



Consolidated as at 23  
June 2005 and  
incorporates amending  
determinations up to and  
including 2005/12

## REMUNERATION TRIBUNAL

### Determination 1999/15:

## Principal Executive Office (PEO) Classification Structure and Terms and Conditions

**Authority:**

*Remuneration  
Tribunal Act s5(2A)*

This Determination sets out the classification structure for PEOs. It comprises:

**Date of effect:**

1 July 2005 (except  
where specified  
otherwise)

- (a) Part A – Underlying principles
- (b) Part B – Remuneration and related matters
- (c) Part C – Official expenses including official travel
- (d) Part D – Variation and related matters

The Minister for Finance and Administration may declare, under the *Remuneration Tribunal Act 1973*:

- (a) a specified office or appointment to be a Principal Executive Office; and
- (a) (b) a specified person, authority or body to be that PEO's employing body.

### PART A

### UNDERLYING PRINCIPLES

*Definitions*

A1

In this Determination:

**"Employment Package"** means the PEO's Total Remuneration, Superannuation Salary and Performance Pay;

**"Performance Pay"** means an amount of at-risk performance-based pay of no more than 15% of Total Remuneration;

**"Superannuation Salary"** means an amount of salary which is determined for the purposes of superannuation laws and for calculating separation benefits, of no more than 70% of Total Remuneration;

**"Total Remuneration"** means the salary, allowances, compulsory employer superannuation contributions (calculated in accordance with clause B9) and any other benefits (including any additional superannuation contributions) provided mainly or solely for private use, calculated at their total cost to the Commonwealth but does not include Performance Pay, any items provided under Part C of this Determination or any other items as advised by the Tribunal from time to time.

## ***Guiding principles***

A2 Employing bodies are responsible for managing relations with their employees, consistently with the *Workplace Relations Act 1996* and within the funds lawfully available to meet employment costs.

A3 A PEO's terms and conditions (including remuneration) should be fair, flexible and supportive of a high performing Commonwealth sector.

## ***Disclosure and reporting***

A4 Employing bodies must notify the Tribunal in writing of a PEO's terms and conditions on translation into the PEO structure, thereafter as at 31 December each year by 31 March of the following year, and at such other times as may reasonably be required by the Tribunal.

A5 The Tribunal is required by law to provide an annual report to the Parliament on the Tribunal's operations.

### **Additional scrutiny**

Subsection 12C(2) of the *Remuneration Tribunal Act 1973* provides that except with the written consent of the Tribunal, an employing body must not determine terms and conditions in respect of a principal executive office that are inconsistent with terms and conditions determined by the Tribunal under s.7(3D) of that Act in respect of the classification to which the office is assigned. Accordingly, an employing body must not determine or adjust terms and conditions (including remuneration) for a PEO if that determination or adjustment is inconsistent with this Determination except with the written consent of the Tribunal. Note that adjustments made by an employing body consistently with clauses B10 and D1 are not inconsistent with this Determination.

## **PART B**

## **REMUNERATION AND RELATED MATTERS**

### ***General Concepts***

B1 An employing body must determine the value of the following components of a PEO's Employment Package:

- (a) Total Remuneration;
- (b) Superannuation Salary; and
- (c) Performance Pay.

B2 An officer may take goods and services in lieu of salary but must take at least 50% of their Total Remuneration as salary. Any election shall 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 Commonwealth (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.

B3 In determining the value of the Employment Package, employing bodies are expected to exercise prudent business judgement commensurate with the responsibilities and accountabilities of their public office. Relevant considerations will include (but are not restricted to):

- (a) the Government's workplace relations policy;
- (b) the work value, role and responsibilities of the office or appointment;

- (c) the APS remuneration policy, that improvements in pay and conditions be linked to productivity gains;
- (d) the ability of an employing body to recruit and retain persons with the necessary qualities and skills; and
- (e) other relevant factors such as movements in the reference salaries and marketplace trends identified by the Tribunal from time to time.

B3(A) For the purposes of paragraph 5(2A)(a) of the *Remuneration Tribunal Act 1973* the Remuneration Tribunal determines that the classification structure for Principal Executive Offices is as set out in Table 1 of this Determination.

**TABLE 1 PRINCIPAL EXECUTIVE OFFICE CLASSIFICATION STRUCTURE**

	<i>Superannuation</i> <i>Salary Range</i> * ^	<i>Total Remuneration</i> # ^ As at 1 July 2005
<b>PEO BAND A</b>	<b>up to \$120,750</b>	<b>up to \$172,500</b>
Reference salary A <sup>@</sup>	\$111,150	
<b>PEO BAND B</b>	<b>\$98,000 - \$163,870</b>	<b>\$140,000 - \$234,100</b>
Reference salary B	\$131,400	
<b>PEO BAND C</b>	<b>\$133,000 - \$232,680</b>	<b>\$190,000 - \$332,400</b>
Reference salary C	\$178,530	
<b>PEO BAND D</b>	<b>\$192,500 - \$301,630</b>	<b>\$275,000 - \$430,900</b>
Reference salary D	\$253,450	
<b>PEO BAND E</b>	<b>from \$280,000</b>	<b>from \$395,000</b>

# Maximum Total Remuneration for each band is to be adjusted on and from 1 July each year consistent with clause D3.

\* Superannuation Salary ranges shown are calculated in accordance with clause A1.

^ All remuneration/salaries refer to annual full-time remuneration/salaries. Part-time remuneration/salaries shall be set at a pro-rata rate as advised by the Tribunal.

@ Salary identified as the reference salary for the purposes of clause 1(4)(b) of Schedule 3 to the *Remuneration and Allowances Act 1990*.

**Leave**

B4 A PEO shall be entitled to the following types and amounts of leave of absence:

- (a) the public holidays observed by the Australian Public Service in the location in which the PEO is based;
- (b) any leave credits accrued previously, including under Remuneration Tribunal determinations 1994/33 and 1991/20;
- (c) paid annual leave of 4 weeks per year of full-time service, accruing on 1 January each year;
- (d) paid long service leave as prescribed under the *Long Service Leave (Commonwealth Employees) Act 1976*;
- (e) paid and unpaid maternity leave as prescribed under the *Maternity Leave (Commonwealth Employees) Act 1973*; and
- (f) other paid and unpaid leave, including sick and carers' leave, at the discretion of the employing body.

***Separation  
benefits***

B5 A PEO is not entitled to separation benefits under clause B7 where:

- (a) the person has served their full term of appointment; or
- (b) the appointment was terminated prematurely for reasons of misbehaviour or unsatisfactory performance; or
- (c) 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.

B6 Subject to clause B5, 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).

B7 Where the Commonwealth does not offer alternative employment under Clause B6, the employing body will pay the officer holder 1/3 of one month of an office holder's maximum 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 maximum Superannuation Salary; and

- (b) a maximum payment of one year of an office holder's maximum Superannuation Salary.

B8 Under Clause B7, the employing body may calculate service remaining taking into account any period of continuing Commonwealth service in alternative employment, and may require an office holder to sign a release in return for the payment.

***Compulsory  
employer  
superannuation  
contributions***

B9 The value of the compulsory employer superannuation contributions is 15% of the value of the Superannuation Salary as determined in accordance with clause A1 or such lesser amount determined in accordance with paragraphs a, b or c below:

- a. the amount that is accepted by the Tribunal after submission by the employing body of an actuarial opinion or other evidence acceptable to the Tribunal as being the amount of contribution required to be made to comply with the requirements of the relevant superannuation fund; or

- b. where employing bodies are required to make compulsory employer superannuation contributions in respect of PEOs to the Commonwealth's Public Sector Superannuation Scheme – the amount that the fund states is the only amount required from the employing body (provided the amount includes the employer productivity component)<sup>α</sup>; or

- c. where employing bodies make their compulsory employer superannuation contributions in respect of PEOs based on the superannuation guarantee amounts prescribed by the Australian Taxation Office - the relevant amount provided that the relevant superannuation fund does not require any further compulsory employer payments.<sup>α</sup>

<sup>α</sup> In order to value compulsory employer superannuation contributions on this basis, the employing body must hold an actuarial opinion or documentary evidence from the fund which verifies that the fund only requires the relevant amount of contribution from the employing body.

**Performance pay** B10 Performance Pay must be paid in accordance with the Performance Remuneration Guidelines issued by the Remuneration Tribunal from time to time. The employing body is not required to consult with the Tribunal in relation to Performance Pay that is paid to an office holder within the limit prescribed by the Tribunal, notwithstanding any specific requirement to do so under the Performance Remuneration Guidelines.

**PART C OFFICIAL EXPENSES INCLUDING OFFICIAL TRAVEL**

C1 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. In establishing entitlements under Determination 2004/03, the Travel Tier for an office is that advised to the employing body by the Minister with portfolio responsibility for the *Remuneration Tribunal Act 1973* or any subsequent advice by the Remuneration Tribunal.

**PART D VARIATION AND OTHER MATTERS**

**Scope for variation** D1 Where productivity or work value changes can be demonstrated, an employing body may increase or decrease the Total Remuneration of a PEO who is entitled to less than \$300,000 Total Remuneration per year without reference to the Tribunal by up to 5% in the 2005-2006 financial year, provided that the application of the increase does not move the office holder outside the parameters of the PEO Band in which he or she is placed.

D2 An employing body may not backdate any variation in remuneration or award pay increases in recognition of past productivity gains ie. matters which should be recognised through performance pay.

D3 The maximum Total Remuneration for each band in Table 1 shall be adjusted on and from 1 July each year in proportion to factors as determined by the Tribunal closer to that date, including but not restricted to appropriate wage and remuneration indicators.

**Other** D4 The Tribunal will issue generic advice (guidance notes) from time to time, to assist employing bodies interpret and administer this Determination

D5 Employing bodies may elect to apply to PEOs the same policies and practices as they do for other employees, except where those are not in accordance with this determination.

**PART E REMOTE LOCALITIES**

E1 An office holder carrying out duties in a remote locality is not entitled to have applied to him or her the percentage rate referred to in the matter of "Performance Pay" or "Superannuation Salary" in clause A1 or the percentage rate referred to in the "Scope of variation" deal with in clause D1. An employing body may only apply those matters in relation to a relevant office holder at such rates as have the written consent of the Tribunal.

Signed this 7<sup>th</sup> day of December 1999

Richard Humphry  
PRESIDENT

John C Conde  
MEMBER

Trevor Kennedy  
MEMBER

**Amending Determinations**

Determination No 1999/17

Determination No. 2000/01

Determination No.2000/07

Determination No. 2000/09

Determination No. 2001/13

Determination No. 2001/16

Determination No. 2001/22

Determination No. 2002/11

Determination No. 2002/16

Determination No. 2003/10

Determination No. 2003/19

Determination No. 2004/02

Determination No. 2004/04

Determination No. 2004/15

Determination No. 2004/18

Determination No. 2005/07

Determination No. 2005/12