



Australian Capital Territory Remuneration Tribunal

Clerk of the Legislative Assembly

Determination 4 of 2012

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 Remuneration Tribunal (Tribunal) is required to inquire into, and determine, the remuneration, allowances and other entitlements for certain full-time public offices. This Determination covers the Clerk of the Legislative Assembly (the Clerk).

The Tribunal's last inquiry into remuneration, allowances and other entitlements for full-time Statutory Office Holders was in September 2011. Following the inquiry the Tribunal issued Determination 19 of 2011 in September 2011.

The Tribunal called for submissions in February 2012 and inquired into the remuneration, allowances and other entitlements for full-time Statutory Office Holders including the Clerk in March 2012. This Determination sets out the Tribunal's decisions following that inquiry.

The Tribunal has decided to use a simplified, more contemporary format with plain English terminology in its Determinations. While the presentation and wording are different, the remuneration, allowances and other entitlements provided to the Clerk have changed only as set out below.

Changes to remuneration, allowances and other entitlements and reasoning

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

- the increase in remuneration for Members in recent years relative to other categories of office in the ACT jurisdiction, in particular, ACT Public Service staff covered by Enterprise Agreements;

- national economic indicators, in particular the Labour Price Index, Average Weekly Earnings and the Consumer Price Index; and
- the Government Submission.

Having balanced these considerations the Tribunal decided to:

- increase the remuneration for full-time statutory Office Holders, including the Clerk by 3.5% per annum (clause 2 of the Determination); and
- increase the Relocation Allowance by 3.3% (clause 5 of the Determination).

No other submissions were received in relation to the Tribunal's call for submissions.

Having balanced these considerations the Tribunal decided to:

- increase the remuneration for the Clerk by 3.5% per annum (clause 2 of the Determination); and
- increase the Relocation Allowance by 3.3% (clause 5 of the Determination).

ACT Remuneration Tribunal
May 2012



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1. Commencement

1.1. This instrument commences on 1 July 2012.

2. Remuneration

2.1. The annual remuneration for the Clerk is \$183,879.

3. Salary packaging

3.1. The Clerk may elect to take their remuneration 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) 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 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

Fringe benefits tax

4.1. The Clerk is entitled to \$7,000 fringe benefits tax.

Employer's superannuation contribution

- 4.2. The employer will meet the requirements under the *Superannuation Act 1976* (Cth) and the *Superannuation Act 1990* (Cth) if the Clerk:
- a) is an existing CSS or PSS member; or
 - b) was engaged or appointed under the *Public Sector Management Act 1994* between 1 July 2005 and 30 June 2006, and their appointment as the Clerk is continuous with the employment between 1 July 2005 and 30 June 2006; and
 - c) elects 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.
- 4.3. If clause 4.2 applies, 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.
- 4.4. If the Clerk is appointed from 1 July 2006, and does not meet the requirements in clause 4.2, the value of the employer's superannuation contribution is:
- a) 9% of their remuneration; or
 - b) 10% of their remuneration, if the Clerk contributes 3% or more of his or her remuneration to the agreed superannuation fund nominated by the Clerk in the form of personal superannuation contributions.
- 4.5. If clause 4.4 applies, the employer must contribute any nominated amount on behalf of the Clerk to an agreed superannuation fund nominated by the Clerk.
- 4.6. The value of the employer's superannuation contribution must not be paid in cash to the Clerk.

Vehicle and parking

- 4.7. The Clerk is entitled to use of a leased a self drive and private plated passenger motor vehicle within the Territory's leasing arrangements (a **vehicle**).
- 4.8. The Clerk is entitled to a parking space at or near the Legislative Assembly.
- 4.9. If the Clerk is appointed on a part-time basis the Clerk is entitled to use the vehicle on a full time basis unless the Tribunal approves a request, made in writing, that the Clerk's use of the vehicle be on a pro rata basis.
- 4.10. The Clerk may choose any vehicle valued by the Territory's fleet provider at or below \$41,800 (GST exclusive), that:
- a) is a four cylinder vehicle;
 - b) is suitable for business use as the Clerk; and
 - c) is not a high performance, luxury or prestige vehicle.
- 4.11. The lease of the vehicle must meet the requirements of:
- a) the Territory's fleet provider; and
 - b) the whole of government policy for executive vehicle management (the **Government Vehicle Policy**).

- 4.12. The vehicle must be modified if the Clerk has a disability and the Tribunal certifies in writing that the modification is necessary to enable the Clerk to drive the vehicle.
- 4.13. The vehicle may be modified to fit optional items of approved equipment if:
 - a) the modification is made in accordance with the requirements of the Government Vehicle Policy; and
 - b) the total value of the vehicle with the equipment does not exceed \$41,800.
- 4.14. The Clerk must ensure that:
 - a) due care and security is given to the vehicle; and
 - b) the driver of the vehicle:
 - i) holds an appropriate license; and
 - ii) obeys all traffic laws and parking restrictions; and
 - iii) abide by the requirements in the Government Vehicle Policy.
- 4.15. The driver in control of the vehicle is personally responsible for any breaches of traffic laws and parking restrictions, and must pay any fines incurred.
- 4.16. If the Clerk home garages the vehicle he or she must;
 - a) park the vehicle behind property line; and
 - b) if possible, park the vehicle under cover.
- 4.17. The employer will pay:
 - a) all vehicle maintenance costs of the executive vehicle; and
 - b) all running costs of the executive vehicle
- 4.18. However, if the vehicle is damaged by the driver of the vehicle, and this means that the Territory's insurance arrangements do not cover all or part of the claim for damage to a vehicle, the cost of repairing the vehicle will be paid by:
 - a) the driver; or
 - b) if the driver is the Clerk or a person nominated by the Clerk—the Clerk.
- 4.19. If the Clerk is at the Legislative Assembly during normal business hours, the Clerk must make the vehicle available for business use by the Legislative Assembly secretariat, unless the vehicle is being repaired, serviced, or undergoing a similar process.
- 4.20. The Clerk must ensure that Legislative Assembly secretariat staff who drive the vehicle are subject to the same conditions related to the authorised use of that vehicle as the Clerk.
- 4.21. The Clerk must ensure that Legislative Assembly secretariat staff who use the vehicle:
 - a) report vehicle accidents and defects; and
 - b) record accidents and defects; and
 - c) ensure that all cargo is properly secured; and
 - d) follow the requirements in the Government Vehicle Policy.
- 4.22. The vehicle may be driven for private purposes by:

- a) the Clerk; or
- b) an appropriate licensed driver nominated by the Clerk and approved by Legislative Assembly secretariat.

4.23. The Clerk:

- a) must ensure that the Legislative Assembly secretariat maintain a register of people approved to drive the vehicle for private purposes; and
- b) must ensure that people approved to drive the vehicle for private purposes are subject to the same conditions of authorised use of that vehicle as the Clerk; and
- c) must not use the vehicle for personal gain, or the personal gain of any other person; and
- d) must not permit another person to use the vehicle for t personal gain, or the personal gain of any other person; and
- e) must ensure that the Legislative Assembly secretariat keep records about the use of the vehicle for fringe benefits tax calculation and audit purposes (the employer is responsible for the calculation and payment of any fringe benefit tax liability associated with the vehicle).

4.24. If a vehicle is to be returned, replaced, purchased or transferred, this must be done in accordance with the requirements of the fleet provider and the Government Vehicle Policy.

4.25. If the Clerk elects to receive payment in lieu of a vehicle, the Clerk is:

- a) entitled to retain access to a parking space; and
- b) not entitled to access any other entitlements provided under this clause.

Fringe benefit tax

4.26. The fringe benefits tax payable to the Clerk 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*.

4.27. If the liability for fringe benefits tax exceeds \$7,000 the Clerk will not be required to pay the excess to the employer.

4.28. Fringe benefits tax is reduced proportionally if the Clerk is appointed for less than a financial 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 appointment as the Clerk, 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;
 - 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 ACT Remuneration Tribunal, any other reasonable expenses necessarily incurred in relocating to the ACT.
- 5.6. 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.
- 5.7. If the Clerk 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 Clerk; and
 - d) the expected total relocation expenses of the Clerk; and
 - e) the level of assistance the Clerk 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. Travelling Allowance

- 1.2 If the Clerk 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

- 1.3 The Clerk may travel by one or more of the following:
- a) commercially provided road or rail transport;
 - b) commercially provided flights;
 - c) private motor vehicle.
- 1.4 Commercially provided travel should be selected on the basis of—
- a) what is most convenient to the Clerk; and
 - b) seeking the most reasonable costs.
- 1.5 If the Clerk travels on commercially provided road or rail transport the employer will pay the fares for that travel.
- 1.6 If the Clerk 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.
- 1.7 If the Clerk 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 Justice and Community Safety Directorate Enterprise Agreement 2011 – 2013.

Accommodation

- 1.8 If the Clerk must stay overnight while on official travel, the employer will pay the for commercial accommodation to the following standard:
- a) for domestic accommodation—4.5 stars;
 - b) for international accomdation—4.5 stars.
- 1.9 The employer will pay for the Clerk 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 Clerk to stay in the commercial accommodation where a meeting, conference or seminar they are attending is being held
- to allow the Clerk 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

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

Incidental expenses

- 1.11 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

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

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).

Clerk means the Clerk of the Legislative Assembly.

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. 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 19 of 2011 (Clerk of the Legislative Assembly) is revoked.

Anne Cahill Lambert AM
Chair

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Colin Adrian
Member

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Dated: 10 May 2012