



AUSTRALIAN CAPITAL TERRITORY REMUNERATION TRIBUNAL

Statement Number 163

Part-Time Holders of Public Office

Background

Section 10(1)(r) of the *Remuneration Tribunal Act 1995* provides for the Tribunal to inquire into, and determine, the remuneration and allowances to be paid, and other entitlements to be granted to:

- a person holding an office or appointment, or
- a class of offices or appointments,

specified in an instrument given to the Tribunal by the Chief Minister.

The Tribunal's last annual review was in October 2003 and the Tribunal issued Statement and Determination Number 133 dated 18 December 2003.

Public submissions were invited.

Submissions

The Tribunal considered submissions at a meeting on 22 October 2004 and a meeting on 29 October 2004. Submissions were received from:

- ACTION Authority Board;
- Administrative Appeals Tribunal;
- Australian International Hotel School;
- Children's Services Council;
- Cultural Facilities Corporation;
- Commissioner for the Environment;
- Flora and Fauna Committee;
- Government Procurement Board;
- Health Promotion Board;
- Independent Competition and Regulatory Commission;
- Land Development Agency Board;
- Liquor Licencing Board;
- Medical Board;
- Occupational Health and Safety Council – Chair; and
- Podiatrists Board.

There were no new referrals for the Tribunal to consider.

Tribunal Consideration

General Increase in Remuneration

The Tribunal determined that there should be a general increase of 3.9% (rounded upwards to the nearest \$5) for Part-Time Holders of Public Office covered by the determination with effect from 1 November 2004. This is based on a range of economic factors, in particular, the Wage Cost Index for the period June 2003 to June 2004.

Submissions

ACTION Authority Board

The submission sought an increase in remuneration for the three Board Members that are members of the Board's Audit Committee.

The Tribunal noted that the issue of the Audit Committee was considered when remuneration for the Deputy Chair was determined in 2002.

The Tribunal also considered that there was some difficulty in differentiating between roles and responsibilities of board members – all of whom may, in some way or other, be members of committees of a board.

The Tribunal did not consider there was a strong case presented for an increase in remuneration for the Board's Audit Committee Members.

Administrative Appeals Tribunal

The submission sought a remuneration increase that would maintain comparability for ACT Tribunal Members with Members of the Commonwealth AAT.

The Tribunal determined that there would not be a special remuneration increase to maintain comparability. However, it was noted that the proposed general increase for all part-time holders of public office would maintain the comparability.

The submission also sought a change to the definition of 'business of the authority' in the ACT part-time public office holder determination.

The Tribunal considered that the existing wording in the determination was reasonable and did not require amendment.

Australian International Hotel School

The submission sought that remuneration be increased to recognise the additional effort and responsibilities of Members and that remuneration should be set at two rates, one for regular activities and a second daily rate to provide payment for additional effort in accordance with pre-determined criteria. The submission emphasised a number of sub-committees that have been implemented since the Board's commencement.

The Tribunal decided that there were insufficient grounds for granting an increase.

Children's Services Council

The submission sought a remuneration increase for the Chair and Members, particularly due to increased responsibilities resulting from the Review of the Safety of Children in Care in the ACT and of ACT Child Protection Management.

The Tribunal noted that the Chief Minister had not previously referred the members of this council for determination of remuneration and entitlements and that the Tribunal Secretariat had contacted the Council Secretariat to advise on the process for referral. It also noted that the submission made in respect of the responsibilities of the Chair would be resubmitted and that there was no need to determine this matter further at this stage.

Cultural Facilities Corporation Board

The submission advised that a request had been made to the Minister to seek the Chief Minister's referral of the Chair of the Finance and Compliance Committee to the Tribunal for determination.

It was also submitted that the Corporation's commercial operations would be more appropriately reflected in remuneration rates similar to those of the Australian Capital Tourism Corporation Board.

Ms Roberta McRae excused herself from the Tribunal's discussion and any determination on this matter, as she is a member of an advisory committee to the CFC Board.

The Tribunal noted that it had not received a referral from the Chief Minister for the Chair of the Finance and Compliance Committee of the CFC.

The Tribunal decided that further details about the Committee should be obtained from the Chief Executive Officer, Cultural Facilities Corporation and that the issue be addressed again once the information is obtained.

Commissioner for the Environment

The submission sought a remuneration increase due to the increase in the number of days worked by the Commissioner since remuneration was initially determined in 1997.

In order to obtain a better understanding of the role of the Commissioner, the Tribunal decided that the office should be formally evaluated, using the same process that is undertaken for full-time statutory offices and for some part-time offices where the amount of work involved is considerable.

It was decided that the Tribunal would again address the issue once the outcome of the evaluation has been received.

Flora and Fauna Committee

The submission sought a continuation of the current practice whereby remuneration is paid for Committee meetings and approved non-Committee meetings on behalf of the Committee.

The Tribunal noted that Clause 2 of the Determination issued for part-time office holders each year provides scope for payment for work outside of formal meetings in respect of this Committee.

Government Procurement Board

The submission considered that it is appropriate to align the rate of remuneration to general price/wage trends increase.

The Tribunal noted this issue when considering whether a general remuneration increase should be granted to all part-time offices.

Health Promotion Board

The submission proposed that remuneration for the Chair and Members should be increased by 50% due to the increase in workload since remuneration was previously determined.

The Tribunal noted the main function of the Health Promotion Board was to manage and distribute funds to community organisations. Fulfilment of this responsibility has led to increasing workloads and significant out of session work.

The Tribunal identified an anomaly in present remuneration arrangements, whereby the Chair receives a fixed annual rate, whereas members receive a per diem rate. Under this arrangement, increasing workloads can lead to members receiving higher remuneration than the Chair.

The Tribunal decided to reclassify the Board to Group 4, Level 3 and determined remuneration for the Chair at \$325 per diem and \$270 for Members.

Independent Competition and Regulatory Commission

The submission indicated that the current remuneration levels are insufficient given the complexity and scale of the functions and the importance of attracting prominent and expert members.

The Tribunal acknowledged the Commission had, over time, been required to perform an increasingly complex role, but noted that the capacity to do this had been absorbed largely by growth in the size of its Secretariat, and the use of external consultants for major inquiries.

The Tribunal considered present remuneration paid to the Senior Commissioner to be appropriate. However, the Tribunal believed the disparity between the Senior Commissioner's and the other Commissioners' remuneration was too great, and was concerned this might affect the Commission's ability to continue to attract qualified and talented people.

The Tribunal decided to maintain remuneration for the Senior Commissioner at its current rate, but to raise remuneration for the other Commissioners to \$600 per diem.

Land Development Agency Board

The submission proposed that, after more than 12 months of operation, the demands on members have been identified and that it is estimated that Members spend around 20 days per year preparing for and attending Board and committee meetings. It was claimed it was appropriate that the ACTEW Board be used as a benchmark for setting appropriate remuneration given the gross revenues of the two agencies.

The Tribunal decided that there was some merit in comparing the Board with the ACTEW Board and decided to restore the \$5,000 per annum to all Board Members that was originally provided for the initial 12 months. The decision is to be effective from 1 July 2004.

Liquor Licencing Board

The submission proposed that the Board be reclassified from Group 4, Level 2 to Group 4, Level 1 and that remuneration be increased to reflect this reclassification.

It was submitted that the workload is the same as the other boards in the category, membership is similar and powers virtually identical. It was suggested that the penalties that can be imposed by the Liquor Licensing Board are similar to the Group 4, Level 1 boards. There are also the same review mechanisms for decisions through the Administrative Appeals Tribunal or the Supreme Court.

The Tribunal considered that there were insufficient grounds for granting a change in classification or increase in remuneration.

Medical Board

The Registrar has requested that maximum sitting fees (all hourly rates) be set to cover the president and members for attendance at Board meetings; appointed chairperson and members of any committee established by the Board; appointed chairperson and members of any personal assessment panel established by the Board; and appointed chairperson and members of any professional standards panel established by the Board.

The Tribunal noted the legislation to create these bodies, the *Health Professions Act 2004*, was yet to come into effect and, therefore, the offices had not been referred by the Chief Minister.

The Tribunal could not determine remuneration until the Chief Minister refers the bodies for determination.

Occupational Health and Safety Council – Chair

The submission proposed that remuneration should be increased due to the amount of time spent on general work, in addition to the time involved in preparing for and the chairing of Council meetings and representing the Council at official functions. It is also submitted that the Council be moved from Group 2, Level 2 to Group 2, Level 1.

The Tribunal noted that, in the last 12 months, there have been significant changes in the legislative environment in which the Council operates, prompting a broad ranging review of the changes and the Council's role.

In recognition of the Council's developing role and responsibility, the Tribunal decided to increase the Chair's remuneration to \$12,820.

Podiatrists Board

The Tribunal noted that the Registrar advised that a new Board has been appointed and that the issue of the Tribunal's review would be raised when it first meets and that a submission may be made at a later date.

Access to Salary Packaging

As a follow-up from an earlier meeting, the Tribunal noted that agencies had been contacted regarding the availability of salary packaging for part-time office holders. The Tribunal also noted that the issue was raised in several of the above submissions.

Whilst acknowledging that some jurisdictions do have some form of salary packaging arrangements for part-time office holders, the Tribunal deferred its decision until further information was obtained from other jurisdictions.

ACT Remuneration Tribunal
November 2004



AUSTRALIAN CAPITAL TERRITORY
REMUNERATION TRIBUNAL

Determination Number 163

Part-Time Holders of Public Office

Pursuant to section 10(1)(r) and 13 of the *Remuneration Tribunal Act 1995* the Remuneration Tribunal has inquired into the remuneration and allowances to be paid, and other entitlements to be granted to persons holding certain offices in the Australian Capital Territory.

This Determination shall take effect from 1 November 2004.

Alan Kerr AM
Chair

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December 2004

Roberta McRae OAM
Member

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Jill Greenwell
Member

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AUSTRALIAN CAPITAL TERRITORY REMUNERATION TRIBUNAL

Determination Number 163

Part-Time Holders of Public Office

Pursuant to paragraph 10(1)(r) of the *Remuneration Tribunal Act 1995* the Remuneration Tribunal has inquired into the remuneration and allowances to be paid to persons holding certain offices in the Australian Capital Territory.

The Tribunal has determined as follows:

1. Remuneration

- 1 A part-time holder of a public office or appointment shown in column 1 and 2 shall be entitled to the rate of fee specified in column 3 of the table in *Attachment 1*.

2. Conditions of Payment of Daily Fees

2.1 In this clause:-

(a) a reference to an “authority” is a reference to a commission, board, committee, tribunal or other body or office, the member or members of which are entitled to be paid daily fees referred to in this Determination;

(b) a reference to “business of the authority” means any business of the authority conducted by a member of the authority with the approval of the authority, other than attendance at a formal meeting; and

(c) the daily fee for a formal meeting includes a component to cover normal preparation time, but where the chairperson of the authority considers the period of preparation time involved is so unusual as to warrant recognition the chair person may determine that payment in accordance with the scheduled fee shall be payable for such periods as “business of the authority”.

2.2 A part-time holder of a public office in an authority shall be paid a daily fee in respect of such period, not less than three hours, on any one day on which he or she attends a formal meeting of an authority, and/or is engaged on business of the authority, subject to the following conditions:-

(a) the chairperson or nominated presiding officer, shall in each case certify whether the period of three hours has elapsed and in so certifying may have regard to reasonable travelling time incurred by an office holder; and

(b) the maximum payment in respect of any one day shall be the appropriate daily fee.

2.3 A part-time holder of a public office may be paid in respect of formal meetings of less than three hours subject to the following conditions:-

(a) for formal meetings aggregating less than two hours, an amount equal to two-fifths of the daily fee;

(b) for formal meetings, or formal meetings and business of the authority on the day of the meeting, of two hours or more, but less than three hours on any one day, an amount equal to three-fifths of the daily fee;

(c) the maximum payment in respect of any one day shall be the appropriate daily fee;

(d) eligibility for each payment shall be certified by the chairperson or nominated presiding officer and in so certifying the chairperson may have regard to reasonable travelling time in accordance with 2.2; and

(e) preparation time shall only be included in accordance with 2.1.

2.4 A part-time holder of a public office may also be paid a daily fee in respect of aggregates of periods of business of the authority of less than three hours undertaken on behalf of the authority, subject to the following conditions:-

(a) individual periods of business must be on other than formal meeting days and each period must be for a minimum of one hour;

(b) to attract payment of a daily fee, aggregated periods shall total at least five hours;

(c) the maximum period in respect of any one day shall be the appropriate daily fee;

(d) eligibility for each payment shall be certified by the chairperson, and in so certifying the chairperson may have regard to reasonable travelling time in accordance with 2.2; and

(e) preparation time shall only be included in accordance with 2.1.

2.5 In addition to the fees payable under clause 1, a part-time holder of a public office in the Administrative Appeals Tribunal shall be paid:-

(a) an annual retainer (no abatement for days worked) equivalent to ten days' fee; and

(b) a cancellation fee equivalent to 50% of one day's fee for cancellation of all work on a day with less than five working day's notice.

3. Revocation of Previous Determinations

3.1 Determinations Number 133, 149 and 154 are revoked.

4. Date of Effect

4.1 The date of effect of this Determination shall be 1 November 2004.

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