



Australian Capital Territory Remuneration Tribunal

Director of Public Prosecutions

Determination 10 of 2016

made under the
Remuneration Tribunal Act 1995

ACCOMPANYING STATEMENT

Background

Under section 10 of the *Remuneration Tribunal Act 1995* the Remuneration Tribunal (the Tribunal) must inquire into and determine the remuneration, allowances and other entitlements for certain full-time public offices, including the Director of Public Prosecutions (DPP) appointed under section 22 of the *Director of Public Prosecutions Act 1990*.

Previous determination: Determination 10 of 2015 (commenced 25 September 2015)

The Tribunal decided to defer a determination of remuneration and allowances in relation to the DPP pending the outcome of the Australian Government Remuneration Tribunal's review of Judicial and Related Offices.

Considerations for the 2016 review

The Tribunal's 2016 review of entitlements for the DPP was advertised in August 2016. The DPP received advice about the Tribunal's review.

Meetings of the Tribunal were held during November 2016 and this determination sets out the Tribunal's decision following the review.

In considering remuneration and allowances for the DPP, the Tribunal noted the government submission provided by the Chief Minister and discussions with officials of the Justice and Community Safety Directorate. ACT Treasury provided a comprehensive briefing to the Tribunal on the prevailing economic circumstances for 2016 and forecasts for the coming years.

The Tribunal noted that the Australian Government Remuneration Tribunal expects to finalise its annual review into judicial positions by the end of 2016.

Decision

The Tribunal determined that the salary for the DPP be adjusted to \$412,394.

ACT Remuneration Tribunal
December 2016



Australian Capital Territory Remuneration Tribunal

Director of Public Prosecutions

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Remuneration Tribunal Act 1995

1 Commencement

This instrument commences on 1 November 2016.

2 Remuneration

2.1 The base salary for the Director of Public Prosecutions (DPP) is \$412,394 per annum.

2.2 If a person appointed to this office is also appointed to another office, which is not a second job under the *Public Sector Management Act 1994*, the person must only receive salary for the office that has the highest remuneration.

3 Salary packaging

3.1 A person appointed to this office may elect to take the remuneration mentioned in paragraph 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 Employer provided benefits

4.1 The DPP is entitled to either the employer provided benefits mentioned in column 1 of Table 4.1 or the relevant cash payment in lieu of the benefit mentioned in column 2 of Table 4.1.

TABLE 4.1

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.

5 Employer's superannuation contribution

- 5.1 The DPP is only eligible for the employer's superannuation contribution if their superannuation entitlements are not provided elsewhere.
- 5.2 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.

- 5.3 If the DPP is a member of the CSS or PSS, they:
- 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.
- 5.4 If the DPP is not a member of the CSS or PSS and 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 DPP to an agreed superannuation fund nominated by the DPP.
- 5.5 The value of the employer's superannuation contribution must not be paid in cash to the DPP.

6 Fringe benefit tax

- 6.1 The fringe benefits tax payable to the DPP 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*.

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

7 Relocation allowance

- 7.1 In this clause:

ACT includes the surrounding district, including Queanbeyan.

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

- 7.2 Relocation allowance is provided to assist an individual with relocation.
- 7.3 Relocation allowance will not cover the total cost of relocation in all circumstances.
- 7.4 The maximum relocation allowance is \$51,533.
- 7.5 If a person relocates because of appointment as DPP, 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 specific 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.
- 7.6 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.

7.7 If the DPP 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 Statutory Office Holder; and
- d) the expected total relocation expenses of the full-time Statutory Office Holder; and
- e) the level of assistance the full-time Statutory Office Holder considers should be provided; and
- f) any other relevant information.

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

8 Travelling Allowance

8.1 In this clause:

domestic travel means official travel to a destination within Australia.

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.

8.2 If the DPP is required to travel for official purposes, the employer must pay the cost of:

- a) travel; and
- b) accommodation; and
- c) meals; and
- d) incidental expenses.

Travel

8.3 The DPP may travel by one or more of the following:

- a) commercially provided road or rail transport;
- b) commercially provided flights;
- c) private motor vehicle.

8.4 Commercially provided travel should be selected on the basis of:

- a) what is most convenient to the DPP; and
- b) seeking the most reasonable costs.

8.5 If the DPP travels on commercially provided road or rail transport the employer will pay the fares for that travel.

- 8.6 If the DPP 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;
 - c) for international flights — business class.
- 8.7 If the DPP has approval 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 ACT Public Service Administrative and Related Classifications Enterprise Agreement 2013 – 2017.

Accommodation

- 8.8 If the DPP must stay overnight while on official travel, the employer will pay for commercial accommodation to the following standard:
- a) for domestic accommodation — 4.5 stars;
 - b) for international accommodation — 4.5 stars.
- 8.9 The employer will pay for the DPP to stay in commercial accommodation above the 4.5 star standard 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 the DPP to stay in the commercial accommodation where a meeting, conference or seminar they are attending is being held
- to allow the DPP who is traveling with a Minister to stay in the same commercial accommodation as that Minister if the Minister is entitled to a higher standard of accommodation

Meals

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

Incidental expenses

- 8.11 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.

9 Definitions

9.1 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.

fringe benefits tax means the tax assessed under the *Fringe Benefits Tax Assessment Act 1986*.

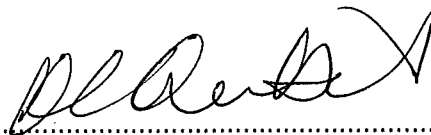
PSS means the Public Sector Superannuation Scheme.

total remuneration package includes base salary set out in paragraph 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 any other component of the total remuneration package.

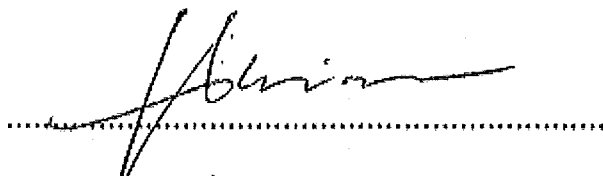
10 Revocation of previous determination

Determination 10 of 2015 is revoked.

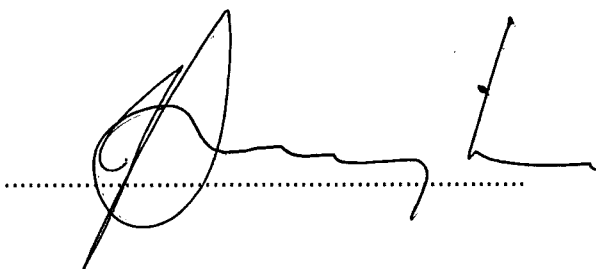
Anne Cahill Lambert AM
Chair



Dr Colin Adrian
Member



James Smythe PSM
Member



/ December 2016