



ACT
Government

AUSTRALIAN CAPITAL TERRITORY REMUNERATION TRIBUNAL

Statement and Determination 18 of 2011

Full-Time Holders of Public Office

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 or notified in writing to the Tribunal by the Chief Minister. This includes holders of certain full-time public offices.

The Tribunal last reviewed remuneration, allowances and other entitlements for full-time holders of public office in April 2011 and subsequently issued Determination 5 of 2011 in June 2011.

This latest review, which sought submissions from interested parties, was notified in the press on 6 August 2011.

Tribunal Consideration

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 full-time holders of public office.

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 long-term 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 full-time holders of public office is unchanged from that determined in Determination 5 of 2011 made in June 2011.

There were no changes made to the allowances and other entitlements of full-time holders of public office.

ACT Remuneration Tribunal
September 2011



ACT
Government

**AUSTRALIAN CAPITAL TERRITORY
REMUNERATION TRIBUNAL**

Determination 18 of 2011

Full-Time Holders of Public Office

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 certain holders of full-time public office.

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



ACT
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**AUSTRALIAN CAPITAL TERRITORY
REMUNERATION TRIBUNAL**

Determination 18 of 2011

Full-Time Holders of Public Office

The Tribunal determines as follows:

1. Remuneration

1.1 With effect from 1 November 2011, a person holding an office shown in Column 1 of the following table shall be entitled to the rate of remuneration specified in Column 2, subject to clause 1.2:

Table 1.1

Column 1 - Office	Column 2 - Remuneration
Director of Public Prosecutions	\$298,239
Auditor-General	\$257,417
General President ACT Civil and Administrative Tribunal	\$255,870
Appeals President ACT Civil and Administrative Tribunal	\$255,870
Chief Planning Executive, ACT Planning and Land Authority	\$244,103
Chief Executive Officer, Land Development Agency	\$230,856
Director, Canberra Institute of Technology	\$230,856
Chief Executive Officer, Legal Aid Commission (ACT)	\$190,979
Public Advocate	\$177,661
Children and Young People Commissioner	\$156,093
Assistant Executive Officer, Legal Aid Commission (ACT)	\$156,093
Human Rights Commissioner	\$156,093
Disability and Community Services Commissioner	\$156,093
Discrimination Commissioner	\$156,093
Electoral Commissioner	\$156,093
Health Services Commissioner	\$156,093
Victims of Crime Commissioner	\$129,460
Domestic Violence Project Coordinator	\$115,109

1.2 A public employee who also holds an appointment in Column 1 is entitled to the greater of the remuneration prescribed in Column 2 or the remuneration otherwise prescribed for the public employee.

2. Employer Provided Benefits

2.1 Subject to section 11 of the *Remuneration Tribunal Act 1995*, a person holding an office mentioned in Table 1.1 shall be entitled to the various employer provided benefits or, where applicable, the relevant cash equivalents of the benefits, as shown in Schedule A.

3. Salary Packaging Scheme

3.1 Subject to the following conditions, a person holding an office mentioned in Table 1.1 may elect to take remuneration shown in Table 1.1 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, 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 being taken as benefits and related costs such as fringe benefits tax.

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 person holding a full-time public office 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** an individual 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.

4.3 Where a person holding an office mentioned in Table 1.1 above 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.

4.4 Reimbursement may be made in respect of: -

- (a) packing of personal effects and furniture belonging to the individual 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 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; and
- (i) subject to the approval of the Remuneration Tribunal, any other reasonable expenses necessarily incurred in relocating to the ACT.

4.5 Total maximum amount under this provision shall not exceed \$49,790. The maximum amount must not be exceeded unless the ACT 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.

4.6 Where a person holding an office mentioned in the table in Clause 1 above considers that unusual and exceptional circumstances exist in their relocation to the ACT, then they 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 office holder;
- the expected total relocation expenses of the office holder;
- the level of assistance the office holder considers should be provided; and
- any other relevant information.

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

5. Leave and other entitlements where no specific provisions

- 5.1 Subject to section 11 of the *Remuneration Tribunal Act 1995*, and except when there is in force any other determination of the Tribunal specifying the leave or any other entitlements to be granted to the holder of an office mentioned in Table 1.1, a person holding such an office shall be entitled to the leave or other entitlements as would be available to an executive who is engaged under section 72 of the *Public Sector Management Act 1994*.
- 5.2 For the avoidance of doubt, this entitlement includes recognition of accrued leave credits where such credits have been accrued in employment in the ACT Public Service by the office holder immediately before taking up an office mentioned in Table 1.1 in sub-clause 1, provided that a payment equivalent to the value of the unused credits has not been made or the accrued credits otherwise accounted for by the Territory.

6. Previous Determinations

- 6.1 Determination 5 of 2011, dated 8 June 2011 is revoked.

7. Date of Effect

- 7.1 The date of effect of this Determination is 1 November 2011.

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Schedule A

Employer Provided Benefits (EPBs) - Full-Time Statutory Office Holders

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 Table 1.1 of this Determination.

2. Employer's Superannuation Contribution

- 2.1 This entitlement only applies to a person holding an office mentioned in Table 1.1, 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 642 of the Public Sector Management Standards prescribes superannuation for statutory office holders from 1 July 2006.

- 2.2 In the case of an office holder who is a member of the Commonwealth Superannuation Scheme (CSS) or the Public Sector Superannuation Scheme (PSS):
 - (a) the office holder 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 an office holder 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 chief executive or executive 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 office holder.

3. Elections - Employer Provided Benefits

- 3.1 Prior to signing the contract of employment the office holder shall elect whether he or she wishes to retain the parking entitlement or to be paid in cash. Where the office holder elects to be provided with an employer provided vehicle in accordance with the entitlements contained in the Public Sector Management Standards, the office holder must also elect and be provided with a parking space.
- 3.2 The amount of the Fringe Benefits Tax Allowance (FBT) payable to the office holder 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 office holder shall not be required to pay the excess to the employer.
- 3.5 An office holder's right to take an annual EPB (or cash in lieu) shall be reduced proportionally where the relevant employment comprises only part of a financial year.
- 3.6 Where an office holder elects to take an EPB in cash, the total value of the elected EPB shall be paid to the office holder in equal fortnightly instalments.

4. Definitions

In this schedule: -

Agreed superannuation fund means a fund complying with the requirements of the *Income Tax Assessment Act 1936* (Cth) and complying with the *Superannuation Industry (Supervision) Act 1993* (Cth) 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 under contract.

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

Office holder means one of:

- Director of Public Prosecutions
- Auditor-General
- General President ACT Civil and Administrative Tribunal
- Appeals President ACT Civil and Administrative Tribunal
- Chief Planning Executive, ACT Planning and Land Authority
- Chief Executive Officer, Land Development Agency
- Director, Canberra Institute of Technology
- Chief Executive Officer, Legal Aid Commission (ACT)
- Public Advocate
- Children and Young People Commissioner
- Human Rights Commissioner
- Disability and Community Services Commissioner
- Discrimination Commissioner
- Electoral Commissioner
- Health Services Commissioner
- Assistant Executive Officer, Legal Aid Commission (ACT)
- Victims of Crime Commissioner
- Domestic Violence Project Coordinator
