



Statement and Determination 17 of 2011

Head of Service, Directors-General and Executives

Background

Section 10 of the *Remuneration Tribunal Act 1995* (the Act) requires the Remuneration Tribunal (the Tribunal) to inquire into, and determine, the remuneration, allowances and other entitlements to holders of the positions mentioned in Schedule 1 of the Act. This includes the head of service, directors-general and a person who is an executive within the meaning of the *Public Sector Management Act 1994*.

The Tribunal last reviewed the remuneration, allowances and other entitlements for chief executives and executives in April 2011 and subsequently issued Determination 4 of 2011. This latest review, which sought submissions from interested parties, was notified in the press on 6 August 2011.

The Tribunal has noted the administrative changes that have occurred and which were operational in the ACT Public Service from May 2011. Since then the Act has been amended to prescribe the offices of head of service and director-general as positions to which the Tribunal is required to inquire into and determine remuneration. The position of chief executive is no longer prescribed in the Act.

Tribunal Consideration

The Tribunal is required to determine remuneration for the head of service, directors-general and also for executives. Because of the similarities between these three office holder groups including that each carries a classification from executive level 1.1 to 3.12, the Tribunal refers to them collectively as the 'executive group'.

From 1 July 2011, the Act required the Tribunal to determine remuneration for the offices of head of service and director-general. Consequently, remuneration has been prescribed in Schedule A for these office holders from 1 July 2011 and also for the executive group from 1 November 2011, with no change in remuneration.

The Tribunal considered submissions, prevailing economic factors and comparative data on remuneration. The Tribunal indicated in June 2011 that it wanted to be in a position to consider further comparative material from other jurisdictions and from within the ACT when it became available. The Tribunal has noted that an offer has been made by the Government to bargaining representatives of administrative staff in the ACTPS covered by directorate industrial agreements amounting to a 3.5% increase in remuneration from 18 August 2011 and a further increase of 3.5% from 1 July 2012.

The Tribunal noted that its determination in June 2011 granted increases of 2.5% to chief executives and executives.

The Tribunal also noted the uncertain economic climate facing the ACT and the impact that the economic uncertainty may have on the budgetary position of the ACT Government. This was evident from a range of published material and reinforced in the Chief Minister's submission. The Tribunal was particularly concerned about possible weakening of the budgetary position and the recent re-emergence of global financial problems. It noted that the ACT is not and should not be a leader amongst Australian jurisdictions in setting remuneration for public officials and that the Tribunal cannot operate in isolation and must take into account public expectations of appropriate salary setting and the capacity of the Government to fund the remuneration of public officials. The Tribunal did not consider it appropriate in the current circumstances to grant a further increase in 2011 in the remuneration of public officials covered by this determination.

As a result the Tribunal determined that remuneration for the executive group is unchanged from that determined in Determination 4 of 2011 made in June 2011.

There were no changes made to the allowances and other entitlements of the executive group.

ACT Remuneration Tribunal
September 2011



ACT
Government

**AUSTRALIAN CAPITAL TERRITORY
REMUNERATION TRIBUNAL**

Determination 17 of 2011

Head of Service, Directors-General and Executives

Pursuant to Section 10 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 head of service, directors-general and executives.

This Determination shall take effect on and from 1 November 2011.

Anne Cahill Lambert AM
Chair

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Greg Friedewald
Member

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Dated: September 2011

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Determination 17 of 2011

Head of Service, Directors-General and Executives

The Tribunal determines as follows:

1. Remuneration

- 1.1 A member of the executive group whose position is classified at a level shown in Column 1 of Schedule A shall be entitled to the remuneration for that level shown in Column 2 of Schedule A.

2. Employer Provided Benefits

- 2.1 In addition to the remuneration shown in Schedule A, a member of the executive group shall be entitled to the various employer provided benefits or, where applicable, the relevant cash equivalents of the benefits, as shown in Schedule B.

3. Salary Packaging Scheme

- 3.1 Subject to the following conditions, a member of the executive group may elect to take the remuneration shown in Schedule A as salary or take a combination of salary and other benefits best suited to his or her personal needs and preferences.
- 3.2 The scheme is to be consistent with taxation laws and guidelines applicable to salary packaging schemes, as issued by the Australian Taxation Office.
- 3.3 The scheme is to be based on the ACT Public Service Salary Packaging Policy and Procedures issued by the Commissioner for Public Administration, with up to 100% of the relevant remuneration shown in Schedule A able to be taken as benefits and related costs such as fringe benefits tax (FBT). In the case of members of the executive group working for an institution that is a Public Benevolent Institution, the benefit items that normally incur FBT must not incur more than \$17,000 grossed up taxable value per FBT year, unless prior approval to exceed this amount has been obtained from the Commissioner for Public Administration in respect of head of service and directors-general and the relevant director-general in respect of executives.
- 3.4 The scheme shall be operated and administered so that there will be no additional cost to the ACT Government. In particular, any fringe benefits tax associated with the provision of a benefit is to be included in the salary package.
- 3.5 The salary for superannuation purposes of each member of the executive group is unaffected by participation in the salary packaging scheme.

4. Relocation Allowance

- 4.1 A reference in this clause to the ACT includes a reference to the surrounding district, including Queanbeyan.
- 4.2 Relocation allowance is an amount provided to **assist** a member of the executive group to relocate from a residence outside the ACT to a residence within the ACT. It is not intended that the allowance cover all costs in all circumstances.
- 4.2 Where a member of the executive group is relocated from a residence outside the ACT to a residence within the ACT, as a result of a fixed-term appointment or engagement, he or she shall be entitled to be reimbursed the actual, receipted, reasonable costs of relocating his or her residence to the ACT subject to the following conditions.
- 4.3 Reimbursement may be made in respect of: -
- (a) packing of personal effects and furniture belonging to the member of the executive group and his or her 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 subject to a maximum period in all of six months, or, in exceptional circumstances, nine months with the approval of the 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; and
 - (i) subject to the approval of the Remuneration Tribunal, any other reasonable expenses necessarily incurred in relocating to the ACT.
- 4.4 Total maximum amount under this provision shall not exceed \$49,790. The maximum amount must not be exceeded unless the Remuneration Tribunal agrees that there are **unusual or exceptional** circumstances prevailing, which are unforeseen or unable to be dealt with without exceeding the maximum relocation allowance.

4.5 Where the director-general of a directorate considers that unusual and exceptional circumstances exist in the relocation of an executive to the ACT, then the director-general of that directorate may request the Remuneration Tribunal to consider the matter and determine whether the maximum allowance can be exceeded. In such circumstances the Remuneration Tribunal will require the following information:

- details of the **unusual or exceptional** circumstances;
- details of the relocation;
- expenses incurred by the executive;
- the expected total relocation expenses of the executive;
- the level of assistance the director-general considers should be provided to the executive; and
- any other relevant information.

4.6 Where the head of service or a director-general relocates to the ACT as a result of a fixed-term appointment or engagement and considers that the circumstances support payment of relocation costs above the maximum, then that head of service or director-general may directly request the Remuneration Tribunal to consider the matter.

4.7 This entitlement does not apply to any expenses incurred at the conclusion of employment.

5. Revocation of Previous Determinations

5.1 Determination 4 of 2011, dated 8 June 2011, is revoked.

6. Date of Effect

6.1 The date of effect of this Determination is 1 November 2011.

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Schedule A

Remuneration Payable to the Head of Service and Director's-General from 1 July 2011 and the Executive Group from 1 November 2011

Column 1 Remuneration Point	Column 2 Remuneration (per annum)
Level 3.12	\$308,079
Level 3.11	\$285,644
Level 3.10	\$270,736
Level 3.9	\$257,417
Level 3.8	\$244,103
Level 3.7	\$230,856
Level 2.6	\$222,535
Level 2.5	\$190,979
Level 2.4	\$177,661
Level 1.3	\$156,093
Level 1.2	\$142,777
Level 1.1	\$129,460

Note: Head of Service is classified as executive level 3.12. Director-General is classified as executive level 3.8 to 3.11 depending on position.

Schedule B

Employer Provided Benefits (EPBs) – Executive Group

EPB	Annual Cash Payment or Cash Payment In Lieu of Benefit
Employer's Superannuation Contribution	As set out in Clause 2 of this schedule or the Public Sector Management Standards
Use of Government leased motor vehicle	As set out in the Public Sector Management Standards
Parking	As set out in the Public Sector Management Standards
Fringe Benefits Tax allowance (FBT)	\$7,000

Conditions

1. General

- 1.1 The value of the remuneration component and the employer provided benefits (EPBs) shall be fixed and non-transferable to other components of the total remuneration package.
- 1.2 Cash-in-lieu shall not increase the remuneration component for salary purposes, as set out in Column 2 of Schedule A of this Determination.

2. Employer Superannuation Contributions

- 2.1 This entitlement only applies to a member of the executive group whose superannuation entitlements are not provided for elsewhere. This entitlement is subject to the *Superannuation Act 1976* (Cth), the *Superannuation Act 1990* (Cth) and the *Superannuation Act 2005* (Cth).

Note: Section 636 of the Public Sector Management Standards prescribes superannuation for members of the executive group from 1 July 2006.

- 2.2 In the case of a member of the executive group who is a member of the Commonwealth Superannuation Scheme (CSS) or the Public Sector Superannuation Scheme (PSS): -
 - (a) a member of the executive group may elect that the employer shall continue to meet its requirements under the *Superannuation Act 1976* (Cth) and the *Superannuation Act 1990* (Cth) as they apply to those persons who are contributory members of the CSS and PSS established under those Acts; and
 - (b) for the purposes of calculating the entitlements component of the total remuneration package, the value of the employer's superannuation contribution shall be notionally deemed to be 16% of the remuneration component.

- 2.3 In the case of a member of the executive group who is not a member of the CSS or PSS, and who commenced before 30 June 2006 and maintained continuous employment with the Territory:
- (a) the value of the employer's superannuation contribution shall be 16% of the remuneration component; and
 - (b) the employer shall contribute an amount equal to this on behalf of the member of the executive group to an agreed superannuation fund nominated by the person.
- 2.4 The value of the employer's superannuation contribution shall not be paid in cash to the member of the executive group.

3. Elections - Employer Provided Benefits (EPBs)

- 3.1 Prior to signing the contract of employment a member of the executive group shall elect whether he or she wishes to retain the parking entitlement or to be paid in cash. Where a member of the executive group elects to be provided with an employer provided vehicle in accordance with the entitlements in the Public Sector Management Standards, the member of the executive group must also elect and be provided with a parking space.
- 3.2 The amount of the Fringe Benefits Tax Allowance (FBT) payable to the member of the executive group will be the amount remaining after the employer's liability for fringe benefits tax is calculated, as required under the *Fringe Benefits Tax Assessment Act 1986*.
- 3.3 The vehicle and employer superannuation entitlements contained in the Public Sector Management Standards will also be considered for the purposes of calculating FBT.
- 3.4 If the liability for fringe benefits tax exceeds the sum of \$7,000 the member of the executive group shall not be required to pay the excess to the employer.
- 3.5 Where a member of the executive group elects to take an annual EPB (or cash in lieu), then this shall be reduced proportionally where the relevant employment comprises only part of a financial year.
- 3.6 Where a member of the executive group elects to take an EPB in cash, the total value of the elected EPB shall be paid to in equal fortnightly instalments.

4. Definitions

In this Determination: -

Agreed superannuation fund means a fund complying with the requirements of the *Income Tax Assessment Act 1936* (C'th) and complying with the *Superannuation Industry (Supervision) Act 1993* (C'th) where relevant.

Employer means the Australian Capital Territory and includes any person authorised to act on behalf of the Australian Capital Territory in relation to any act, approval or direction to be done, granted or exercised, by or on behalf of the Australian Capital Territory.

Executive group means the positions of head of service, directors-general and executives.

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

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