



Australian Capital Territory Remuneration Tribunal

## **Determination 13 of 2017**

### **Full-time Statutory Office Holders: Auditor-General, Clerk of the Legislative Assembly, Electoral Commissioner**

made under the  
Remuneration Tribunal Act 1995, section 10 (Inquiries about holders of certain positions)

## **ACOMPANYING STATEMENT**

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### **Background**

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 certain full-time public offices. Of those offices, this Determination covers the following:

- Auditor-General;
- Clerk of the Legislative Assembly; and
- Electoral Commissioner.

### **2016 review**

In 2016 the Auditor-General and Electoral Commissioner were considered with other Full-time Statutory Office Holders at the Tribunal's annual Autumn review. Determination 4 of 2016 outlines the Tribunal's decisions.

The Clerk of the Legislative Assembly was considered independently at the Tribunal's annual Autumn review. Determination 2 of 2016 outlines the Tribunal's decisions.

### **2017 review**

The Tribunal called for submissions in December 2016 to support its annual review of remuneration, allowances and other entitlements.

The Tribunal wrote to the Auditor-General, the Clerk of the Legislative Assembly and the Electoral Commissioner notifying them of the review. Background information was received from the Office of the Legislative Assembly in relation to the application of entitlements.

At the review, the Tribunal decided to consolidate the remuneration, allowances and other entitlements for the Auditor-General, the Clerk of the Legislative Assembly and the Electoral Commissioner into a single determination, and in line with the *Legislative Assembly (Office of the Legislative Assembly) Act 2012*, the *Auditor-General Act 1996* and the *Electoral Act 1992*. Even though the Tribunal has decided to consolidate these public office holders into a single determination for consistency purposes, it is not the Tribunal's intention to disadvantage the current occupants within these statutory offices.

The Tribunal considered information from a number of sources as part of its inquiry. On this occasion the Tribunal considered:

- national economic indicators including the Wage Price Index, Labour Force data, Average Weekly Earnings and the Consumer Price Index;
- economic forecasting provided by ACT Treasury officials;
- oral and written submissions received, including the Chief Minister's ACT Government Submission; and
- the operation of 9<sup>th</sup> Legislative Assembly of the ACT, now with 25 MLAs.

### **Decision**

Having balanced these considerations, the Tribunal decided to increase the remuneration of the Auditor-General, the Clerk of the Legislative Assembly and the Electoral Commissioner by 2% within a single consolidated determination.

May 2017



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#### 1 Commencement

1.1 The instrument commences on 1 July 2017.

#### 2 Application

2.1 This Determination applies to the following offices:

- the Auditor-General;
- the Clerk of the Legislative Assembly; and
- the Electoral Commissioner.

#### 3 Remuneration

3.1 The offices outlined below shall be entitled to the following remuneration per annum:

- Auditor-General: \$297,048
- Clerk of the Legislative Assembly: \$220,381
- Electoral Commissioner: \$205,013

3.2 A person appointed to an office above must not receive the remuneration mentioned above if the person is paid a higher remuneration for that office from another source.

3.3 If a person appointed to an office listed above is also 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.

## **4 Salary packaging**

- 4.1 A person appointed to an office in clause 2.1 of this Determination may elect to take the remuneration outlined in Clause 3, as:
- a) salary; or
  - b) a combination of salary and other benefits (a *salary package*).
- 4.2 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.
- 4.3 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.
- 4.4 Salary for superannuation purposes is not affected by salary packaging.

## **5 Employer provided benefits**

- 5.1 A person, appointed to an office in clause 2.1 of this Determination, 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.

## **6 Vehicle**

- 6.1 A person appointed to an office, outlined below, is entitled to an executive vehicle and associated arrangements, including a parking space, in accordance with the same entitlements as a Senior Executive Service (SES) member under the *Public Sector Management Standards* and the *Guidelines for the Management and Use of Executive Vehicles*:
- Auditor-General: same arrangements as Band 3 SES member;
  - Clerk of the Legislative Assembly: same arrangements as Band 2 SES member;
  - Electoral Commissioner: same arrangements as Band 2 SES member.
- 6.2 For the avoidance of doubt and despite anything to the contrary, the Remuneration Tribunal determines that Part 9.5 (Executive and Statutory Office-Holder vehicle entitlements) of the *Public Sector Management Standards 2006* (repealed) applies to the offices specified in clause 2.1 of this Determination. Any references to the head of service or director-general in these specific sections should be read as the Speaker.

## **7 Employer's superannuation contribution**

- 7.1 A person, appointed to an office in clause 2.1 of this Determination, is only eligible for the employer's superannuation contribution if their superannuation entitlements are not provided elsewhere.
- 7.2 The employer's superannuation contribution is subject to the *Superannuation Act 1976* (Cth), *Superannuation Act 1990* (Cth) and *Superannuation Act 2005* (Cth).

Note: section 115 of the *Public Sector Management Standards 2016* and 642 of the *Public Sector Management Standards 2006* sets out superannuation for statutory office holders.

- 7.3 A person, appointed to an office in clause 2.1 of this Determination, 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.
- 7.4 A person, appointed to an office in clause 2.1 of this Determination, 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 person, appointed to an office in clause 2.1 of this Determination, to an agreed superannuation fund nominated by the person.
- 7.5 The value of the employer's superannuation contribution must not be paid in cash to a person appointed to an office in clause 2.1 of this Determination.
- 7.6 A person, appointed to an office in clause 2.1 of this Determination, is entitled to the enhanced employer contribution superannuation arrangements that apply to an SES member in the ACT public sector under associated arrangements.
- 7.7 A person, appointed to an office in clause 2.1 of this Determination, is entitled to the same superannuation entitlements as an SES member under the *Public Sector Management Standards*. This clause takes effect from 1 September 2016.

## **8 Fringe benefit tax**

- 8.1 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*.
- 8.2 The executive vehicle and employer's superannuation contribution set out in the *Public Sector Management Standards 2016* are considered for calculating fringe benefits tax.
- 8.3 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 person appointed to an office in clause 2.1 of this Determination. If the liability for fringe benefits tax exceeds \$7,000, the person appointed to an office in clause 2.1 of this Determination will not be required to pay the excess to the employer. Any unused fringe benefit tax allowance paid to a person appointed to an office in clause 2.1 of this Determination will be subject to tax, if paid as remuneration.

8.4 The provisional amount of \$7,000 in fringe benefits tax is reduced proportionally if the person appointed to an office in clause 2.1 of this Determination is appointed for less than a fringe benefit tax year.

## 9 Relocation allowance

9.1 In this clause:

**ACT** includes the surrounding district, including Queanbeyan.

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

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 \$51,533.

9.5 If a person, appointed to an office in clause 2.1 of this Determination, relocates because of this appointment, 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 (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 Tribunal, any other reasonable expenses necessarily incurred in relocating to the ACT.

9.6 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.

9.7 If a person, appointed to an office in clause 2.1 of this Determination, 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) their expenses incurred ; and
- d) their expected total relocation expenses; and
- e) the level of assistance the person 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.

## 10 Other entitlements

10.1 For the avoidance of doubt, under section 115 of the *Public Sector Management Standards 2016*, the following provisions of the *Public Sector Management Standards 2006 (repealed)* continue to apply in relation to a person appointed to an office in clause 2.1 of this Determination:

- 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 9.4 (statutory office-holder financial entitlements);
- e) part 9.5 (executive and statutory office-holder vehicle entitlements); and
- f) part 9.6 (executive employee and statutory office-holder leave and other entitlements).

## 11 Travelling arrangements

11.1 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.

***traveller*** means a person, appointed under clause 2.1 of this Determination, who is travelling away from their normal place of work for official purposes.

11.2 If a traveller is required to travel for official purposes outside of Canberra, the employer must pay the cost of the flights and accommodation expenses outlined below. The reasonable amounts set out in the relevant Australian Taxation Office Determinations<sup>1</sup> relating to meal and incidental expenses will be paid to the traveller as a reimbursement.

11.3 All reasonable expenses incurred by a traveller can be reimbursed. It is the intention of these travel arrangements that no traveller who travels for official purposes should be out of pocket, however they must be reasonable expenses.

## 12 Travel

12.1 All official travel is to be appropriately authorised prior to travel and must not be authorised by the traveller under any circumstances. This includes all official travel paid for privately or by the Territory.

12.2 A traveller may travel by one or more of the following:

- a) commercially provided road or rail transport;

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<sup>1</sup> Taxation Determination (2016/13) or its replacement - Income tax: what are the reasonable travel and overtime meal allowance expense amounts for the 2016-17 income year?

- b) commercially provided flights;
  - c) private motor vehicle.
- 12.3 Commercially provided travel should be selected on the basis of—
- a) what is most convenient to the person; and
  - b) seeking the most reasonable costs.
- 12.4 If a traveller travels on commercially provided road or rail transport the employer will pay the fares for that travel.
- 12.5 A traveller can use the Territory's travel manager, which has been procured through a competitive process, as a preferred provider of travel and related services. The travel manager has been instructed to book all travel at the lowest logical fare.
- 12.6 If a traveller 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.
- 12.7 If a traveller 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*, or its replacement.

### **13 Accommodation**

- 13.1 It is standard practice that where an executive traveller 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.
- 13.2 The employer will pay for a traveller to stay in commercial accommodation above the 4.5 star standard and the amounts set out in the relevant Australian Taxation Office Determinations, 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 traveller to stay in the commercial accommodation where a meeting, conference or seminar they are attending is being held;
- to allow a traveller who is traveling with the Speaker or a Minister to stay in the same commercial accommodation as that Speaker/Minister if they are entitled to a higher standard of accommodation.

### **14 Meals**

- 14.1 If a traveller is absent from Canberra for more than ten hours while on official travel, the employer will reimburse actual, reasonable expenses for meals up to the amounts set out in the relevant Australian Taxation Office Determinations.



## **15 Incidental expenses**

- 15.1 The employer will reimburse all reasonable and legitimate expenses directly related to official travel up to the amounts set out in the relevant Australian Taxation Office Determinations, including—
- a) taxi, ridesharing service (such as uber) or bus fares to or from an airport; and
  - b) taxi, ridesharing service (such as uber) and public transport costs at a temporary location; and
  - c) airport taxes or charges.

## **16 Frequent Flyer Program**

- 16.1 Frequent flyer points accrued by a traveller as a result of travel and accommodation paid for by the employer may only be used for further official travel.
- 16.2 Frequent flyer points may not be used to upgrade the standard of air travel to a level above the person's entitlement.

## **17 Incidental travel in conjunction with official travel**

- 17.1 Authorised travellers wishing to take personal leave during, or at the conclusion of official travel should obtain the appropriate approval consistent with the agreed travel arrangements.
- 17.2 Travellers may combine incidental personal travel with official travel, provided there is no additional cost to the Territory. Expenses incurred during leave are at the traveller's own cost. If the period of such incidental travel is greater than 40% of the period of official travel, a pro rata contribution must be made to the overall cost of the travel.
- 17.3 If insurance has been obtained for official travel, it will not cover the traveller for the duration of the personal leave.

## **18 Travel insurance**

- 18.1 Travel insurance decisions should be based on risk management principles and include factors such as the nature and destination of the trip.
- 18.2 International travel will normally require travel insurance.
- 18.3 If necessary, the cost of travel insurance will be met as a reasonable work related expense by the Territory.
- 18.4 All legitimate and reasonable work related claims will be covered by the Territory.

## **19 Definitions**

- 19.1 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 remuneration outlined in Clause 3, 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.

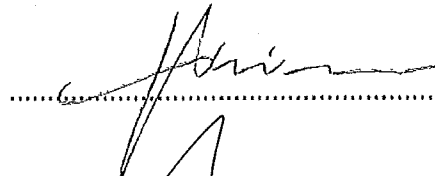
**Senior Executive Service (SES) Member** includes a member of the service in the senior executive service under the *Public Sector Management Act 1994* and *Public Sector Management Standards*. A person, appointed to an office in clause 2.1 of this Determination, has a number of the same entitlements as an SES Member.

Ms Anne Cahill Lambert AM  
Chair



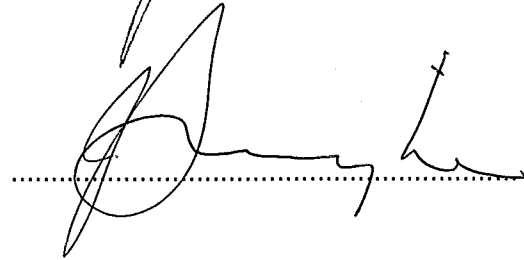
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Dr Colin Adrian  
Member



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Mr James Smythe PSM  
Member



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May 2017