

**REMUNERATION TRIBUNAL  
ANNUAL REPORT  
2014–15**

ISSN 1032 0350



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The document must be attributed as the *Remuneration Tribunal annual report 2014–15*.



REMUNERATION TRIBUNAL

1 October 2015

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 2014–15. The report covers the activities of the Tribunal during the year ended 30 June 2015.

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 cursive.

John C Conde AO  
PRESIDENT

Handwritten signature of John B Prescott in cursive.

John B Prescott AC  
MEMBER

Handwritten signature of Ewen G W Crouch in cursive.

Ewen G W Crouch AM  
MEMBER



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## **President's overview**

The impact of the Australian Government's smaller government agenda, as set out in the ministerial paper *Smaller and More Rational Government 2014–15*, was evident in the slowing of the creation of new offices in the Tribunal's jurisdiction.

As noted in its 2013–14 annual report, the Tribunal was keen to explore ways of simplifying and clarifying complexities in its parliamentary determinations. This was a regular item on the Tribunal's meeting agenda.

The Tribunal members met with the Special Minister of State, the Minister Assisting the Prime Minister for the Public Service, the new President of the Senate, the Shadow Special Minister of State and the Secretary of the Department of Finance to discuss the outstanding recommendations from the 2010 report of the Committee for the Review of Parliamentary Entitlements, using the opportunity to discuss the possibilities of further reform.

The Tribunal does not determine the full range of allowances and business support for parliamentarians. Its approach has been to consider and discuss options for changes to:

- its own determinations to simplify and clarify them
- the full package of support payments and allowances consistent with the committee's recommendation to separate them into remuneration and business expense streams
- the model for determination, delivery and monitoring prospectively of parliamentarians' allowances and business expenses.

As part of this work the Tribunal has been undertaking research into the arrangements in place in other Australian and international jurisdictions. Particular attention has been paid to the way these jurisdictions define, regulate and administer parliamentary allowances and expenses. The Tribunal continues to examine closely the functions, operations and procedures of the Independent Parliamentary Standards Authority in the United Kingdom.

During the year the Australian National Audit Office conducted a performance audit of the administration of parliamentarians' travel. Its report was issued on 4 June 2015. The Tribunal was invited to comment on an extract of the draft report. In its response, the Tribunal drew attention to its work on reform of the system, as well as its work with the government to strengthen the rules governing parliamentarians' business expenses.

The reform process has been given a new imperative with the Prime Minister's announcement of a fundamental review of parliamentary entitlements. Along with Mr David Tune AO PSM, I have been appointed co-chair to the committee conducting the review.

The Tribunal's annual review of remuneration for offices under its determinative jurisdiction presented similar challenges to those that existed in 2014. The review is

taking place against a background of economic uncertainty and considerable wage restraint across Australia, not the least of which was occurring in the Commonwealth public sector.

In conducting its annual review, the Tribunal seeks to ensure that the remuneration of public office holders in its jurisdiction does not fall behind broadly comparable offices in other public sectors and the private sector. The Tribunal is very conscious that while public office holders do not expect the same remuneration as their private sector counterparts, the government must be able to attract, retain and reward appropriately skilled, experienced and credentialed people to undertake the important work of their respective offices.

The Tribunal regards the work of public office holders as essential to good government and the proper functioning of the Commonwealth. Appropriate remuneration arrangements are critical to the effective operation of any organisation.

In March this year the Tribunal decided to defer 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. This decision allowed the Tribunal to take account of the Fair Work Commission's decision on the Annual Wage Review (as it is obliged to) and to consider the subsequent state of the economy and wage movements across Australia. New determinations were issued in May 2015 reaffirming the existing remuneration arrangements.

The final remuneration increases for secretaries, specified statutory offices, and a number of full-time offices, following work value examinations of these offices, are yet to be determined. The increases were originally scheduled to commence on 1 July 2014. The workplace bargaining process currently occurring in the Commonwealth public sector is a relevant and complicating factor in the Tribunal's consideration of this matter.

One important body of work during the year was the Tribunal's consideration of appropriate remuneration arrangements for the Administrative Appeals Tribunal (AAT). Taking effect on 1 July 2015 the Migration Review Tribunal, Refugee Review Tribunal and Social Security Appeals Tribunal amalgamated with the AAT to create a larger merits review tribunal.

The Tribunal worked with the Attorney-General's Department and the President of the AAT to determine remuneration to support the new office holders of the amalgamated tribunal with appropriate transitional arrangements for office holders of the former tribunals.

The Tribunal concluded its review of the provisions that govern the payment of compensation in the event of the loss of a statutory office. This situation is most common where an office holder's appointment is prematurely terminated due to the abolition of that office. The review commenced in 2014.

A feature of the revised provisions is that Australian Public Service (APS) employees who resume APS employment after the term of their appointment to a statutory office

ends are ineligible for compensation. The revised provisions were rolled out across the Tribunal's full-time jurisdictions through the year (with exceptions for judges and parliamentarians; these offices have their own provisions).

The review of the compensation for loss of office provisions was part of the Tribunal's ongoing work programme to ensure that conditions and entitlements across its jurisdiction are contemporary and, where appropriate, consistent. During the reporting period the Tribunal also reviewed the provisions for reunion travel and accommodation, recreation leave, superannuation base salary, and geographic relocation.

### **Tribunal membership**

The Tribunal operated with only two members for the full year following the resignation of Ms Jillian Segal AM in June 2014. Ms Segal accepted appointment as a member of the Australian War Memorial Board on the eve of the centenary of Gallipoli.

Mr Ewen G W Crouch AM accepted appointment to the Tribunal, effective 3 September 2015, for five years. Mr Crouch will be an invaluable member, bringing decades of relevant experience.

Carrying a vacancy for the period June 2014 to September 2015, we again relied heavily throughout the year on the commitment, support and expertise of Mr John B Prescott AC. I particularly thank him for the way in which he juggled his many other commitments to ensure that the Tribunal was always able to meet its required quorum. Mr Prescott was reappointed for a further 12 months in February 2015. Mr Prescott's support of the Tribunal's work programme over the past five and a half years has been invaluable.

I also take this opportunity to express my thanks to Mr Patrick Palmer and the small team in the Remuneration Tribunal's Secretariat. The Secretariat has reduced in size and lost some long-serving staff members over the past two years. I believe resources will need to be increased to meet known demands of the Tribunal's forward work programme. The Secretariat has continued to meet the expectations of the Tribunal in undertaking research, providing briefings and performing the many administrative tasks needed to support the members in performing their statutory functions and we thank them all.

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. During the entire year the Tribunal operated with two members, Mr Conde and Mr Prescott. Mr Crouch was appointed a member of the Tribunal on 3 September 2015.

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 Dexu Property Group. Mr Conde is also Chairman of the Australian Olympic Committee (NSW) Fundraising Committee.

Positions previously held include Chairman of the Sydney Symphony Orchestra (until May 2015), 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 John B Prescott AC** – reappointed on 26 February 2015 for a further 12 months. Mr Prescott was originally appointed from 25 February 2010. Until 31 August 2015 Mr Prescott was Chairman of Aurizon Holdings Limited (formerly QR National Limited), and he was Chairman of Queensland Rail Limited from 2006 to 2010. He is a member of the President's Circle, AustralAsiaCentre, Asia Society (since 1999), a Global Counsellor of The Conference Board (since 2001) and a member of the Global Advisory Council (since 2013). Mr Prescott was previously a director of Newmont Mining Corporation (2002–2013) and Chairman of ASC Pty Ltd (formerly Australian Submarine Corporation Pty Ltd) from 2000 to 2009. From 1991 to 1998 Mr Prescott was Managing Director and Chief Executive Officer of BHP.

**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 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 career as a partner at Allens 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. He is now a consultant to Allens.

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 14 occasions. This included meetings with a range of interested parties. The Tribunal expressed its conclusions in 21 determinations. The President also consulted more widely on a range of matters.

The Tribunal sought advice to help clarify aspects of its powers and develop policy positions on a number of matters. This included:

- its decision-making abilities in the event that one of its members declared a potential conflict of interest (particularly germane as the Tribunal operated with two members during the year)
- its power to set different remuneration arrangements where there are multiple office holders of a single office (a common feature of some part-time offices)
- its powers to remove an existing entitlement (such as travel for former parliamentarians) effective from a future date.

#### **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 examines 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. The last general adjustment determined by the Tribunal was effective from 1 July 2013.

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 announced this decision in a statement and advised that, in addition to consideration of the Fair Work Commission's Annual Wage Review, deferral would allow the Tribunal to consider the government's budget outlook, a range of additional indicators, including further wage price index releases from the Australian Bureau of Statistics, and data on movements in both private and public sector executive remuneration which are produced annually.

The Tribunal's last reviews of the secretary, specified statutory office (SSO) and full-time office jurisdictions were completed in 2011–12. Those reviews concluded that secretaries, SSOs and nine full-time offices merited considerable increases in remuneration to align that remuneration with the appropriate work value assessment of the various offices. The Tribunal phased in the increases over a period of two to three years. At the time of the release of the various review reports, it was intended that the final transitional increase to achieve appropriate work value recognition would be completed by 1 July 2014.

Last year, however the Tribunal paused this final transitional step as it was considered inappropriate to proceed with an increase just for these offices while all other office holders' remuneration remained unchanged. At that time the Tribunal advised that this was a temporary pause and that it did not retreat from its assessment of the proper work value of those offices.

In its 31 March 2015 statement announcing the deferral of the 2015 annual review decision, the Tribunal also announced that it would consider the final remuneration increases for secretaries, SSOs and full-time office holders at the time it reconsidered the 2015 annual review adjustment.

The Tribunal continues to monitor movements in Senior Executive Service (SES) remuneration. These employees are often the direct reports of offices in the Tribunal's jurisdiction, and increases in remuneration for the SES relative to office holders, have, over many years, resulted in the collapsing of pay differentials. The increases awarded by the Tribunal in its 2011 and 2012 reviews were, at least in part, in recognition of the importance of maintaining appropriate relativities between agency heads and their direct reports.

The impact of the government's introduction, in May 2013, of the APS Executive Remuneration Policy, has assisted to some extent in moderating the increase in SES remuneration, and has assisted in maintaining appropriate relativities between secretaries and the most senior members of their SES and other staff.

The Tribunal notes that the Australian Public Service Commission's *APS Remuneration Report 2014* details very modest adjustments in remuneration for SES employees, but still above the adjustments awarded by the Tribunal over the past two years. The Tribunal will continue to monitor these movements in the context of its annual review considerations.

The full text of the Tribunal's statement is available on its website at [www.remtribunal.gov.au/media/documents/2016/2015-statements/march-annual-review-statement-31.3.2015/March-Annual-Review-Statement-31.3.2015.pdf](http://www.remtribunal.gov.au/media/documents/2016/2015-statements/march-annual-review-statement-31.3.2015/March-Annual-Review-Statement-31.3.2015.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 2015 is included at Appendix 2.

As at 30 June 2015 there were 145 offices specified in the Tribunal's determination for holders of full-time offices (Determination 2015/07, made on 11 May 2015).

During 2014–15 the Tribunal suspended the final transitional remuneration levels for the nine full-time offices (and the specified statutory offices) that the Tribunal considered, in its reviews of 2011 and 2012, merited significant remuneration increases. The Tribunal remains committed to its conclusions about the appropriate remuneration for these offices, and will revisit the final transitional steps as part of its 2015 annual adjustment considerations.

A small number of offices have not yet been moved to the full-time office structure decided by the Tribunal in its 2012 review. Those offices may be subject to implementation of government policy that affects roles and responsibilities, or, in some cases, the Tribunal is awaiting updated information on roles and responsibilities prior to settling its final conclusions on their positioning in the structure.

During the year, the Tribunal finalised its review of its determination in relation to compensation for loss of office. It specifically excluded from the receipt of compensation benefits any office holder who maintains, and then actually exercises,

a right to resume employment in the Australian Public Service on early termination of an appointment to a public office.

### **Specified statutory offices**

The Tribunal is responsible for determining the remuneration of a group of full-time public offices, referred to as the specified statutory offices, or SSOs. As at 30 June 2015 these offices were:

- the Chief of the Defence Force
- the Commissioner of Taxation
- the Auditor-General for Australia
- the Chief Executive Officer of the Australian Customs and Border Protection Service
- the Australian Statistician.

On 22 June 2015 the Tribunal issued a determination removing the Chief Executive Officer of the Australian Customs and Border Protection Service from the SSO determination and establishing the new office of Australian Border Force Commissioner under the full-time office determination. This movement took effect from 1 July 2015.

Consistent with the Tribunal's statement of 31 March 2015, the remuneration of these offices remains unchanged with effect from 11 May 2015 (by Determination 2015/03). The final remuneration step to implement the Tribunal's 2012 review of the SSOs has yet to be determined.

### 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 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.

The Tribunal concluded its review into the part-time office jurisdiction in 2014. On 1 July 2014 it implemented one of the last remaining outcomes of that review, namely the move from three to one 'unspecified' daily fee rate.

The Tribunal's primary purpose in determining 'unspecified rates' is to provide an employing body with an interim rate to apply to a new office pending the Tribunal's consideration of a submission on an appropriate individual rate for that office. The unspecified rate provides payment authority during the period needed for a minister to make a submission, and for the Tribunal's subsequent consideration of that submission. This rate may also be used where the body has a short and finite existence.

The Tribunal's review concluded that to comply more effectively with its determinative powers under the Remuneration Tribunal Act, the part-time determination should contain only one unspecified rate. The implementation of a single rate for offices not otherwise specified resulted in a number of enquiries and submissions seeking determination of remuneration.

For example, during the year the Tribunal for the first time determined specific remuneration for offices of various boards of management of the national parks. The Uluru-Kata Tjuta, Kakadu and Booderee national parks are established on land that is leased to the Director of National Parks to be managed as national parks. The lease agreements and legislation require that the parks be managed jointly by the government and the traditional owners of the park.

Members of the boards are public office holders for Tribunal purposes. The boards comprise traditional owners, relevant experts (e.g. in tourism and science) and representatives of government. The boards set the strategic direction and high-level

policy for management of the respective parks. They bring together traditional knowledge, science and reserve management skills to carry out their functions.

While these offices were not newly established by legislation, previously the board members had been remunerated using one of the Tribunal's three former unspecified rates.

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 at Appendix 2.

As at 30 June 2015, remuneration had been determined for more than 250 bodies (Determination 2015/08, made on 11 May 2015).

### 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 of 5% above and 10% below 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](http://www.remtribunal.gov.au/principalExecutiveOffices/currentDetermination/listPEO.asp).

During 2014–15 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 2015, there were 64 listed PEOs.

They are a very diverse group of offices. Some are in charge of large government-run businesses and semi-commercial enterprises such as ASC Pty Ltd (builders of submarines and ships for the Australian Defence Force) and the Managing Directors of the ABC and SBS; while others are key to the functions of the Australian Government, but operate very much at arm's length – like the Governor of the Reserve Bank of Australia and the Australian Electoral Commissioners.

Against the background of the *Report of the National Commission of Audit* and the government's *Smaller and More Rational Government 2014–15* paper, the Tribunal considered what might constitute appropriate policy parameters to settle remuneration arrangements for government business enterprises transitioning to the private sector. The Tribunal noted that a number of the bodies in its jurisdiction had been identified for potential privatisation. Privatisation of these bodies would affect board members (typically part-time office holders) and the Chief Executive Officer

role (typically a PEO). The Tribunal's considerations had particular currency in light of the privatisation of Medibank Private Ltd.

The Tribunal also made changes to the compensation for loss of office provisions to align with those agreed for full-time office holders (see section 3.2).

The principal determination in place at 30 June 2015 was Determination 2013/09.

### 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 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 offices of departmental secretary.

In 2014–15 there was no annual adjustment to the remuneration of secretaries. The final transitional remuneration adjustment for secretaries from the Tribunal's extensive 2011 work value assessment of the office is yet to be determined.

During the year the secretaries' determination was amended to align the family reunion provisions with those applying to full-time offices as part of the Tribunal's harmonisation of provisions. Family reunion provisions apply only in circumstances where, on appointment, a secretary maintains a principal residence outside of Canberra at which his or her family resides. The effect of the family reunion amendments was to:

- increase the value of the maximum accommodation support provided in Canberra (from \$29,645 to \$34,500) to align with the full-time office holder provisions
- introduce a provision whereby a secretary's entitlement to reunion fares is reduced if there is a family reunion opportunity due to business travel to the location of the secretary's principal place of residence.

The principal determination applying at 30 June 2015 was Determination 2015/04 (made on 11 May 2015).

### 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.

The largest body of work during the year impacting the judicial and related offices determination was the determination of appropriate remuneration arrangements for the offices of the AAT effective from 1 July 2015. From that date the AAT was established as the prime review body for conducting independent reviews of the merits of administrative decisions made under Commonwealth laws. It was formed from the amalgamation of the Migration Review Tribunal, Refugee Review Tribunal and Social Security Appeals Tribunal with the AAT.

The Tribunal took a work value-based approach to the determination of remuneration. It worked closely with the AAT and the Attorney-General's Department to factor in existing remuneration arrangements for office holders transitioning to the new offices, as well as putting in place arrangements to suit the needs of the amalgamated tribunal. All new offices were included in the judicial and related offices determination in late June 2015, to take effect on the amalgamated tribunal's commencement.

During the year the Tribunal also amended this determination to remove references to an outdated executive vehicle policy. Current government policy is that leased vehicles should be manufactured in Australia, at least while more than one vehicle manufacturer continues production. Accordingly, the Tribunal put in place arrangements that facilitate application of that policy.

In addition to harmonising the compensation for loss of office provisions for non-judicial offices (see section 3.2 for further information), the Tribunal also updated the determination's recreation leave provisions to reflect the more contemporary arrangements applying to other full-time offices. The determination now provides for the progressive accrual of leave throughout the year, rather than a 1 January accrual date.

The principal determination applying at 30 June 2015 was Determination 2015/05 (made on 11 May 2015).

### **Judicial Remuneration Coordination Group**

The annual meeting of the Commonwealth/State Judicial Remuneration Coordination Group was held in May 2015.

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 Parliamentary

### **The framework**

#### Parliamentary base salary

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 entitlements

The Tribunal also determines a range of allowances and entitlements 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.

#### Entitlements outside the Tribunal's determinative powers

The Tribunal does not determine the entire range of entitlements 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 did not vary parliamentary base salary during the financial year. Instead, in March 2015 the Tribunal announced that any decision on a general adjustment to the remuneration of office holders, including parliamentarians, would be deferred until the second half of the 2015 calendar year.

As set out in principal Determination 2015/06, base salary therefore remained at \$195,130 as at 30 June 2015. This means that the last adjustment to base salary occurred with effect from 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 7 August 2014 the Tribunal made its annual report (Report Number 1 of 2014) to Senator the Hon. Eric Abetz, Minister Assisting the Prime Minister for the Public Service. The Tribunal recommended no changes to the existing percentages.

As the Tribunal did not increase base salary, the effect of this report was to recommend no changes to the additional salary of ministers and parliamentary office holders in the financial year.

### **Allowances and entitlements for senators and members**

Parliamentary entitlements are complex. The Tribunal's determinations cover some, but not all, of the range of provisions that apply to parliamentarians. As noted in the President's overview, during the year the Tribunal considered options to provide clarity, simplicity and flexibility in the parliamentary entitlements scheme without increasing the cost to taxpayers. This included examination of a range of possible reforms to the parliamentary entitlements framework and consideration of international comparators such as the Independent Parliamentary Standards Authority in the United Kingdom.

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 entitlements (excluding travel) is Determination 2012/04. During the year the Tribunal amended the determination to:

- extend the members' entitlement that covers the cost of transporting a vehicle on a ferry to include senators travelling within the state or territory they represent (previously this applied only to members travelling within their electorate)
- modify existing family reunion provisions to provide an entitlement for family members who travel to Canberra to accompany or join a parliamentarian to remain there where:

- a presiding officer is temporarily absent from Canberra on official presiding officer business; or
- a senator or member is temporarily absent from Canberra in the period between adjoining sitting weeks.

At the request of the Special Minister of State, the Tribunal also considered a request to amend the severance travel entitlements of former parliamentarians to complement the government's wider changes proposed to parliamentarians' travel entitlements (including the Life Gold Pass) under the Parliamentary Entitlements Legislation Amendment Bill 2014, currently before the Parliament.

The Special Minister of State requested that the Tribunal consider removing the severance travel entitlement held by a number of former parliamentarians who retired before 15 March 2012 and tightening the existing entitlement to post-retirement travel for future retirees.

The Tribunal decided that it would be appropriate to wait for the passage of the legislation before making a decision on the government's request.

### **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*; it is currently \$40,730.

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%.

These figures were 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 office holders, 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 2014/16) and other public office holders (by Determination 2014/15) with effect from 31 August 2014.

The Tribunal is required to review 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 2014/19 – Income tax: what are the reasonable travel and overtime meal allowance expense amounts for the 2014–15 income year?*

The Tribunal's rates mirror the ATO rates in most instances; the major variant is the Canberra rate for parliamentarians, which is lower than the equivalent ATO rate. This recognises that parliamentarians tend to make more settled accommodation arrangements in Canberra.

The Tribunal noted the 2015 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.

As the Tribunal's motor vehicle allowance rates currently mirror the ATO rates, the Tribunal announced on 29 June 2015 that it would consider changes to the motor vehicle allowance provisions as part of its regular August review of travel entitlements. In the meantime, the rates under the Tribunal's travel determinations continue to apply.

### 3.9 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 holders of 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 Tribunal reviewed the recreation leave entitlements of eligible office holders during the year and aligned the accrual arrangements of the judicial and related offices determination, in relation to non-judicial offices, with those of other full-time offices. Like other full-time office holders, these office holders now accrue recreation leave monthly throughout the year; they remain entitled to a total of four weeks of recreation leave for each year of service.

Determination 2012/11 remained in place at 30 June 2015.

### 3.10 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 Tribunal was not required to provide advice to the presiding officers in relation to the statutory offices of any parliamentary departments during the financial year.

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.

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 (for example the Prime Minister's Indigenous Advisory 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 will expire in November 2015.

## **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* (FOI Act) are required to publish information to the public as part of the Information Publication Scheme. This requirement is in Part II of the FOI 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 updated its plan during the year.

### **6.5 *Legislative Instruments Act 2003***

Most Tribunal determinations are legislative instruments for the purposes of the *Legislative Instruments Act 2003* (LI Act). 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 LI 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 Legislative Instruments. The LI 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 LI Act do not apply to them.

No Tribunal determinations were disallowed during the reporting period.

## Appendix 1 – List of determinations and reports for 2014–15

During the reporting year, the Tribunal issued the following reports, determinations and statements. No determinations were disallowed during the year.

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](http://www.remtribunal.gov.au)
- the Federal Register of Legislative Instruments website, [www.comlaw.gov.au](http://www.comlaw.gov.au)
- the Gazette for the Secretaries Determination, [www.comlaw.gov.au/gazettes](http://www.comlaw.gov.au/gazettes).

2015/10*	Judicial and Related Offices – Remuneration and Allowances
2015/09	Remuneration and Allowances for Holders of Public Office
2015/08*	Remuneration and Allowances for Holders of Part-Time Public Office
2015/07*	Remuneration and Allowances for Holders of Full-Time Public Office
Statement	Determination 2015/06 – Members of Parliament – Base Salary, Additional Salary for Parliamentary Office Holders, and Related Matters – Reasons for Determination
2015/06*	Members of Parliament – Base Salary, Additional Salary for Parliamentary Office Holders, and Related Matters
2015/05*	Judicial and Related Offices – Remuneration and Allowances
2015/04*	Departmental Secretaries – Classification Structure and Terms and Conditions
2015/03*	Specified Statutory Offices – Remuneration and Allowances
Statement	2015 Review of Remuneration for Holders of Public Office
2015/02	Remuneration and Allowances for Holders of Public Office
2015/01	Remuneration and Allowances for Holders of Public Office
Statement	Determination 2014/23 – Members of Parliament – Entitlements – Reasons for Determination
2014/23	Members of Parliament – Entitlements
2014/22	Remuneration and Allowances for Holders of Public Office including Judicial and Related Offices
2014/21	Remuneration and Allowances for Holders of Public Office including Principal Executive Office – Classification Structure and Terms and Conditions
Statement	Determination 2014/20 – Members of Parliament – Entitlements – Reasons for Determination

2014/20	Members of Parliament – Entitlements
2014/19	Remuneration and Allowances for Holders of Public Office
2014/18	Remuneration and Allowances for Holders of Public Office including 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 (Report Number 1 of 2014)
2014/17*	Compensation for Loss of Office for Holders of Public Office
Statement	Annual Review of Travelling Allowance Rates for Public Office Holders and Parliamentarians
Statement	Determination 2014/16 – Members of Parliament – Travelling Allowance – Reasons for Determination
2014/16*	Members of Parliament – Travelling Allowance
2014/15	Official Travel by Office Holders
2014/14	Departmental Secretaries – Classification Structure and Terms and Conditions
2014/13	Remuneration and Allowances for Holders of Public Office including Judicial and Related Offices

\* These documents are principal determinations.

## **Appendix 2 – Variation to bodies and offices determined in 2014–15**

### **Full-time offices**

#### ***New***

Australian Border Force Commissioner  
Children's e-Safety Commissioner  
Digital Transformation Office, Chief Executive Officer  
Student Identifiers Registrar

#### ***Renamed***

Infrastructure Coordinator now Infrastructure Australia, Chief Executive Officer  
MRT Deputy Principal Member (now Administrative Appeals Tribunal (AAT), former Deputy Principal Member Migration Review Tribunal (MRT))  
MRT Senior Member (to AAT (former Senior Member, MRT))  
MRT Member (now AAT (former Member MRT))  
Refugee Review Tribunal (RRT) Deputy Principal Member (now Administrative Appeals Tribunal, former Deputy Principal Member RRT)  
RRT Senior Member (now AAT (former Senior Member, RRT))  
RRT Member, (now AAT (former Member, RRT))  
SSAT Deputy Principal Member (now AAT, former Deputy Principal Member, Social Security Appeals Tribunal (SSAT))  
SSAT Senior Member (now AAT (former Senior Member SSAT))  
SSAT Member (now AAT (former Member, SSAT))

#### ***No longer appearing in the determination***

Administrative Appeals Tribunal, Registrar (to Judicial and Related Office)  
Migration Review Tribunal (MRT) Principal Member  
Refugee Review Tribunal (RRT) Principal Member  
Social Security Appeals Tribunal (SSAT) Principal Member  
Tertiary Education Quality and Standards Agency, Commissioner (to part-time offices)

### **Principal executive offices**

#### ***No longer in the principal executive office structure***

General Practice Education and Training Ltd, Chief Executive Officer  
Medibank Private Ltd, Managing Director

## **Specified statutory offices**

### ***No longer appearing in the determination***

Australian Customs and Border Protection Service, Chief Executive Officer

## **Judicial and related offices**

### ***New***

Administrative Appeals Tribunal, Registrar

### **Part-time offices**

### ***New***

Australia Council, Audit and Finance Standing Committee

Australia Council, Peer Assessment Panel Members

Australia Council, Sector Strategy Panels

Australian Grape and Wine Authority, Chair, Deputy Chair, Member

Booderee Board of Management, Chair and Member

Coal Mining Industry (Long Service Leave Funding) Corporation, Chair, Deputy Chair and Member

Defence Families of Australia, National Communications Officer

Defence Families of Australia, National Delegates

Defence Families of Australia, National Policy Officer

Independent National Security Legislation Monitor

Kakadu Board of Management, Chair and Member

Ministerial Council on Asylum Seekers and Detention, Chair and Member

National Precincts Board, Chair and Member

Tertiary Education Quality and Standards Agency, Chief Commissioner and Commissioner

Uluru-Kata Tjuta Board of Management, Chair and Member

### ***Renamed***

Social Security Appeals Tribunal – Senior Member (now Administrative Appeals Tribunal (AAT) (former Social Security Appeals Tribunal (SSAT) – Senior Member))

Migration Review Tribunal Member (now AAT (former Migration Review Tribunal (MRT) Member))

Refugee Review Tribunal Member (now AAT (former Refugee Review Tribunal (RRT) Member))

Prime Minister's Science, Engineering and Innovation Council now Commonwealth Science Council, Chair and Member

Social Security Appeals Tribunal (SSAT) Member (now AAT (former SSAT Member))

***No longer appearing in the determination***

Albury-Wodonga Development Corporation, Chair and Member

Australian Workforce and Productivity Agency, Chair and Member

Australia Council Boards, Chair

Comcover Advisory Council, Chair and Member

General Practice Education and Training Ltd, Chair and Member

Medibank Private Ltd, Chair and Member

National Aboriginal and Torres Strait Islander Health Equality Council, Chair and Member

National Precincts Board, Chair and Member

Official Establishments Trust, Chair and Member

Pharmaceutical Benefits Pricing Authority, Chair and Member

Regional Development Australia Fund Advisory Panel, Chair and Member

### **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](mailto:enquiry@remtribunal.gov.au)

This annual report is available on the Tribunal's website: [www.remtribunal.gov.au](http://www.remtribunal.gov.au).

Media inquiries should be directed to:

Ms Danielle Morris  
Morris Walker Pty Ltd  
Telephone: (02) 6162 0021  
Fax: (02) 6162 0023  
Mobile: 0412 181 389  
Email: [dmorris@morriswalker.com.au](mailto:dmorris@morriswalker.com.au)