



Australian Capital Territory Remuneration Tribunal

Determination 2 of 2019

Head of Service, Directors-General and Executives

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 Act), the Remuneration Tribunal (the Tribunal) is required to inquire into, and determine, the remuneration, allowances and other entitlements for holders of certain public offices. This includes the Head of Service, directors-general and people engaged as an executive (known collectively as executives) under the *Public Sector Management Act 1994*.

During 2017, the Tribunal initiated a *Major Review: ACT Public Service Executive Remuneration, Allowances and Other Entitlements*, with a discussion paper released in September 2017.

The Tribunal called for submissions in November 2018 to support its annual Autumn review of remuneration, allowances and other entitlements.

Considerations

The Tribunal noted the Government Submission provided by the Chief Minister and a comprehensive briefing from Treasury officials on the prevailing economic circumstances for 2019.

This determination sets out the Tribunal's decisions following the 2019 Autumn review. At this review, the Tribunal finalised its *Major Review: ACT Public Service Executive Remuneration, Allowances and Other Entitlements*. This determination implements the decisions from this major review. This determination should be read with the final report of the *Major Review: ACT Public Service Executive Remuneration, Allowances and Other Entitlements* which has been released at the same time.

Decision

The Tribunal usually provides the same increases for all levels within the ACT Public Service executive structure. However as a result of the matters considered from the major review, particularly the remuneration gaps within the Band 2 and the need to establish a clearer remuneration differential between the bands and a more consistent progression within a band, the Tribunal decided to increase the remuneration of each executive level by different percentages. In determining these percentage increases the Tribunal has considered the remuneration of the Senior Officer Grade A relative to the Executive Level 1.1 and the pay rises under the new ACT Public Sector Enterprise Agreements.

The base remuneration level of each band (i.e. Level 1.1, 2.1, 3.1 and 4.1) will increase by 4.7% from 1 July 2019. The Tribunal has also acknowledged the significant roles and responsibilities of executives that have evolved since the establishment of the ACTPS in 1994 and the competitive environment in which the ACT Public Service operates.

The Tribunal is of the view that the Head of Service role should be a separate Band 5 in the executive classification structure to better recognise the distinct importance and whole of government focus of this position. In acknowledging this, the Tribunal has decided to provide the person engaged as the Head of Service an additional remuneration of \$10,000 per annum above the remuneration of an Executive Level 4.4.

The Tribunal has adjusted the fringe benefit tax payment from \$7,000 to \$7,500 as this rate has not been changed for quite some time. This change is for the fringe benefit tax year covering the period 1 April 2019 to 31 March 2020.

The Tribunal also increased the maximum relocation allowance amount to \$55,000, and made provision for the repayment of this allowance if an executive's engagement is ended within twelve months of the date of their commencement.

March 2019



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1 Commencement

1.1 This instrument commences on 1 July 2019.

2 Remuneration

2.1 The following table sets out the full-time base remuneration per year for a person engaged at an executive classification level specified in column 1.

TABLE 2.1

Column 1 Executive classification level	Column 2 Remuneration
Level 1.1	\$156,010
Level 1.2	\$169,203
Level 1.3	\$182,388
Level 1.4	\$195,520
Level 2.1	\$208,769
Level 2.2	\$227,160
Level 2.3	\$245,543
Level 2.4	\$264,006
Level 3.1	\$282,476
Level 3.2	\$293,809
Level 3.3	\$305,472
Level 3.4	\$316,958
Level 4.1	\$328,348
Level 4.2	\$337,841
Level 4.3	\$350,025
Level 4.4 (Head of Service)	\$381,524

- 2.2 If a person engaged at a level listed in column 1 of Table 2.1 is also engaged in or appointed to another office under ACT legislation, the person must only receive remuneration for the office that has the highest remuneration.
- 2.3 The person engaged as the Head of Service is to be paid additional remuneration of \$10,000 per annum above the remuneration of an executive level 4.4 specified in column 2 of Table 2.1. This additional remuneration is included as base remuneration and is recognised as salary for superannuation purposes.

3 Salary packaging

- 3.1 An executive may elect to take the remuneration mentioned in column 2 of Table 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 If an executive is working for a Public Benevolent Institution, the benefit items that normally incur fringe benefits tax must not incur more than \$17,000 grossed up taxable value per fringe benefits tax year, without prior approval from:
- a) for directors-general—the head of service; and
 - b) for executives—the relevant director-general.
- 3.4 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.
- 3.5 Salary for superannuation purposes is not affected by salary packaging.

4 Employer provided benefits

- 4.1 An executive 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.

Note: travel entitlements are provided under the *Public Sector Management Standards 2006 (repealed)*.

Vehicle

- 4.2 An executive is entitled to a vehicle and associated arrangements, including a parking space in accordance with the *Public Sector Management Standards 2016* and the *Guidelines for the Management and Use of Executive Vehicles*.

Employer's superannuation contribution

- 4.3 An executive is only eligible for the employer's superannuation contribution if their superannuation entitlements are not provided elsewhere.

- 4.4 An executive who is a member of the Commonwealth Superannuation Scheme (CSS) or Public Sector Superannuation (PSS) Scheme:
- a) the person's annual rate of remuneration for the purpose of the scheme is the base remuneration as provided in clause 2.1 of this Determination; and
 - b) the value attributed to the employer's superannuation contribution is taken to be a notional 16% of the person's base remuneration.
- 4.5 For an executive who is not currently a member of the CSS or PSS but was a member of the PSS Accumulation Plan (PSSap) until it closed to the Territory on 30 June 2006, and has maintained continuous employment with the Territory:
- a) the value of the employer's superannuation contribution is a notional 16% of the base remuneration as provided in clause 2.1 of this Determination; and
 - b) the employer will contribute that amount to an agreed superannuation fund nominated by the executive.
- 4.6 For an executive who is a member of any other superannuation fund, the employer's superannuation contribution is to be made at a rate no less than the Employer Superannuation Guarantee Charge Percentage as provided by the *Superannuation Guarantee (Administration) Act 1992*.
- 4.7 For 2016-17 onwards, the Territory's enhanced minimum employer superannuation contribution is 10.5%, until the ACT Public Sector Administrative and Related Classifications Enterprise Agreement 2018-2021 commences. The employer superannuation contribution is then adjusted according to the rate outlined in the ACT Public Sector Administrative and Related Classifications Enterprise Agreement 2018-2021.
- 4.8 Section 53 of the *Public Sector Management Standards 2016*, or this section's replacement, applies to persons who are not current CSS or PSS members or appointed to or engaged by the Territory before 30 June 2006 and maintained continuous employment with the Territory.
- 4.9 The value of the employer's superannuation contribution must not be paid in cash to an executive.
- Fringe benefit tax – vehicle**
- 4.10 The employer incurs fringe benefits tax liabilities for vehicles provided to their employees. Fringe benefits tax is determined and calculated under the Fringe Benefits Tax Assessment Act 1986. For the purposes of this section, the fringe benefits tax year commences 1 April 2019 and ending on 31 March 2020.
- 4.11 During the fringe benefits tax year, where the executive elects to receive an employer-provided vehicle instead of a payment, if the employer's liability in relation to the executive's vehicle provided by the employer for the fringe benefits tax year is less than \$7,500, the difference is payable to the executive as an allowance at the end of the fringe benefits tax year.
- 4.12 To avoid doubt, if the assessed liability for fringe benefits tax exceeds the \$7,500 threshold, the executive will not be required to pay any component in excess of the \$7,500.

- 4.13 During the fringe benefits tax year, where the executive elects to receive a payment instead of an employer provided vehicle, the amount of \$7,500 per annum is paid as an allowance to the executive on a fortnightly basis.
- 4.14 The fringe benefits tax allowance of \$7,500 under clause 4.13 is reduced proportionally where the executive is engaged for less than a full fringe benefits tax year.

5 Relocation allowance

- 5.1 In this clause, **ACT** means the Australian Capital Territory and its surrounding district, including Queanbeyan.
- 5.2 Relocation allowance is provided to assist an individual with the costs to relocate from their home location to the ACT in order to take up the engagement as an executive.
- 5.3 The executive may be reimbursed an amount of up to \$55,000, 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 (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 Tribunal, any other reasonable expenses necessarily incurred in relocating to the ACT.
- 5.4 The Tribunal may decide to reimburse a higher amount of allowance 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 \$55,000.
- 5.5 If an executive 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) expenses incurred by the executive; and
 - d) the expected total relocation expenses of the executive; and
 - e) the level of assistance the executive considers should be provided; and

- f) any other relevant information.
- 5.6 If the executive terminates their employment with the Territory as an executive within twelve months of the date of their engagement, the executive may be required by the Head of Service to repay the following amount:
- a) If the executive terminates employment within six months from the date of their engagement—100% of the amount reimbursed under section 5.3;
 - b) If the executive terminates employment more than six months and less than twelve months from the date of their engagement—50% of the amount reimbursed under section 5.3.

Note: Relocation allowance does not apply to any expenses incurred at the conclusion of employment with the Territory.

6 Other entitlements

- 6.1 For the avoidance of doubt, under section 113 and 115 of the *Public Sector Management Standards 2016*, the following provisions of the *Public Sector Management Standards 2006 (repealed)* continue to apply to executives:
- 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 9.6 (executive employee and statutory office-holder leave and other entitlements).
- 6.2 Leave entitlements, salary sacrifice arrangements and vacation childcare subsidy are provided to executives under Division 5.6 of the *Public Sector Management Standards 2016*, as amended from time to time.

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).

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.

executive means the Head of Service, a Director-General or an ACTPS Executive.

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

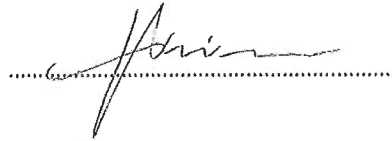
PSS means the Public Sector Superannuation Scheme.

total remuneration package includes remuneration 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.

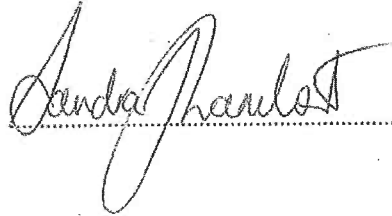
8 Revocation of previous Determination

8.1 Determination 9 of 2018 is revoked.

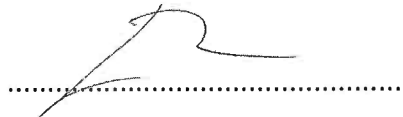
Dr Colin Adrian
Chair

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Ms Sandra Lambert AM
Member

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Dr James Popple
Member

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March 2019