



AUSTRALIAN CAPITAL TERRITORY REMUNERATION TRIBUNAL

Statement 12 of 2009

Full-Time Holders of Public Offices

General President and Appeals President ACT Civil and Administrative Tribunal

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 for the purposes of this section. This includes holders of certain full-time public offices.

The Tribunal last reviewed remuneration and allowances for full-time Presidential Members of the ACT Civil and Administrative Tribunal in November 2008 and issued Determination 17 of 2008, dated 14 November 2008.

The latest inquiry was notified in the press on 15 August 2009.

Tribunal Consideration

Written submissions were received and considered by the Tribunal at its meeting on 29 October 2009.

The Tribunal determined an increase 1.5% with effect from 1 November 2009.

The Tribunal determined that, in future, remuneration for Presidential Members would be reviewed at the same time as the Full-time Holders of Public Office, namely in the first half of the calendar year.

ACT Remuneration Tribunal
December 2009



**AUSTRALIAN CAPITAL TERRITORY
REMUNERATION TRIBUNAL**

Determination 12 of 2009

Full-Time Holders of Public Offices

**General President and Appeals President
ACT Civil and Administrative Tribunal**

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 the General President and Appeals President of the ACT Civil and Administrative Appeals Tribunal.

This Determination shall take effect on and from 1 November 2009.

Alan Kerr AM
Chair

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Roberta McRae OAM
Member

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Jill Greenwell
Member

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Dated: December 2009



AUSTRALIAN CAPITAL TERRITORY REMUNERATION TRIBUNAL

Determination 12 of 2009

Full-Time Holders of Public Offices

General President and Appeals President ACT Civil and Administrative Tribunal

The Tribunal determines as follows:

1. Remuneration

- 1.1 Remuneration of \$241,771 per annum shall be payable to the General President and Appeals President.

2. Employer Provided Benefits

- 2.1 Subject to section 11 of the *Remuneration Tribunal Act 1995*, a person holding the office of General President or Appeals President 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 the office of General President or Appeals President may elect to take remuneration specified in sub-clause 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 one of the full-time public offices 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 the office of General President or Appeals President is relocated from a residence outside the ACT to a residence within the ACT, as a result of a fixed-term 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 \$47,046. 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 the office holder 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;
- 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 an office holder, a person shall be entitled to the leave or other entitlements as would be available to an executive 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 of General President or Appeals President, 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. Revocation of Previous Determination

6.1. Determination Number 17 of 2008, dated 14 November 2008 is revoked.

7. Date of Effect

7.1 The date of effect of this Determination is 1 November 2009.

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Schedule A

Employer Provided Benefits (EPBs) – General President and Appeals President

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 Sub-clause 1.1 of this Determination.

2. Employer's Superannuation Contribution

- 2.1 This entitlement only applies to a person holding the office of General President or Appeals President, whose superannuation entitlements are not provided for elsewhere (for example, the Public Sector Management Standards). This entitlement is subject to the *Superannuation Act 1976* (C'wlth), the *Superannuation Act 1990* (C'wlth) and the *Superannuation Act 2005* (C'wlth).

Note: Sections 593-595 of the Public Sector Management Standards prescribe superannuation for statutory office holders from 1 July 2006.

- 2.2 In the case of an office holder who is a member of the CSS or the PSS: -
 - (a) the employer shall continue to meet its requirements under the *Superannuation Act 1976* (C'wlth) and the *Superannuation Act 1990* (C'wlth) 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:
- (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* (C'wlth) and complying with the *Superannuation Industry (Supervision) Act 1993* (C'wlth) 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 either the General President or Appeals President.

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