



Australian Capital Territory Remuneration Tribunal

## ACT Civil and Administrative Tribunal

### Determination 1 of 2012

made under the

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

### ACCOMPANYING STATEMENT

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Under section 10 of the *Remuneration Tribunal Act 1995*, the Remuneration Tribunal (Tribunal) is required to inquire into, and determine, the remuneration, allowances and other entitlements for the ACT Civil and Administrative Tribunal (ACAT) Presidential Members and non-Presidential Members, other than Assessors.

When ACAT was established in 2008 the Tribunal:

- included two full-time Presidential Members, the General President and Appeals President, in the Determination that applies to full-time Holders of Public Office;
- made a separate Determination for the part-time Presidential Member; and
- included part-time Senior Members and Ordinary Members in the Determination that applies to part-time Holders of Public Office.

Following the establishment of a new full-time Ordinary Member office and the appointment of a second part-time Presidential Member, the Tribunal decided to consolidate determinations for all ACAT Members that come within its purview, into a single Determination. The Tribunal's intention is that a streamlined Determination will provide greater efficiency in the administration of payments and entitlements for ACAT Members.

The Tribunal has decided to use a simplified, more contemporary format with plain English terminology in its Determinations. This is the first Determination made in the new style. While the presentation and wording are different, the remuneration, allowances and other entitlements provided to the Presidential Members and part-time non-Presidential Members have not changed. However the allowances and entitlements provided to the full-time Presidential Member have been extended to the part-time Presidential Members.

In relation to the new office – the full-time Ordinary Member – the Tribunal considered background information about the work value of the office received from the Justice and Community Services Directorate, submissions made to the Tribunal and economic factors.

The Tribunal decided that the full-time Ordinary Member of ACAT will receive an annual remuneration of \$121,932. The Tribunal aligned the superannuation arrangements for this office with the other full-time offices in ACAT, and decided that the office will not receive an employer provided motor vehicle. The Tribunal aligned the travelling allowance for this office with the travelling allowance for other non-Presidential Members of ACAT.

ACT Remuneration Tribunal  
April 2012



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#### 1 Commencement

1.1 This instrument commences on 1 April 2012.

#### 2 Remuneration

2.1 A person appointed to an office listed in column 1 of Table 2.1 (a **Member**) is entitled to the remuneration mentioned in column 2 of Table 2.1.

**TABLE 2.1**

Column 1 <b>Office</b>	Column 2 <b>Remuneration</b>
General President, ACAT	\$255,870 per annum
Appeals President, ACAT	\$255,870 per annum
part-time Presidential Member, ACAT	\$127,935 per annum
part-time Senior Member, ACAT	\$945 per diem
full-time non-Presidential Member, ACAT	\$121,932 per annum
part-time Ordinary Member, ACAT	\$440 per diem

#### 3 Salary packaging

3.1 A Member may 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 <b>Office</b>	Column 2 <b>Schedule</b>
General President, ACAT	Schedule 1
Appeals President, ACAT	Schedule 1
Part-time Presidential Member, ACAT	Schedule 1
part-time Senior Member, ACAT	Schedule 3
full-time non-Presidential Member, ACAT	Schedule 2
part-time 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:
- commercially provided road or rail transport;
  - commercially provided flights;
  - 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 a Presidential Member—
    - i) for domestic flights less than 4 hours—economy class;
    - ii) for domestic flights of 4 hours or more—business class;
    - iii) for international flights—business class; and
  - b) for a non-Presidential Member for all flights—economy class economy 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 Justice and Community Safety Directorate Enterprise Agreement 2011 – 2013.

#### **Accommodation**

- 5.7 If a Member must stay overnight while on official travel, the employer will pay the for commercial accommodation to the following default standard:
- a) for a Presidential Member for all accommodation—4.5 stars; and
  - b) for a non-Presidential Member—
    - i) for domestic accommodation—3 stars;
    - ii) for international accomdation—3.5 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.

Examples 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
- to allow a Member who is traveling with a Minister to stay in the commercial accommodation that Minister if they are entitled to a higher standard of accommodation

#### **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 be 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 and superseding of previous Determination

- 7.1 Determination 20 of 2011 (Part-Time Presidential Member ACT Civil and Administrative Tribunal) is revoked.
- 7.2 Determination 18 of 2011 (Full-Time Holders of Public Office) is superseded in relation to the General President, ACAT, and Appeals President, ACAT.
- 7.3 Determination 14 of 2011 (Part-Time Holders of Public Office) is superseded in relation to part-time Senior Members, ACAT, and part-time Members, ACAT.
- 7.4 Determination 16 of 2007 is superseded in relation to all Members of ACAT.

Anne Cahill Lambert AM  
Chair

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Colin Adrian  
Member

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Dated: April 2012

# 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 <b>employer provided benefit</b>	Column 2 <b>cash payment in lieu of benefit</b>
employer's superannuation contribution	no option for cash payment in lieu
executive vehicle	under the <a href="#">Public Sector Management Standards 2006</a>
parking space	under the <a href="#">Public Sector Management Standards 2006</a>
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—
- 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.
- 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—
- 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 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.

**domestic partner**—see Legislation Act, section 169 (1).

**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 receipts, reasonable costs of the following:
- a) packing personal effects and furniture belonging to the person and their domestic partner;
  - 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.

## SCHEDULE 2—FULL-TIME NON-PRESIDENTIAL MEMBERS

### 10 Employer's superannuation contribution

- 10.1 A full-time non-Presidential Member is only eligible for the employer's superannuation contribution if their superannuation entitlements are not provided elsewhere.
- 10.2 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.
- 10.3 A full-time non-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.
- 10.4 If a full-time non-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 full-time non-Presidential Member to an agreed superannuation fund nominated by the full-time non-Presidential Member.
- 10.5 The value of the employer's superannuation contribution must not be paid in cash to a full-time non-Presidential Member.

### 11 Leave

- 11.1 A full-time non-Presidential Member is eligible to leave as set out in the Justice and Community Safety Directorate Enterprise Agreement 2011 – 2013, as if a reference to the head of service in that Enterprise Agreement was a reference to the General President, ACAT.

## SCHEDULE 3—PART-TIME NON-PRESIDENTIAL MEMBERS

### 12 Conditions of payment of daily fees

- 12.1 A part-time non-Presidential Member must be paid the percentage of the daily fee set out in column 3 of Table 14.1 if the Member undertakes the corresponding type of work for the number of hours set out in columns 2 and 1 respectively.

**TABLE 14.1**

Column 1 <b>Hours worked in one day</b>	Column 2 <b>Type of work</b>	Column 3 <b>Percentage of daily fee</b>
5 hours or more, comprised of periods each at least 1 hour long	<ul style="list-style-type: none"> <li>• ACAT business on a day when there is no formal meeting</li> </ul>	100%
3 hours or more, in a single period	<ul style="list-style-type: none"> <li>• formal meetings; and/or</li> <li>• ACAT business</li> </ul>	100%
between 2 and 3 hours, in a single period	<ul style="list-style-type: none"> <li>• formal meetings; or</li> <li>• formal meetings and ACAT business</li> </ul>	60%
less than 2 hours, in a single period	<ul style="list-style-type: none"> <li>• formal meetings</li> </ul>	40%

- 12.2 The maximum payment that a part-time non-Presidential Member can receive for one day is 100% of the daily fee.
- 12.3 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.
- 12.4 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.
- 12.5 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 General President for general matters and the Appeals President for appeal matters.

**13 Additional payment – presiding members**

- 13.1 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.
- 13.2 The additional payment applies to all hours worked, including preparation time, the hearing and any post hearing work.