17 August 2020 and 2 September 2020 and received a further comprehensive briefing from the Chief Minister and ACT Government Treasury officials. The Tribunal considered the Chief Minister's 'Ministerial Statement August 2020 Economic and Fiscal Update' presented to the Legislative Assembly on 27 August 2020, which reinforced the significant downturn of the Territory's economic circumstances.

While the Tribunal had regard to the determinations by its Commonwealth and State/Territory counterparts, its decision was particularly taken in the context of the ACT's economic circumstances.

Given the current COVID-19 pandemic, the impact on the economic conditions and community expectations, the Tribunal has determined that no adjustments should be made to the remuneration, allowances and other entitlements of position holders in its jurisdiction at this time.

The Tribunal will continue to monitor conditions in the ACT closely and will make appropriate decisions when the Territory's economic and fiscal circumstances are known next year.

Decision

The Tribunal has decided to determine no adjustment to remuneration, allowances or entitlements for the position holders covered by this Determination for 2020.

September 2020



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1 Commencement

1.1 This instrument is taken to have commenced on 1 July 2020.

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 Executive classification level	Column 2 Remuneration
Level 1.1	\$156,010
Level 1.2	\$169,203
Level 1.3	\$182,388
Level 1.4	\$195,520
Level 2.1	\$208,769
Level 2.2	\$227,160
Level 2.3	\$245,543
Level 2.4	\$264,006
Level 3.1	\$282,476
Level 3.2	\$293,809
Level 3.3	\$305,472
Level 3.4	\$316,958
Level 4.1	\$328,348
Level 4.2	\$337,841
Level 4.3	\$350,025
Level 4.4 (Head of Service)	\$381,524

- 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:
- 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
 - 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:
- 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
 - 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:
- From 1 July 2019: 1.50%.
 - 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 commences 1 April 2019 and ending on 31 March 2020.
- 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.

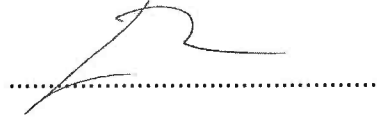
8 Revocation of previous Determination

8.1 Determination 2 of 2019 is revoked.

Ms Sandra Lambert AM
Chair

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Dr James Popple
Member

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

Mr Dale Boucher PSM
Member

A handwritten signature in cursive script, appearing to read "Dale Boucher", positioned above a horizontal dotted line.

September 2020