

**REMUNERATION TRIBUNAL
ANNUAL REPORT
2015–16**

ISSN 1032 0350



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The document must be attributed as the *Remuneration Tribunal annual report 2015–16*.



REMUNERATION TRIBUNAL

20 September 2016

Senator the Hon Michaelia Cash
Minister Assisting the Prime Minister for the Public Service
Parliament House
Canberra ACT 2600

Dear Minister

We have pleasure in presenting to you the Remuneration Tribunal's annual report for 2015–16. The report covers the activities of the Tribunal during the year ended 30 June 2016.

Subsection 12AA(2) of the *Remuneration Tribunal Act 1973* requires you to cause a copy of this report to be laid before each House of Parliament within 15 sitting days of receipt.

Yours sincerely

Handwritten signature of John C Conde in black ink.

John C Conde AO
PRESIDENT

Handwritten signature of Ewen G W Crouch in black ink.

Ewen G W Crouch AM
MEMBER

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President's overview

During 2015–16, an important focus for the Tribunal was its contribution to a review of the parliamentary work expenses system commissioned by the Australian Government.

Mr David Tune AO PSM and I co-chaired the Review Committee: An Independent Parliamentary Entitlements System, which was established in August 2015 to develop and propose models to deliver a more transparent and accountable independent parliamentary entitlements system.

The Tribunal provided a submission to the committee. It also supported the review by providing a range of information, based on its experience in determining certain, but not all, parliamentary work expenses over a number of years, and by agreeing to the secondment of one of its secretariat staff to the team in the Department of the Prime Minister and Cabinet supporting the committee.

The Tribunal had been examining arrangements in other jurisdictions, including the functions, operations and procedures of the Independent Parliamentary Standards Authority in the United Kingdom and the administration and regulation of parliamentary allowances and expenses in the Scottish Parliament. This examination was informed by the report of a senior advisor from the Tribunal's Secretariat who travelled to the UK for two weeks in August–September 2015 to undertake an in-depth study of these arrangements.

In its submission to the committee, the Tribunal detailed the key characteristics that in its view would make up a contemporary, efficient and effective parliamentary work expenses system. This included the articulation of a single definition of parliamentary business (or an alternative term) and a set of principles to provide a sound underpinning of any new system and to guide effective decision-making by parliamentarians. The Tribunal also reaffirmed its 2011 view that the existing arrangements should be rationalised and separated, as far as applicable, into two distinct streams, namely:

- remuneration (those components which provide a personal financial benefit or should be considered as part of the overall remuneration package of a parliamentarian)
- business expenses (the costs incurred in undertaking duties and responsibilities as a parliamentarian).

The committee's February 2016 report to government set out 36 recommendations aimed at creating a simplified framework for a principles-based system for the determination, processing and monitoring of parliamentarians' allowable work expenses. On 23 March 2016, the government announced its in-principle support for all of the recommendations in the committee's report.

Implementation of the recommendations is a significant body of work for the Tribunal. The Tribunal has responsibility for implementing many of the recommendations and has a consultation role with government on several others. This important work has

now commenced in collaboration with officials from the Department of Finance and the Department of the Prime Minister and Cabinet.

On 16 June 2016, the Tribunal was the second defendant in a case before the full bench of the High Court, *Cunningham v Commonwealth*. The case concerns aspects of the superannuation benefits and 'Life Gold Pass' entitlements of former parliamentarians. The Commonwealth was represented by the Solicitor-General and Mr David Thomas of counsel, instructed by the Australian Government Solicitor. The Tribunal entered a submitting appearance.

The case included a challenge to successive Tribunal determinations specifying a portion of 'parliamentary base salary' that is not 'parliamentary allowance' for the purposes of calculating the retiring allowance (parliamentary pension) of former parliamentarians under the *Parliamentary Contributory Superannuation Act 1948*. Those determinations were made after the Tribunal's work-value assessment of backbenchers' pay, and an earlier report in which the Tribunal noted its intention to 'prevent an unintended windfall' to pension recipients (2011 Initial Report at [1.19]). The key legal issue is whether the determinations had the effect of an 'acquisition of property' within the meaning of subsection 51(xxxi) of the Constitution. The Commonwealth submitted that the determinations did not have that effect. The High Court has reserved its decision and is likely to deliver its judgment in the next annual reporting period.

The Tribunal announced on 21 September 2015 that it was commencing a review of the remuneration of offices covered by its Judicial and Related Offices – Remuneration and Allowances determination. Since 2009, the Tribunal has concluded major reviews of certain important offices within its jurisdiction – including parliamentarians, secretaries, specified statutory offices, and full-time and part-time offices. However, these major reviews had not included a comprehensive review of judicial and related offices.

Judicial and related offices that are under the Tribunal's jurisdiction include judges and offices in the High Court, the Federal Court, the Family Court and the Federal Circuit Court. The jurisdiction also includes offices in a range of tribunals and commissions.

The Tribunal invited submissions from the government; each court, tribunal and commission covered by the determination; and other relevant bodies in state jurisdictions. The Tribunal also invited submissions from other interested parties through a statement on its website. To assist in the formation of its views, the Tribunal met with a number of key stakeholders in this jurisdiction. Consultation and work continues and the Tribunal expects to finalise the review and issue a report later in 2016.

The *Remuneration Tribunal Act 1973* requires the Tribunal to examine and determine remuneration for offices in its jurisdiction at intervals of no more than one year. On many occasions, this interval and subsequent determinations have corresponded with annual review adjustments.

However, on 31 March 2015 the Tribunal announced a decision to defer any consideration of a remuneration increase in 2015 until the second half of the calendar year (with determinations issued to maintain the existing remuneration). The Tribunal decided in December 2015 to apply a 2% annual review increase effective from 1 January 2016. This was the first general increase determined by the Tribunal since 1 July 2013.

In determining the increase, the Tribunal noted that past wage movements across both public and private sectors, including the Fair Work Commission’s minimum wage decisions, would have supported a higher increase than the 2% decided.

However, the Tribunal moderated its assessment because of the then current economic and wages data, projections and trends, combined with the downside risks for the Australian economy (identified by the Reserve Bank of Australia and the government). The Tribunal also noted the movement in the various measures of cost-of-living expenses since the Tribunal’s 1 July 2013 annual review adjustment. The government policy of significant wage restraint applying to APS and non-APS agencies also weighed on the Tribunal’s consideration.

Figures 1 and 2 depict the remuneration increases determined by the Tribunal over the past decade. They record the increases awarded by the Tribunal and show how these increases compare with the movement over the same period of full-time adult ordinary time earnings (AWOTE).

Figure 1: Tribunal annual review increases, 2005 to 2016

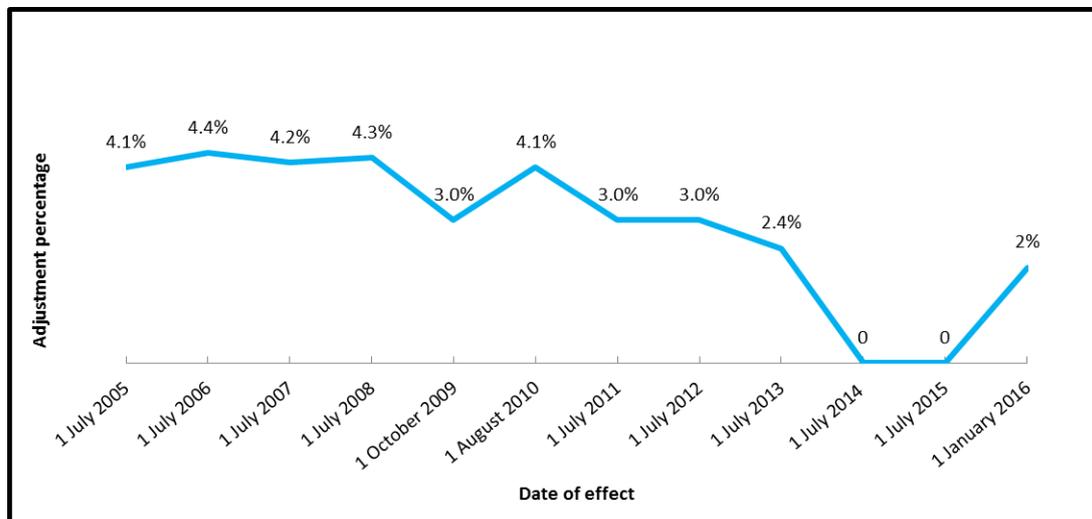
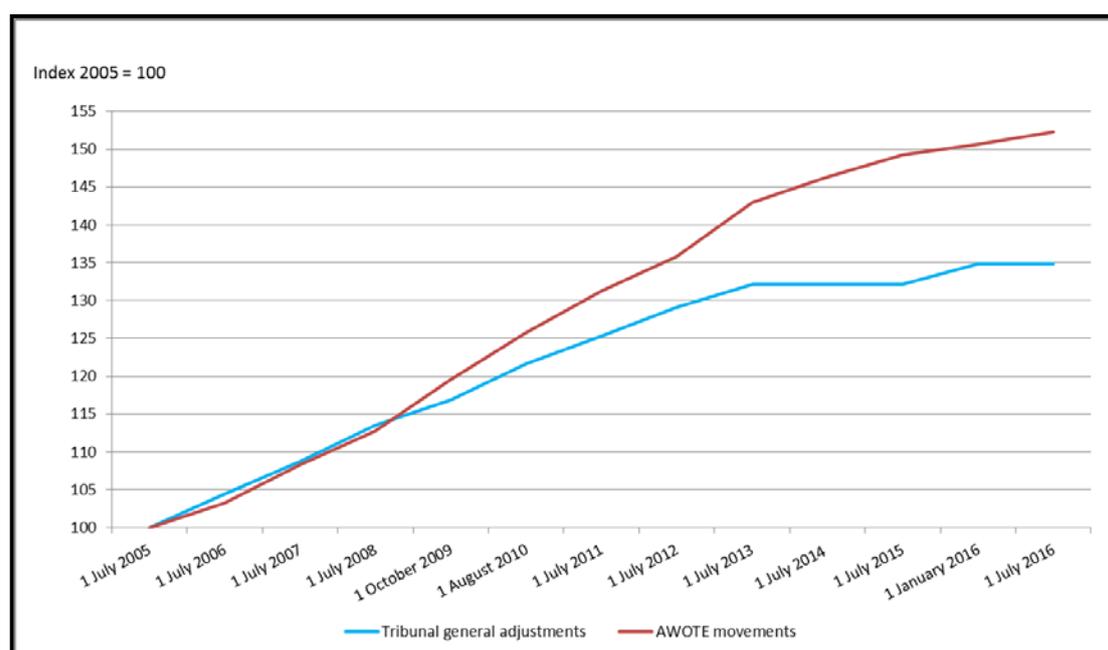


Figure 2: AWOTE increases versus Tribunal increases, 2005 to 2016



Effective from 1 January 2016, the Tribunal implemented the last transitional remuneration step for nine full-time offices, secretaries and specified statutory offices – an outcome of major and comprehensive work-value reviews conducted by the Tribunal during 2011–12. These increases were delayed by 18 months, having been scheduled originally to be effective from 1 July 2014.

When determining remuneration for an office, whether it be parliamentary, judicial, agency head, or any of the great range of full-time and part-time offices in the Tribunal’s determinative jurisdiction, the Tribunal makes its conclusions based on assessments of the work value associated with the effective discharge of the duties of the particular office. The Remuneration Tribunal Act does not provide that the Tribunal assesses an individual’s performance in determining or adjusting remuneration.

In October 2015, the Tribunal amended its determinations for full-time offices, specified statutory offices, secretaries and judicial and related offices to remove an ambiguity and ensure a consistent approach to the calculation of recreation leave in lieu and compensation for loss of office payments for office holders remunerated on a total remuneration basis. This involved clarifying that when an employing body is determining an office holder’s reference salary (that part of total remuneration that is the basis of these ‘final monies’ calculations), no deduction is made for the voluntary superannuation contributions that are made on a salary sacrifice basis.

In the 2015–16 Federal Budget, the government announced its intention to change the methods by which individuals can claim motor vehicle expenses in their tax returns. The change included the replacement of the three rates available under the cents per kilometre method with a single rate (66 cents per kilometre). Following the passage of the associated taxation legislation, the Tribunal decided to amend the motor vehicle allowance provisions in its determinations for all office holders,

including parliamentarians, to this single rate effective from the commencement of the new financial year on 1 July 2016.

Tribunal membership

As mentioned in the 2014–15 annual report, Mr Ewen G W Crouch AM was appointed to the Tribunal for five years effective from 3 September 2015. Mr Crouch has extensive relevant experience, has quickly become familiar with the Tribunal's business and legislative responsibilities and makes a most significant contribution to the work of the Tribunal. I thank him very much for his support and wise counsel.

This has been especially important as the term of Mr John B Prescott AC expired on 25 February 2016. Mr Prescott was appointed to the Tribunal for a five-year term on 25 February 2010. His appointment was extended for a further year on 26 February 2015.

During Mr Prescott's term of appointment, the Tribunal conducted and completed significant reviews resulting in determinations of remuneration for parliamentarians, secretaries, specified statutory offices, and full-time and part-time offices. The Tribunal operated with only two members for a considerable period and relied heavily on the commitment, support and expertise of Mr Prescott.

I am very grateful for the way in which he managed his many other commitments to ensure that the often time-pressured demands from the Tribunal were always met. As I noted in my 2014–15 report, Mr Prescott's support of the Tribunal's work programme was invaluable and is missed.

I express sincere thanks to Mr Patrick Palmer and the small team in the Remuneration Tribunal's Secretariat. Mr Palmer and Ms Glenys Agnew, Senior Advisor, played key roles in supporting the review committee considering the parliamentary work expenses system. At the same time the small secretariat team continued to meet the expectations of the Tribunal and its normal workload.

John C Conde AO
President

1 Introduction to the Tribunal

The Remuneration Tribunal is an independent statutory authority established under the *Remuneration Tribunal Act 1973*. The Tribunal is primarily responsible for inquiring into and determining the remuneration and allowances to be paid to holders of public offices (including parliamentary offices). The Tribunal also reports on and provides advice about these matters.

In assessing the remuneration of offices, the Tribunal takes into account the attributes of the office; remuneration of comparable offices; considerations related to complexity, merit and productivity; and indicators of movements in remuneration. The Tribunal aims to develop remuneration arrangements that are flexible and broadly consistent, having regard to the significant diversity of the offices in its jurisdiction.

2 Membership of the Tribunal

The Remuneration Tribunal Act establishes the Tribunal with three part-time members who are appointed by the Governor-General. In the early part of the 2015–16 reporting period, prior to the appointment of Mr Ewen G W Crouch AM on 3 September 2015, the Tribunal operated with two members. The Tribunal also concluded the 2015–16 reporting period with two members following the end of the term of appointment of Mr John B Prescott AC on 26 February 2016.

The current members of the Tribunal are:

Mr John C Conde AO, President – reappointed on 19 March 2013 as Member and President for a further five years from 25 June 2013. Mr Conde was originally appointed as a member of the Remuneration Tribunal on 18 June 1998. Mr Conde is Chairman of Bupa Australia Health Pty Ltd, Chairman of the McGrath Foundation and Chairman of Cooper Energy. He is Deputy Chairman of Whitehaven Coal Limited and a Director of Dexis Property Group. Mr Conde is also Chairman of the Australian Olympic Committee (NSW) Fundraising Committee.

Positions previously held include Co-Chair of the Review Committee: An Independent Parliamentary Entitlements System, Chairman of the Sydney Symphony Orchestra, Chairman of Destination NSW, Chairman of Ausgrid (formerly EnergyAustralia), Director of BHP Billiton and Excel Coal Limited, Managing Director of Broadcast Investment Holdings Pty Limited, Director of Lumley Corporation, President of the National Heart Foundation of Australia and member of the Sydney Children's Hospital Network Board, the Dermatology Research Foundation and the Council of the Sydney Medical School Foundation.

Mr Ewen G W Crouch AM – appointed on 3 September 2015 for a five-year term. Mr Crouch is a non-executive director of Westpac Banking Corporation and BlueScope Steel Limited. He is Chairman of Mission Australia and a board member of the Sydney Symphony Orchestra and Jawun.

Mr Crouch is an experienced non-executive director of listed corporations and unlisted organisations. He is a former Chairman of Allens, having been a partner of that firm from 1988 to 2013. His roles at Allens included Chairman of Partners (2009–2012),

Co-Head Mergers & Acquisitions (2004–2010), Executive Partner, Asian Offices (1999–2004), and Deputy Managing Partner (1993–1996), as well as 11 years' service on that firm's board. Mr Crouch is regarded as one of Australia's most accomplished mergers and acquisitions (M&A) lawyers, having worked on some of Australia's most significant M&A transactions during his partnership career.

Mr Crouch is a Fellow of the Australian Institute of Company Directors (AICD), a member of the AICD's Law Committee and a member of the Corporations Committee of the Law Council of Australia. He was a member of the Takeovers Panel from 2010 to 2015.

3 The work of the Tribunal

During the year, the Tribunal convened on 12 occasions. This included meetings with a range of interested parties. The Tribunal expressed its conclusions in 18 determinations. The President also consulted more widely on a range of matters.

3.1 Annual adjustment

The Tribunal is required under subsections 7(1), (2), (3) and 8(1) of the Remuneration Tribunal Act to make determinations in respect of remuneration for various offices in its jurisdiction at periods of not more than one year. In fulfilling this obligation, the Tribunal reviews the remuneration of offices considering remuneration movements in the public sector, and across the private sector more generally, as well as the economic and fiscal environment.

The Tribunal determined no general adjustments to the remuneration of office holders in the 2014–15 reporting year. On 31 March 2015 the Tribunal issued a statement advising that it had deferred until the second half of the 2015 calendar year its consideration of whether any increases to remuneration for offices in its jurisdiction should be determined. The Tribunal also announced that it would consider the final remuneration increases for secretaries, specified statutory offices and certain full-time office holders, deferred from 2014, when it reconsidered the 2015 annual review adjustment.

The Tribunal issued a statement on 9 December 2015 advising that it had completed the 2015 review of remuneration for holders of public office and decided to increase remuneration by 2% with effect from 1 January 2016. The Tribunal also decided to implement the final step in the remuneration transition path for secretaries, specified statutory offices and a small number of other senior offices, also from 1 January 2016.

The last general adjustment prior to the January 2016 increase occurred with effect from 1 July 2013. The full text of the Tribunal's 9 December 2015 statement is available on its website at <http://remtribunal.gov.au/media/documents/2016/2015-statements/2015-annual-review-decision-9-december-2015/Remuneration-Tribunal-Annual-Review-Statement-9-December-2015.pdf>.

3.2 Full-time public offices

The framework

Under the Remuneration Tribunal Act, the Tribunal is responsible for inquiring into and determining remuneration and recreation leave for full-time public offices, and for inquiring into and determining other matters that it considers are significantly related to remuneration (s7).

The Tribunal determines full-time office holder remuneration as 'total remuneration' – a figure which covers cash salary, superannuation and other benefits. The significantly related matters determined for full-time office holders are, principally, travel provisions and also some other allowances in specific cases.

The Remuneration Tribunal Act defines 'public office'. It includes all offices established by a Commonwealth law (also known as statutory offices) and appointments made under a Commonwealth law, as well as (but not limited to) appointments made by the Governor-General or a minister of state which are formally referred into the Tribunal's jurisdiction by the Minister Assisting the Prime Minister for the Public Service as the minister responsible for the Act (s3). The attributes of a 'public office' establish whether appointment to it is made on a full-time, or other, basis.

Most full-time offices are statutory offices.

During the reporting period, the Tribunal received and considered a number of submissions on remuneration, conditions and/or allowances for new and established offices. A list of new full-time public offices for which the Tribunal determined remuneration in the year to 30 June 2016 is included at Appendix 2.

As at 30 June 2016 there were 144 offices specified in the Tribunal's determination for holders of full-time offices (Determination 2015/21).

Consistent with the Tribunal's annual review statement of 9 December 2015, the Tribunal increased remuneration for these offices by 2% with effect from 1 January 2016.

During 2015–16 the Tribunal also completed the final transitional remuneration levels for the following full-time offices that the Tribunal considered, in its reviews of 2011 and 2012, merited significant remuneration increases: Commissioner, Australian Federal Police; Director-General of Security, Australian Security Intelligence Organisation; Vice Chief of the Defence Force; Chief of Navy; Chief of Army; Chief of Air Force; Director-General, Office of National Assessments; Australian Electoral Commissioner; and Chief Executive, Australian Financial Security Authority.

The Tribunal concluded its final transitional steps as part of its 1 January 2016 annual review adjustment.

A small number of offices have not yet been moved to the new remuneration points in the full-time office remuneration structure decided by the Tribunal in its 2012 review. Those offices have been impacted by government policy decisions that affect

their roles and responsibilities. The Tribunal is seeking updated information prior to making its final decision about their positioning in the structure.

Specified statutory offices

The Tribunal is responsible for determining the remuneration of a group of full-time public offices referred to as specified statutory offices. As at 30 June 2016 those offices were:

- the Chief of the Defence Force
- the Commissioner of Taxation
- the Auditor-General for Australia
- the Australian Statistician.

Consistent with the Tribunal's annual review statement of 9 December 2015, the Tribunal increased remuneration for these offices by 2% with effect from 1 January 2016. At the same time, the Tribunal implemented the final step in the remuneration transition path for the outstanding specified statutory offices (Determination 2015/17) following its 2011 review of these offices.

3.3 Part-time public offices

The framework

In addition to statutory offices, part-time offices include appointments made under a Commonwealth law, as well as (but not limited to) appointments made by the Governor-General or a minister of state which are formally referred into the Tribunal's jurisdiction by the Minister Assisting the Prime Minister for the Public Service as the minister responsible for the Remuneration Tribunal Act (s3). Under the Act the Tribunal is responsible for setting the remuneration and some allowances for these public offices.

Appointments to a wide range of public offices are made on a part-time basis. These offices are very diverse and include the chairs and members of boards, councils, committees and administrative tribunals whose work may be regular or intermittent.

There are several remuneration models determined for part-time offices. The two principal ones are an annual fee, compensating in one annual figure all work done by the office holder; and a daily fee, where remuneration is paid for each day or part-day worked. The other remuneration models are a combination of the two, with daily fees covering specific activities and an annual fee covering recurring or predictable elements of the office holder's workload. In respect of part-time offices, the principal significantly related matter determined by the Tribunal is travel entitlements.

Consistent with the Tribunal's statement of 9 December 2015, the remuneration of these offices was increased by 2% with effect from 1 January 2016.

During the year, the Tribunal considered submissions on remuneration and/or conditions for a number of individual offices. A list of new part-time offices for which the Tribunal determined remuneration is included in Appendix 2.

The Tribunal continually reviews its remuneration models, taking into account contemporary practice in others sectors. During the year the Tribunal reviewed the remuneration arrangements for part-time office holders who receive annual fees for serving on governance boards. These boards often manage their responsibilities with the support of subcommittees. Indeed, in some cases, such as audit (and risk) committees, there is a requirement for boards to establish and maintain a specific subcommittee.

While the Tribunal has previously recognised audit committees through a separate fee, this has not been the case for other board subcommittees. As a result of its examination, the Tribunal acknowledged that the continued emphasis on governance and transparency, beyond audit and risk, has increased the responsibilities and workloads of boards in both the private and public sectors.

The Tribunal also recognised that in the private sector – certainly in larger enterprises, but also more generally – it is now more usual than otherwise to remunerate members of subcommittees, in addition to audit and risk committees, that undertake a range of other governance activities in support of the board.

Following its review, the Tribunal decided that, where there is a demonstrable case, it will recognise, via an additional fee, those committees that make a significant contribution to board governance.

The Tribunal informed the chairs of boards whose audit committee members receive an audit fee of these new arrangements and invited submissions, where appropriate. Chairs were advised that the Tribunal would consider submissions against the following set of principles:

- The committee has formal ongoing governance functions.
- The committee's work represents a key component of the board's governance responsibilities.
- The committee's work has a significant impact on organisational strategy and viability.
- The fee paid to board members is insufficient compensation for the level of responsibility and commitment required of subcommittee members.
- Additional fee arrangements are currently in place, or proposed, for audit committee members.

As at 30 June 2016, the principal part-time determination contained more than 250 entries for individual bodies (Determination 2015/20).

3.4 Principal executive offices

The framework

The Remuneration Tribunal Act provides for the Tribunal to determine a classification structure for principal executive offices (s5(2a)) and to determine the terms and conditions applicable to each classification in the classification structure (s7(3D)).

The minister responsible for the Act has the power to make declarations concerning principal executive offices (PEOs), having taken into account the advice of the Tribunal (s3(a)). The minister may declare an office to be a PEO, the classification to which the PEO is assigned and the PEO's employing body (ss3(a) and (b)).

The employing body is responsible for determining the terms and conditions applying to a PEO. Any such determination must be consistent with the terms and conditions determined by the Tribunal for the classification of the office concerned (s12C) and the Tribunal's guidelines.

The Tribunal has established a total remuneration reference rate for each PEO as the basis on which an employing body is able to exercise discretion in determining remuneration. Reference rates are generally adjusted annually to reflect the outcome of the Tribunal's annual review. Employing bodies have a discretionary range, from 10% below to 5% above the reference rate, although the reference rate must not be exceeded in the first 12 months of a new appointee's term without the prior approval of the Tribunal. PEOs generally also have access to performance pay of up to 15% for Bands A to C and up to 20% for Bands D and E, although in a number of cases performance pay has been absorbed into fixed remuneration, particularly in circumstances in which a minister is the employing body.

A full list of PEOs can be found on the Tribunal's website at www.remtribunal.gov.au/principalExecutiveOffices/currentDetermination/listPEO.asp.

Consistent with the Tribunal's statement of 9 December 2015, the maximum band and reference salaries of the PEO classification structure were increased by 2%, with effect from 1 January 2016 (by Determination 2015/19).

During the 2015–16 reporting period, the Tribunal considered a number of submissions regarding PEOs, generally relating to reviews of remuneration and/or conditions, or changes to governance arrangements. As at 30 June 2016, there were 63 listed PEOs.

They are a very diverse group of offices. Some lead organisations which operate on a semi-commercial basis and have large transport infrastructure investments such as the Moorebank Intermodal Company Limited and the Australian Rail Track Corporation Limited. Other PEOs lead large organisations with considerable asset bases, but with a completely different focus. For example, the Australian Nuclear Science and Technology Organisation and the Commonwealth Scientific and Industrial Research Organisation help drive innovation and undertake scientific research to benefit government and industry while making significant contributions to the Australian economy.

Other PEOs are in charge of organisations that are custodians of Australia's cultural heritage and collections, such as the National Gallery of Australia, the National Museum of Australia, the Australian War Memorial, the National Library of Australia and the Australian Institute of Aboriginal and Torres Strait Islander Studies.

The Tribunal also made a number of changes to the PEO determination as part of its ongoing project to simplify and align, where appropriate, terms and conditions across its jurisdictions. Specifically, the Tribunal aligned reunion travel for PEOs with other full-time offices, by extending reunion travel to immediate family members of eligible PEOs in particular circumstances.

In addition, the provisions on performance pay were amended to provide greater clarification that performance pay is not available to a PEO when it has been previously rolled in to total remuneration.

The principal determination in place at 30 June 2016 was Determination 2015/19.

3.5 Secretaries

The framework

Under Division 4 of the Remuneration Tribunal Act, the Tribunal is responsible for setting the classification structure, specifying pay points for the classification structure and assigning each office of departmental secretary to a classification. The Tribunal fixes the amount of remuneration that is to be paid to the Secretary of the Department of the Prime Minister and Cabinet and the Secretary of the Department of the Treasury.

Secretaries of departments other than the departments of the Prime Minister and Cabinet and the Treasury are assigned to pay points by a separate instrument made by the Secretary of the Department of the Prime Minister and Cabinet under subsection 14(3) of the Remuneration Tribunal Act.

In assigning the pay point, the Secretary of the Department of the Prime Minister and Cabinet must consult with the President of the Tribunal and the Australian Public Service Commissioner.

The Tribunal must, from time to time, inquire into and determine the terms and conditions (other than remuneration) that are to apply to the office of departmental secretary.

Consistent with the Tribunal's statement of 9 December 2015, the remuneration of these offices was increased by 2% with effect from 1 January 2016. At the same time, the Tribunal implemented the final step in the remuneration transition path decided in its extensive 2011 work-value assessment of the office of secretary (by Determination 2015/16).

As part of its role in administering the secretary classification structure, the Tribunal examines the outcome of machinery of government changes to identify whether there are significant changes to the functions, responsibilities and accountabilities of the office.

During the year the President was consulted by the Secretary of the Department of the Prime Minister and Cabinet following changes in the administrative arrangements order arising from the formation of the Turnbull Government. Following that consultation, which included the Australian Public Service Commissioner, the secretary issued a new instrument of pay point assignment altering the remuneration of the Secretary of the Department of Health.

The principal determination applying at 30 June 2016 was Determination 2015/16.

3.6 Judicial and related offices

The framework

The Remuneration Tribunal Act empowers the Tribunal to determine remuneration and associated entitlements for the federal judiciary, administrative tribunals and related offices in those organisations.

The extent of the Tribunal's power varies between offices. Depending on the type of office concerned, remuneration may be expressed as base (annual) salary or as 'total remuneration'. Associated entitlements may include the value attributed to the Commonwealth's superannuation contributions or superannuation support (although the Tribunal has no role in relation to the *Judges' Pensions Act 1968*), travelling allowance, Commonwealth and private vehicle costs, recreation leave, separation benefits, lump-sum payments, other benefits received by way of remuneration packaging, and minimum annual fees for part-time office holders.

The judiciary

The Tribunal determines base (annual) salary and related benefits for the chief justices and justices of the High Court of Australia, the Federal Court of Australia and the Family Court of Australia; the chief judge and other judges of the Federal Circuit Court of Australia; and judges who sit as presidents of administrative tribunals (see below). The Tribunal also determines recreation leave entitlements (but not other leave entitlements) for judges of the Federal Circuit Court of Australia.

In determining remuneration for judges, the Tribunal is mindful of subsection 72(iii) of the Constitution, which prohibits diminution of a judge's remuneration while the judge remains in office.

Administrative tribunals and other bodies

The Tribunal determines remuneration and related benefits for the non-judicial presidents, deputy presidents and members of bodies such as the Administrative Appeals Tribunal, the Australian Competition Tribunal, the Australian Law Reform Commission, the Copyright Tribunal and the National Native Title Tribunal.

Related offices

The Tribunal determines remuneration and related benefits for a range of non-judicial positions in the courts, including the chief executives of the High Court of Australia, the Federal Court of Australia, and the Family Court and Federal Circuit Court. Remuneration for these offices is generally expressed as 'total remuneration'.

Entitlements outside the Tribunal's determinative powers

The Tribunal does not determine the entire range of employment provisions available for judicial and related offices. They may receive other entitlements outside the Tribunal's determinative powers, for instance under:

- legislation administered by the Commonwealth Attorney-General, including the *Judges' Pensions Act 1968*, the *Judicial and Statutory Officers (Remuneration and Allowances) Act 1984* and the *Judges (Long Leave Payments) Act 1979*
- general Commonwealth laws concerned with employment, such as the *Long Service Leave (Commonwealth Employees) Act 1976*
- the authority of the relevant federal court, tribunal or administering government department.

Consistent with the Tribunal's statement of 9 December 2015, the remuneration of these offices was increased by 2% effective from 1 January 2016 (by Determination 2015/18).

The Tribunal commenced a jurisdictional review of the judicial and related offices during the reporting period. It has been many years since the Tribunal last conducted such a comprehensive review. Submissions were invited from key stakeholders such as government and each of the courts, tribunals and commissions with offices in the judicial and related offices determination. The Tribunal also invited, via its website, submissions from other interested parties.

The Tribunal received submissions from the Federal Court, the Family Court and the Federal Circuit Court. The Tribunal also met with the Attorney-General, the Chief Justice of the High Court, the Chief Justice of the Federal Court, the Chief Justice of the Family Court and the Chief Judge of the Federal Circuit Court.

The Tribunal expects to conclude this review in the 2016 calendar year.

The Tribunal determined changed remuneration for the chief executive officers of the Federal Court, the Family Court and the Federal Circuit Court, from 1 July 2016, following changes to functions flowing from the *Courts Administration Legislation Amendment Act 2016*. The changes merged the corporate services of the Family Court and Federal Circuit Court into the Federal Court and brought the three courts into a single administrative entity, to be known as the Federal Court of Australia, with effect from 1 July 2016. The aim is to create efficiencies by enabling the courts to direct more of their available funds away from administrative functions towards delivery of frontline services.

The principal determination applying at 30 June 2016 was Determination 2015/18.

Judicial Remuneration Coordination Group

The annual meeting of the Commonwealth/State Judicial Remuneration Coordination Group was held in May 2016.

Representatives from state and territory judicial remuneration tribunals attended to discuss issues of common interest relating to the remuneration of the judiciary across all jurisdictions.

Each jurisdiction updated the meeting on key developments in their state or territory and discussed remuneration levels for the judiciary. Given wages policies providing for increases in some states and lack of movement in others, the Tribunal continues to monitor these arrangements in terms of relativities with the federal judiciary.

3.7 Parliamentarians

The framework

Base salary for parliamentarians

The Tribunal is responsible for determining the base salary of parliamentarians. Consistent with its responsibilities in relation to most other offices, the Tribunal is required to make new determinations in respect of base salary at periods of no more than 12 months (s8(1)(b) of the Remuneration Tribunal Act). Unlike many other Tribunal determinations, those in relation to parliamentarians are not disallowable by the Parliament. However, the Tribunal has the responsibility of explaining in writing its decisions in relation to parliamentarians. These statements of reasons are published on the Tribunal's website.

Additional salary for ministers and parliamentary office holders

Ministers of state (including the Prime Minister) and parliamentary office holders receive a parliamentary base salary plus an additional amount of salary.

Under the Constitution, the salaries of ministers are a matter for decision by executive government rather than the Tribunal. However, the Tribunal is required to report annually to the government on these salaries.

The Tribunal does determine the additional salary for more than 50 non-ministerial parliamentary office holders, such as the Leader and Deputy Leader of the Opposition, the presiding officers, whips, shadow ministers, and the chairs and deputy chairs of various parliamentary committees.

Additional salary in all cases is expressed as a percentage of the parliamentary base salary.

Other allowances and work expenses provisions

The Tribunal also determines a range of matters related to allowances and work expenses for federal senators and members (including ministers). These include travelling allowance rates and travel-related provisions (for example, travel on scheduled domestic flights and car transport), electorate allowance, severance travel (for those not qualifying for a Life Gold Pass) and certain office facilities.

Matters outside the Tribunal's determinative powers

The Tribunal does not determine all remuneration and related matters available for members of Parliament. Matters relating to the provision of support for members of Parliament that are not in the jurisdiction of the Tribunal are decided by the Australian Government, through the Special Minister of State, or the Parliament. The following Acts are relevant in this regard:

- *Parliamentary Allowances Act 1952*
- *Ministers of State Act 1952*
- *Parliamentary Contributory Superannuation Act 1948* (although the Tribunal determines what constitutes 'parliamentary allowance' for the purposes of that Act)
- *Members of Parliament (Staff) Act 1984*
- *Remuneration and Allowances Act 1990*
- *Members of Parliament (Life Gold Pass) Act 2002*
- *Parliamentary Superannuation Act 2004*
- *Parliamentary Entitlements Act 1990*.

Parliamentary base salary

The Tribunal completed its 2015 annual review and in its statement of 9 December 2015 increased remuneration for offices in its jurisdiction, including parliamentarians, by 2%. This increased the parliamentary base salary to \$199,040 effective from 1 January 2016 (by Determination 2015/22). This was the first adjustment to base salary since 1 July 2013.

Additional salary for ministers and parliamentary office holders

Under subsection 6(1) of the Remuneration Tribunal Act, the Tribunal is required to report to the relevant minister annually on 'the question whether any alterations are desirable in the salaries payable to Ministers of State out of public moneys of the Commonwealth'.

In 1999 the Tribunal adopted the practice of expressing its report on additional salaries as a percentage of the parliamentary base salary.

Accordingly, on 6 August 2015 the Tribunal made its annual report (Report Number 1 of 2015) to Senator the Hon. Eric Abetz, the Minister Assisting the Prime Minister for the Public Service at that time. The Tribunal recommended no changes to the existing percentages.

Remuneration, allowances and expenses for senators and members

The remuneration, allowances and expenses arrangements for parliamentarians are complex. The Tribunal's determinations cover some, but not all, of the range of provisions that apply to parliamentarians.

During the year the Tribunal continued to consult with the Department of Finance, which administers a large portion of the parliamentary provisions.

The principal determination governing parliamentarians' allowances and work expenses is Determination 2012/04. During the year the Tribunal amended the determination to provide flexibility to enable individuals using car services to choose ride-sharing services such as Uber in jurisdictions in which those services are regulated. The amendments allow dependent children and designated persons of parliamentarians to use regulated ride-sharing services for family reunion purposes.

In addition, the Tribunal received representations on providing flexibility in the existing family reunion provisions to support senators and members who were breastfeeding their children. Recognising that there are additional constraints on the ability of breastfeeding parliamentarians to juggle their parliamentary, electorate or official business and family life that are unique to their circumstances, the Tribunal amended the family reunion provisions.

The amendment provides that if a breastfeeding parliamentarian is required to travel interstate on parliamentary, electorate or official business, she may receive additional support in the form of additional reunion fares at economy class. This provision enables the parliamentarian to be accompanied or joined by her spouse, nominee or designated person to provide short-term care while she continues to breastfeed her child.

Submission to the Review Committee: An Independent Parliamentary Entitlements System

As noted in the President's overview, the Tribunal provided a submission to the review. The submission advocated for a principles-based system that assisted, encouraged and supported parliamentarians' exercising good judgment and was underpinned by a single definition of parliamentary business.

The Tribunal's submission detailed its views on the range of characteristics that should be included in a new, contemporary parliamentary entitlements system. These were informed by its previous consideration of these matters and its ongoing research on the experience of other jurisdictions.

Those characteristics included the differentiation of remuneration and business expenses; a single head of power for business expenses; clarity, flexibility and simplicity allowing for greater understanding and transparency; a renewed customer focus; greater automation of process; and regular consultation and review.

The Tribunal also provided its preliminary views on a set of principles and a definition of parliamentary business.

Superannuation

The Tribunal's role in relation to parliamentary superannuation is very limited. The Tribunal has no role in determining superannuation entitlements for parliamentarians who were first elected after the 2004 general election.

In relation to parliamentarians who were elected before 9 October 2004, the Tribunal determines the portion of the base salary that is not parliamentary allowance for the purposes of the *Parliamentary Contributory Superannuation Act 1948*. At the commencement of the reporting year, this portion was \$40,730. The Tribunal increased the portion to \$41,540 effective from 1 January 2016 to take account of its 2% annual review adjustment.

The Tribunal also determines the portion of additional salary paid to ministers of state and parliamentary office holders that is not parliamentary allowance for the purposes of the *Parliamentary Contributory Superannuation Act*; it is currently 20%. This percentage was not changed during the financial year.

3.8 Official travel

The framework

Under the Remuneration Tribunal Act, the Tribunal is responsible for setting travelling allowances for office holders in its jurisdiction.

The general provisions for non-parliamentary offices, including judicial offices, are set out in a single determination, which provides for different tiers of travel entitlement. The various remuneration determinations specify the travel tier applicable to an office and may also contain specific travel-related provisions for an office or a group of offices.

The Tribunal determined revised travelling allowance rates for members of Parliament (by Determination 2015/12) and other public office holders (by Determination 2015/11) with effect from 30 August 2015.

The Tribunal reviews these allowances every 12 months. In line with normal Tribunal practice, the rates in the travel determinations are based on those contained in the Australian Taxation Office's (ATO's) *TD 2015/14 – Income tax: what are the reasonable travel and overtime meal allowance expense amounts for the 2015–16 income year?*

The Tribunal's rates mirror the ATO rates in most instances; the major variant is the Canberra rate for parliamentarians, which is discounted by over a third when compared with the ATO's reasonable daily travel allowance rate. This recognises that parliamentarians tend to make more settled accommodation arrangements in Canberra.

The Tribunal noted the 2015–16 Federal Budget announcement of a proposed change to the methods by which individuals can claim private motor vehicle expenses, including replacing the three rates available under the cents per kilometre method with a single rate at the low end of the three rates with effect from 1 July 2015. The legislation necessary to implement this change received royal assent in November 2015.

The Tribunal decided at its 29 February 2016 meeting that it would amend the motor vehicle allowance provisions in Determination 2015/11 and Determination 2012/04 to replace the existing three rates with a single rate of 66 cents per kilometre, with effect from 1 July 2016. A statement was provided on the Tribunal's website at that time.

3.9 Geographic relocation support

The framework

Under the Remuneration Tribunal Act, the Tribunal may determine or report on any matter that it considers to be significantly related to remuneration.

Under this provision the Tribunal has issued guidelines on geographic relocation of full-time office holders for full-time offices remunerated on a total remuneration basis. The guidelines do not cover the office of departmental secretary or the judicial and related offices.

The guidelines apply in circumstances where a person is offered a full-time appointment in a geographic locality that is different from their principal place of residence.

The Tribunal's general expectation is that when a person is appointed to an office and their principal place of residence is in a geographic locality different from that of the office, the person will relocate their principal place of residence to the new locality. When this occurs, reasonable relocation costs may be approved by the employer consistent with its own policy and practice.

In exceptional circumstances, and where it is in the interest of the agency, the Tribunal will consider providing accommodation and reunion travel support for a person who does not relocate their principal place of residence. During the year the Tribunal considered and approved support for appointees to the following offices:

- Inspector-General of Intelligence and Security
- Chief Scientist
- Director, Australian Institute of Family Studies
- Chief Executive Officer, Export Finance and Insurance Corporation.

Support is provided for actual costs incurred by the office holders up to specified limits.

3.10 Recreation leave

The framework

Under the Remuneration Tribunal Act, the Tribunal is responsible for determining the recreation leave entitlements of full-time holders of relevant offices, including specified statutory offices, principal executive offices and non-judicial offices.

Relevant offices are those in relation to which there is a specific law of the Commonwealth (usually the Act establishing the office) which provides that the office holder has such recreation leave entitlements as are determined by the Remuneration Tribunal.

The recreation leave entitlements determined by the Tribunal do not apply to judges, parliamentarians and part-time office holders.

The recreation leave entitlement determined by the Tribunal is set out in Determination 2012/11: Recreation Leave for Full-Time Holders of Relevant Offices.

Recreation leave entitlements for principal executive offices are separately specified in Determination 2015/19: Principal Executive Office – Classification Structure and Terms and Conditions, which provides that principal executive offices are entitled to paid annual leave of four weeks per year of full-time service.

The Tribunal did not vary Determination 2012/11 or the recreation leave provisions of Determination 2015/19 during the financial year.

3.11 Advisory functions

The framework

The Remuneration Tribunal Act requires the Tribunal to provide advice to the presiding officers of each House of Parliament before the presiding officers determine the terms and conditions, including remuneration and allowances, of a number of offices created in the *Parliamentary Service Act 1999*.

Agencies also seek the Tribunal's advice on an informal or formal basis from time to time.

The Remuneration Tribunal Act sets out the jurisdiction of the Tribunal's powers. This includes defining offices for which the Tribunal is required to set remuneration. These are generally statutory public offices.

During 2015–16, in accordance with the requirements of the *Parliamentary Service Act 1999*, the Tribunal provided advice to the presiding officers in relation to the terms and conditions of the parliamentary librarian and the heads of the parliamentary departments.

Advice was also provided in relation to the office of the Director of the Sydney Harbour Federation Trust as required under section 43 of the *Sydney Harbour Federation Trust Act 2001*.

In addition, the Remuneration Tribunal Act provides that offices that are not 'automatically' in the Tribunal's jurisdiction can be 'referred in'. In order to be referred in, the office holder must be appointed by a minister or the Governor-General. The act sets out a formal process.

During the year the Tribunal provided advice on the use of this power and the referral-in process. A number of offices, such as the offices of co-chair and member of the Referendum Council, were subsequently referred into the Tribunal's jurisdiction.

4 Financial matters

The Tribunal is supported by a Secretariat staffed by employees of the Australian Public Service Commission (the Commission). Appendix 3 provides contact details for the Secretariat. The Tribunal's financial requirements are met through the Commission's program 1.1. There is no separate form of accounts applicable to the Tribunal.

5 Consultancies

The Commission, on behalf of the Secretariat, has an ongoing contract with Morris Walker Pty Ltd for the provision of media advisory and specialist public relations services to the Tribunal. The contract runs to November 2018.

6 Legislative requirements

6.1 *Work Health and Safety Act 2011*

The Tribunal Secretariat is located in Commission premises and is subject to the Commission's policies and practices in relation to work health and safety. Information about the Commission's policies is available in its annual report.

6.2 *Advertising and market research (Commonwealth Electoral Act 1918)*

The Tribunal did not undertake any paid advertising or market research activities in the reporting year.

6.3 *Environment Protection and Biodiversity Conservation Act 1999*

The Tribunal Secretariat is provided by the Commission and is subject to the Commission's policies and practices in relation to meeting the requirements of the *Environment Protection and Biodiversity Conservation Act 1999*. Information about the Commission's policies is available in its annual report.

6.4 *Freedom of Information Act 1982*

For the purposes of freedom of information, the Remuneration Tribunal is a separate agency. Agencies subject to the *Freedom of Information Act 1982* are required to publish information to the public as part of the Information Publication Scheme. This requirement is in Part II of the Act and has replaced the former requirement to publish a section 8 statement in an annual report. Each agency must display on its website a plan showing what information it publishes in accordance with the Information Publication Scheme requirements. The Tribunal's plan is available at www.remtribunal.gov.au/foi.

6.5 *Legislation Act 2003*

Most Tribunal determinations are legislative instruments for the purposes of the *Legislation Act 2003*. The exception is determinations relating to secretaries of departments, made under Division 4 of the Remuneration Tribunal Act. Those determinations are published in the Gazette and on the Tribunal's website, rather than being registered under the Legislation Act.

All other Tribunal determinations are legislative instruments, which are provided to the Office of Parliamentary Counsel by the Tribunal for registration on the Federal Register of Legislation. The Legislation Act then requires the Office of Parliamentary Counsel to table a copy of the determination in each House of Parliament within six sitting days of registration.

Subsection 7(8) of the Remuneration Tribunal Act, which provides that either House may pass a resolution disapproving a determination within 15 sitting days after the determination has been tabled, applies to all legislative instruments made by the Tribunal other than those made in relation to parliamentarians. Determinations made in relation to parliamentarians – namely those made under subsections 7(1), (1A), (2) and (2A) of the Remuneration Tribunal Act, and subsection 7(4) insofar as it relates to subsections 7(1) and (2) – are legislative instruments, but the disallowance provisions in the Remuneration Tribunal Act and the Legislation Act do not apply to them.

No Tribunal determinations were disallowed during the reporting period.

Appendix 1 – List of determinations and reports for 2015–16

During the reporting year, the Tribunal issued the following reports, determinations and statements. Copies of these documents can be obtained from:

- the tabling office of the Senate or the House of Representatives
- the Tribunal's website, www.remtribunal.gov.au
- the Federal Register of Legislation website, www.legislation.gov.au
- the Gazette for the Secretaries Determination, www.legislation.gov.au/gazettes.

2016/05	Remuneration and Allowances for Holders of Public Office and Official Travel by Office Holders
Statement	Determination 2016/04 – Members of Parliament – Entitlements – Reasons for Determination
2016/04	Members of Parliament – Entitlements
2016/03	Remuneration and Allowances for Holders of Public Office and Judicial and Related Offices
2016/02	Remuneration and Allowances for Holders of Public Office and Principal Executive Office
Secretariat Statement	Changes to private motor vehicle allowance from 1 July 2016
2016/01	Remuneration and Allowances for Holders of Public Office, Judicial and Related Offices and Principal Executive Office
Statement	Determination 2015/23 – Members of Parliament – Entitlements – Reasons for Determination
2015/23	Members of Parliament – Entitlements
Statement	Determination 2015/22 – Members of Parliament – Base Salary, Additional Salary for Parliamentary Office Holders, and Related Matters – Reasons for Determination
2015/22*	Members of Parliament – Base Salary, Additional Salary for Parliamentary Office Holders, and Related Matters
Statement	2015 Review of Remuneration for Holders of Public Office – Second Statement
2015/21*	Remuneration and Allowances for Holders of Full-Time Public Office
2015/20*	Remuneration and Allowances for Holders of Part-Time Public Office
2015/19*	Principal Executive Office – Classification Structure and Terms and Conditions
2015/18*	Judicial and Related Offices – Remuneration and Allowances

2015/17*	Specified Statutory Offices – Remuneration and Allowances
2015/16*	Departmental Secretaries – Classification Structure and Terms and Conditions
Statement	Determination 2015/15 – Members of Parliament – Entitlements – Reasons for Determination
2015/15	Members of Parliament – Entitlements
2015/14	Remuneration and Allowances for Holders of Public Office
Statement	Review of Remuneration for Holders of Judicial and Related Offices
2015/13	Remuneration and Allowances for Holders of Public Office and Judicial and Related Offices
Statement	Ministers of State – Salaries Additional to the Basic Parliamentary Salary
Report	Report on Ministers of State – Salaries Additional to the Basic Parliamentary Salary
Statement	Travelling Allowance Rates for Public Office Holders and Parliamentarians
Statement	Determination 2015/12 – Members of Parliament – Travelling Allowance – Reasons for Determination
2015/12*	Members of Parliament – Travelling Allowance
2015/11*	Official Travel by Office Holders

* These documents are principal determinations.

Appendix 2 – Variation to bodies and offices determined in 2015–16

Full-time offices

New

Australian Accounting Standards Board, Chair
Australian Digital Health Agency, Chief Executive Officer
Australian Small Business and Family Enterprise Ombudsman
Australian Border Force Commissioner
Children's e-Safety Commissioner
Digital Transformation Office, Chief Executive Officer

Renamed

Aged Care Complaints Commissioner (formerly Aged Care Commissioner)

No longer appearing in the determination

ComSuper, Chief Executive Officer
Coordinator-General for Remote Indigenous Services
Health Workforce Australia, Chief Executive Officer
Private Health Insurance Ombudsman
Telecommunications Universal Service Management Agency, Chief Executive Officer

Principal executive offices

No longer in the principal executive office structure

Private Health Insurance Administration Council, Chief Executive Officer

Part-time offices

New

Auditing and Assurance Standards Board, Member
Australian Accounting Standards Board, Member
Australian Competition and Consumer Commission, Associate Member (Agriculture)
Australian Digital Health Agency Board, Chair and Member
Australian Digital Health Agency – Standing Advisory Committees, Member
Australian Medical Research Advisory Board, Chair and Member
Australia Post, People, Safety and Culture Sub-committee, Chair and Member
Climate Change Authority, Associate Member
Hazardous Waste Technical Group, Chair and Member
Inspector-General of Biosecurity

Referendum Council, Co-Chair

Referendum Council, Member

Renamed

Moorebank Intermodal Company Limited (formerly Moorebank Intermodal Terminal)

No longer appearing in the determination

Australian River Co. Ltd

Biological Diversity Advisory Committee

Cooperative Research Centres Appraisal Panel

Cooperative Research Centres Committee

Defence Science and Technology Organisation Advisory Board

Health Workforce Australia

Pathology Services Table Committee

Road Safety Remuneration Tribunal

Telecommunications Universal Service Management Agency

Appendix 3 – Secretariat

The Tribunal is supported by a Secretariat staffed by employees of the Australian Public Service Commission.

The Secretary to the Tribunal is Mr Patrick Palmer.

The Secretariat can be contacted by writing to:

Secretary
Remuneration Tribunal Secretariat
PO Box 281
Civic Square ACT 2608

Or via:

Telephone: (02) 6202 3930
Fax: (02) 6204 2736
Email: enquiry@remtribunal.gov.au

This annual report is available on the Tribunal's website: www.remtribunal.gov.au.

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