



## REMUNERATION TRIBUNAL

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Determination 2005/19:

Principal Executive Office - Classification Structure and Terms and Conditions

As amended.

Made under sub-section 5(2A), 7(3D) and 7(4) of the *Remuneration Tribunal Act 1973*.

**Consolidated as at 25 September 2009 and incorporates amending determinations up to and including 2009/16 – Principal Executive Office (PEO) Classification Structure and Terms and Conditions. Prepared by the Remuneration Tribunal Secretariat.**

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The Remuneration Tribunal has determined a Principal Executive Office (PEO) classification structure of five levels, or Bands, as well as terms and conditions that apply to offices in those Bands.

The Minister for Employment and Workplace Relations may declare an office or appointment to be a PEO, assign a classification to it and declare an Employing Body<sup>1</sup>.

Following declaration, the Employing Body of a PEO determines the terms and conditions (including remuneration and allowances) applying to the office<sup>2</sup>. The determination of an Employing Body must be consistent with this Determination, unless the Tribunal has given written consent to an Employing Body to determine terms and conditions that are inconsistent with this Determination.<sup>3</sup>

In determining a PEO's terms and conditions (including remuneration and allowances) the Employing Body should be fair, flexible and supportive of a high performing Australian Government public sector and be consistent with the Government's workplace relations policy.

**This Determination comprises:**

- **Part 1** – General;
- **Part 2** – Classification, Remuneration and Related Matters;
- **Part 3** – Allowances;
- **Part 4** – Official Travel;
- **Part 5** – Leave; and
- **Part 6** – Compensation for Early Loss of Office.

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<sup>1</sup> Under sections 3A(1), (2) and (6) of the *Remuneration Tribunal Act 1973*, an office may be declared to be a Principal Executive Office and a classification assigned to it, after the advice of the Remuneration Tribunal is taken into account. Under section 3B a person, authority or body may be declared the Employing Body.

<sup>2</sup> Employing Bodies determine terms and conditions under 12C(1) of the RT Act.

<sup>3</sup> Under 12C(2) of the RT Act, an Employing Body must not determine terms and conditions inconsistent with this Determination, unless the Tribunal provides written consent.

## **PART 1 – GENERAL**

- 1.1 Authority:** The Remuneration Tribunal has made this Determination in accordance with the function in sub-section 5(2A) of the *Remuneration Tribunal Act 1973*.
- 1.2 Effective Date:** This Determination takes effect on and from 19 December 2005.
- 1.3 Effect on Earlier Determinations:** This Determination supersedes and revokes in full Determination 1999/15 (as varied) – *Principal Executive Office (PEO) Classification Structure and Terms and Conditions*. This Determination does not affect any accrued rights under the superseded determination.
- 1.4 Definitions:** For the purposes of this Determination, the following definitions apply.
- 1.4.1 'Agency'** means the agency to which the PEO is attached, or the portfolio department, if the PEO is not attached to an agency.
- 1.4.2 'Benefits'** means all non-monetary benefits provided at the employer's expense to or on behalf of a PEO as a personal benefit including:
- the value attributed by the Remuneration Tribunal to the employer Superannuation Support (refer clause 2.8);
  - a vehicle, where provided (refer clause 2.10); and
  - any other benefits received by way of remuneration packaging (refer clause 2.6).
- 1.4.3 'Employing Body'** means a specified person, authority or body declared by the Minister for Employment and Workplace Relations, under section 3B of the *Remuneration Tribunal Act 1973*, to be the employing body in respect of a principal executive office.
- 1.4.4 'PEO'** means the holder of a 'principal executive office' as defined in the *Remuneration Tribunal Act 1973*.
- 1.4.5 'Performance pay'** means an amount of at-risk pay awarded on the basis of performance and paid as a lump sum.
- 1.4.6 'Superannuation Salary'** means an amount of salary which is determined under clause 2.7 for the purposes of superannuation laws, the calculation of separation benefits and payment in lieu of recreation leave.
- 1.4.7 'Superannuation Support'** means the amount ascertained in accordance with clause 2.8, representing the employer superannuation liability.

**1.4.8 'Total Remuneration'** means the total value, calculated at the total cost to the employer, of:

- salary and allowances,
- lump sum payments, and
- Benefits;

but does not include;

- Performance Pay, in accordance with clause 2.11,
- Allowances specified in Part 3,
- Travelling allowances and expenditure referred to in Part 4,
- payment in lieu of recreation or long service leave referred to in Part 5, or
- Compensation for early loss of office, specified in Part 6.

**1.5 Advice to the Tribunal:** Employing Bodies must notify the Tribunal in writing of a PEO's terms and conditions as soon as practicable after any change (including the initial determination), but no later than 4 weeks after the date of the decision by an Employing Body, and at such other times as may reasonably be required by the Tribunal.

**1.6 Agency Policies:** Employing Bodies may elect to apply to PEOs the same policies and practices as they do for other employees, except where they are not in accordance with this Determination.

**1.7 Guidelines:** The Tribunal may issue guidance notes from time to time to assist employing bodies in the administration of this Determination.

## **PART 2 –CLASSIFICATION, REMUNERATION AND RELATED MATTERS**

**2.1 Classification Structure:** The Principal Executive Office classification structure is as set out in Table A1 of Schedule A to this Determination.

**2.2 Remuneration:** An Employing Body must determine the value for the following components of a PEO's remuneration, consistent with this Determination:

- (a) Total Remuneration<sup>4</sup>, including Superannuation Salary;
- (b) Performance Pay; and
- (c) any Allowances under Part 3.

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<sup>4</sup> Under s.3A(4) the Minister responsible for the RT Act may set the commencing remuneration, upon assigning a PEO classification to an office. The initial Determination by an employing Body needs to be consistent with that rate.

- 2.3 Setting Remuneration:** In determining the value of the terms and conditions for a PEO, an Employing Body is expected to exercise prudent business judgement commensurate with the responsibilities and accountabilities of the office. Relevant considerations will include (but are not restricted to):
- (a) the work value, role and responsibilities of the office or appointment;
  - (b) that improvements in pay and conditions should be linked to productivity gains;
  - (c) the ability of an Employing Body to recruit and retain persons with the necessary qualities and skills; and
  - (d) other relevant factors such as adjustments to the remuneration rates for the PEO classification structure.
- 2.4 Adjustment of Remuneration:** Total Remuneration determined by the Employing Body may not be varied, except with the written consent of the Tribunal.<sup>5</sup>
- 2.4.1** Where a variation is consented to, the Total Remuneration determined by an Employing Body must not be outside the range for the relevant classification Band shown in Table A1 of Schedule A.
- 2.5 No Retrospectivity:** An Employing Body may not backdate any variation in remuneration.
- 2.6 Remuneration packaging:** Subject to this Part, a PEO may elect to receive the value of remuneration as salary or as a combination of salary and Benefits. The Office Holder must take at least 50 per cent of Superannuation Salary as salary, except where agency policies and procedures on salary packaging allow otherwise. Any election must be consistent with relevant taxation laws and rulings or guidelines applicable to salary packaging schemes issued by the Australian Taxation Office. Any election must not result in a cost to the employer (including in relation to any fringe benefits taxation) additional to the cost which would be incurred if Benefits able to be taken as salary were taken as salary.
- 2.7 Superannuation Salary:** Salary for superannuation purposes will be no more than 73 per cent of the Total Remuneration determined by the Employing Body in accordance with this Determination.
- 2.8 Employer Superannuation Support:** Total Remuneration will be taken to include the Superannuation Support provided by the employer in respect of a PEO, which has the value ascertained under sub-clause 2.8.1 or the amount of

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<sup>5</sup> Under 12C(2) of the RT Act, an Employing Body must not determine terms and conditions inconsistent with this Determination, unless the Tribunal provides written consent. The Tribunal intends to provide written advice to the Employing Body each financial year, setting out the extent to which any pay variations may occur without further consideration by the Tribunal and provide consent for the Employing Body to act in keeping with that advice.

contributions under sub-clause 2.8.2. Contributions made on a salary sacrifice basis do not form part of Superannuation Support; these are covered by clause 2.6 (Remuneration Packaging).

**2.8.1 Defined Benefits Schemes:** In the case of a PEO who may be eligible for defined benefits under a Commonwealth superannuation scheme, except as otherwise provided in this subclause, the value of Superannuation Support will be taken to be 15.4 per cent of Superannuation Salary. Employing bodies may deduct a lesser amount (provided the amount includes the employer productivity component) where the employing body holds an actuarial opinion or documentary evidence from the relevant fund which verifies that the fund only requires the lesser amount of contribution from the employing body.

**2.8.2 Other Schemes:** In the case of a PEO not covered by sub-clause 2.8.1, the value of Superannuation Support will be the contributions actually paid, or liable to be paid, to a superannuation scheme by the employer in respect of the PEO.

**2.8.3 No cash in lieu:** The value attributable by virtue of this clause to Superannuation Support is a non-salary component of Total Remuneration and may not be the subject of an election to take an equivalent amount of salary instead.

**2.8.4 Transitional:** Where an Employing Body has determined remuneration for a PEO based on the provisions applying under the superseded PEO Determination (1999/15), any change resulting from the application of the provisions of this clause (Employer Superannuation Support) need not be applied until remuneration is next varied.

**2.9 Part-time work:** Where approval is given by the employer for a PEO to perform the duties of an Office on a part-time basis, the Superannuation Salary, Total Remuneration and Performance Pay will be calculated on a pro-rata basis in accordance with the proportion of full-time hours worked. Where proposed hours are less than 60 per cent of the full-time rate, prior agreement of the Tribunal is required to the remuneration level.

**2.9.1 Transitional:** Where an Employing Body has determined hours of work for a PEO based on the provisions applying under the superseded PEO Determination (1999/15), any change resulting from the application of the provisions of this clause (Part-time work) need not be applied until a new office holder is appointed.

**2.10 Vehicles:** Where a PEO accepts an offer of an agency owned or leased vehicle for private use, the following provisions apply. Where a PEO has access to an agency

owned or leased vehicle for private use, they will be considered to have accepted an offer of a vehicle for the purposes of this provision.

**2.10.1 Deduct total cost:** The total actual cost of the vehicle to the agency, including parking and fringe benefits tax, is to be encompassed within the Total Remuneration rate applying to the PEO.

**2.10.2 Business use excluded:** The total cost of the vehicle calculated under the above subclause may exclude a reasonable amount (if any) that reflects business usage patterns. Any business usage amount is to be assessed on log book records for at least a 12 week representative period. Where the annual business kilometres are less than 5,000 it will be based on the 'cents per kilometre' method. Where business kilometres are 5,000 kilometres or more, the percentage of business use to total kilometres travelled per annum will be applied to the total cost of the vehicle.

**2.11 Performance Pay:** Employing Bodies may establish a performance pay scheme which includes payment of a lump sum based on assessment of the performance of the PEO over a 12 month cycle.

**2.11.1 Maximum:** The maximum amount available per annum must not exceed 15 per cent of Total Remuneration for offices in Bands A, B or C and 20 per cent for offices in Bands D or E.

**2.11.2 Guidelines:** Performance pay must operate in accordance with any Guidelines issued by the Remuneration Tribunal from time to time.

### **PART 3 – ALLOWANCES**

**3.1 Geographic Relocation:** Reimbursement of expenses incurred on geographic relocation following appointment as a PEO, in accordance with agency policies and procedures, may be approved by the Employing Body. Any ongoing allowances must be in accordance with the following clauses.

**3.2 Accommodation Allowance:** Where the Tribunal provides written consent, an Employing Body may determine that a PEO will be eligible to receive an accommodation allowance (subject to expenditure) following geographic relocation.

**3.2.1** This amount is to assist the PEO in meeting settling-in and commercial rental accommodation costs (including one-off utility connection costs) in the office location while they also continue to have a property, other than in the office location, as their principal place of residence.

- 3.2.2** The allowance will not be paid for such periods that they live in premises owned by them at the office location.
- 3.2.3** A PEO will not be eligible to access travel allowance entitlements in the home locality or the office locality whilst they remain eligible to receive the accommodation allowance.
- 3.2.4** Where the commercial accommodation does not include cooking facilities, the cost of meals may form part of the payment, within the accommodation cap set for the PEO.
- 3.3 Reunion Travel:** Where the Tribunal provides written consent, an Employing Body may determine that a PEO will be eligible to receive travel costs of up to the determined amount for travel back to their principal place of residence, for the purposes of family reunion, while they continue to occupy the office.
- 3.4 Remote Localities:** Where the Tribunal provides written consent, an Employing Body may determine that a PEO will be eligible to receive benefits and/or allowances in recognition of the geographic remoteness of the office locality.

#### **PART 4 - OFFICIAL TRAVEL**

- 4.1 Official Travel:** The provisions of Determination 2004/03 – *Official Travel by Office Holders* – apply to offices covered by this Determination, subject to any exclusions or limitations in this Determination.
- 4.2 Travel Tier:** In establishing entitlements under 2004/03, the Travel Tier for an office is that advised to the Employing Body by the Remuneration Tribunal. If no advice is provided, offices in Bands A, B and C are eligible for Tier 2 travel and Bands D and E are eligible for Tier 1.

#### **PART 5 - LEAVE**

- 5.1 Leave of absence:** A PEO shall be entitled to the following types and amounts of leave of absence:
- (a) PEOs may be absent without loss of pay on public holidays that are observed by the Australian Public Service in the location in which the PEO is based;
  - (b) paid annual leave of 4 weeks per year of full-time service;
  - (c) paid long service leave as prescribed under the *Long Service Leave (Commonwealth Employees) Act 1976*; and
  - (d) other paid and unpaid leave, including sick and carers leave, at the discretion of the Employing Body<sup>6</sup>.

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<sup>6</sup> PEOs may also be eligible for paid and unpaid leave as prescribed under the *Maternity Leave (Commonwealth Employees) Act 1973*.

## **PART 6 - COMPENSATION FOR EARLY LOSS OF OFFICE**

**6.1 Exclusions:** A PEO is not entitled to separation benefits under clause 6.3 where:

- (a) the person resigns or retires; or
- (b) the person has served their full term of appointment; or
- (c) the appointment was terminated prematurely for reasons of misbehaviour or unsatisfactory performance; or
- (d) the appointment was terminated prematurely on account of mental or physical incapacity and the person is entitled to receive invalidity retirement benefits under Commonwealth superannuation legislation.

**6.2 Alternative employment:** Subject to clause 6.1, where a person's appointment to an office is terminated prematurely, the Commonwealth may elect to offer suitable alternative employment (including in a Commonwealth company or authority).

**6.3 Compensation:** Where the Commonwealth does not offer suitable alternative employment under Clause 6.2, the Agency will pay the officer holder 1/3 of one month of an office holder's Superannuation Salary per month of service remaining, in lieu of obligations such as provision of notice or payment instead of notice or redundancy pay and subject to:

- (a) a minimum payment of four months of an office holder's Superannuation Salary; and
- (b) a maximum payment of one year of an office holder's Superannuation Salary.

**6.4 Unexpired Period:** Under clause 6.3, the Employing Body may calculate service remaining taking into account any period of continuing Commonwealth service in alternative employment, and may require a PEO to sign a release in return for payment.

**6.5 Comprehensive Coverage:** Clauses 6.1 to 6.4 deal comprehensively with the subject of payments related to an office holder ceasing to hold office, regardless of the basis upon which the office holder ceases to hold office.

## Schedule A to the PEO Determination

**Table A1 – Principal Executive Office Classification Structure and Remuneration Ranges with effect from 1 October 2009.**

<b>PRINCIPAL EXECUTIVE OFFICE CLASSIFICATION STRUCTURE</b>		
	<i>Superannuation Salary Band Range<sup>7</sup></i>	<i>Total Remuneration Band Range<sup>8</sup></i>
<b>PEO BAND A</b>	<b>up to \$154,630</b>	<b>up to \$211,830</b>
Reference salary A <sup>9</sup>	\$136,510	
<b>PEO BAND B</b>	<b>\$113,300 - \$209,860</b>	<b>\$154,500 - \$287,470</b>
Reference salary B	\$161,360	
<b>PEO BAND C</b>	<b>\$149,350 - \$297,960</b>	<b>\$206,000 - \$408,160</b>
Reference salary C	\$219,240	
<b>PEO BAND D</b>	<b>\$211,150 - \$386,270</b>	<b>\$288,400 - \$529,110</b>
Reference salary D	\$311,230	
<b>PEO BAND E</b>	<b>from \$329,600</b>	<b>from \$406,850</b>

<sup>7</sup> The Superannuation Salary for a PEO is determined by the Employing Body in accordance with clause 2.7.

<sup>8</sup> The Total Remuneration range for each Band is normally adjusted from 1 July each year.

<sup>9</sup> This salary is identified as the reference salary for the purposes of clause 1(4)(b) of Schedule 3 to the *Remuneration and Allowances Act 1990*.

## Notes to Remuneration Tribunal Determination 2005/19: Principal Executive Office – Classification Structure and Terms and Conditions

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This determination as shown in this compilation is amended as indicated in the tables below. Under the Legislative Instruments Act 2003, which came into force on 1 January 2005, it is a requirement for all non-exempt legislative instruments to be registered on the Federal Register of Legislative Instruments.

### Table of Instruments

Title	Date of FRLI registration	Date of commencement	Application saving or transitional provisions
2005/19 – Principal Executive Office – Classification Structure and Terms and Conditions	14/12/2005 F2005L04037	19/12/2005	-
2005/20 – Remuneration and Allowances for Holders of Public Office	25/01/2006 F2006L00217	19/12/2005	-
2006/03 – Remuneration and Allowances for Holders of Public Office	17/05/2006 F2006L01484	6/04/2006	-
2006/09 – Principal Executive Office (PEO) Classification Structure and Terms and Conditions	16/06/2006 F2006L01795	1/07/2006	-
2006/11 – Remuneration and Allowances for Holders of Public Office and Members of Parliament	26/06/2006 F2006L01940	1/07/2006	-
2007/04 – Principal Executive Office (PEO) Classification Structure and Terms and Conditions	10/05/2007 F2007L01327	1/07/2007	-
2007/08 – Principal Executive Office (PEO) Classification Structure and Terms and Conditions	20/06/2007 F2007L01754	1/07/2007	-
2008/01 – Remuneration and Allowances for Holders of Public Office	18/02/2008 F2008L00469	19/02/2008	-
2008/10 - Principal Executive Office (PEO) Classification Structure and Terms and Conditions	12/6/2008 F2008L02074	1/7/2008	-
2009/16 – Principal Executive Office (PEO) Classification Structure and Terms and Conditions	25/09/2009 F2009L03680	1/10/2009	-

Notes to Remuneration Tribunal Determination 2005/19:  
 Principal Executive Office - Classification Structure and Terms and  
 Conditions

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Table of Amendments

ad. = added or inserted      am. = amended      rs. = repealed and substituted      rep. = repealed

Provision affected	How affected
C 2.8.4	ad. 2005/20
C 2.6	rs. 2006/03
Table A1	rs. 2006/09, rs. 2006/11, rs 2007/04, rs 2007/08, rs 2008/10, rs 2009/16
C 6.5	am 2008/01