



REMUNERATION TRIBUNAL

Determination 2016/13: Departmental Secretaries - Classification Structure and Terms and Conditions

As amended

**Made under Part II, Division 4 of the *Remuneration Tribunal Act 1973*
Consolidated by the Remuneration Tribunal Secretariat as at 1 June 2017 and
incorporates amending determinations up to and including 2017/05 – Departmental
Secretaries – Classification Structure and Terms and Conditions.
Compilation No 1**

This Determination, amongst other matters:

- determines a classification structure for offices of Secretary;
- specifies pay points for the classification structure;
- assigns each office of Secretary to a classification;
- sets terms and conditions for Secretaries; and
- 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 other than the Secretary of the Department of the Prime Minister and Cabinet and the Secretary of the Department of 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 1973*.

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PART 1 - GENERAL

Authority

- 1.1** This Determination is issued pursuant to Division 4 of Part II of the *Remuneration Tribunal Act 1973*.

Effect of this determination

- 1.2** This Determination takes effect on and from 8 December 2016 except where specified otherwise. It supersedes and revokes in full *Determination 2015/16 - Departmental Secretaries - Classification Structure and Terms and Conditions*.

Definitions

- 1.3** For the purposes of this Determination, the following definitions apply:

'APSC Allowance Subscription Scheme' means the Australian Public Service Commission (APSC) Allowance Subscription Scheme and any scheme of a similar nature that modifies, replaces or supersedes the APSC Allowance Subscription Scheme.

'Base Salary' for a Secretary means 70% of the Secretary's Total Remuneration.

'Benefits' means benefits other than cash and the Employer's Superannuation Contribution provided to a Secretary at the Commonwealth's expense, and includes any Commonwealth provided vehicle that the Secretary elects to receive under clause 2.18. (See also clause 2.10-2.13).

'Business Class' means a standard of service equivalent to that offered by Qantas Airways Ltd in its Business Class.

'Commonwealth Authority' means:

- (a) a body corporate established for a public purpose by or under a law of the Commonwealth or the Australian Capital Territory; or
- (b) a body corporate:
 - (i) incorporated under a law of the Commonwealth or a State or Territory; and
 - (ii) in which the Commonwealth has a controlling interest; or
- (c) an authority or body, not being a body corporate, established for a public purpose by or under a law of the Commonwealth or the Australian Capital Territory.

'Employer's Superannuation Contribution' in respect of a Secretary means:

- (a) in respect of a member of a Commonwealth defined benefit scheme (including the Commonwealth Superannuation Scheme or the Public Sector Superannuation Scheme) the value attributed to the Employer's Superannuation Contribution under sub-clause 2.14-2.15; or
- (b) in respect of a member of the Public Sector Superannuation Accumulation Plan, 15.4% of ordinary time earnings (OTE) for the office holder; or
- (c) in respect of a member of any other fund, the minimum level of employer superannuation contribution that would reduce to zero the charge percentage for that Office Holder under section 23 of *the Superannuation Guarantee (Administration) Act 1992*.

'Executive Vehicle Scheme Guidelines' means guidelines published from time to time by the APSC in respect of the Executive Vehicle Scheme or by such other Department or agency as then has policy responsibility for the scheme, or any guidelines of a similar nature which modify, replace or supersede those guidelines or guidelines to any scheme of a similar nature which modifies, replaces or supersedes the Executive Vehicle Scheme.

'Pay Point Assignment' means an instrument made by the Secretary of the Department of the Prime Minister and Cabinet under subsection 14(3) of the *Remuneration Tribunal Act 1973*.

'Reference Salary' means the Secretary's Total Remuneration, less the rate of the Employer's Superannuation Contribution for the Secretary.

'Secretary' has the same meaning as in the *Public Service Act 1999*.

'Secretary's Minister' in respect of a Secretary means the senior portfolio Minister who administers the Department of which the Secretary has been appointed to the office of Secretary.

'Total Remuneration' for a Secretary means the aggregate value of cash, Benefits and the Employer's Superannuation Contribution, provided to or on behalf of the Secretary by the Commonwealth, expressed as an annual rate.

1.4 The provisions of this Determination are additional to and subject to any applicable statutory entitlements or conditions, including those deriving from the following Acts and from regulations and instruments made under those Acts:

- (a) *Public Governance, Performance and Accountability Act 2013*;
- (b) *Long Service Leave (Commonwealth Employees) Act 1976*;
- (c) *Work Health and Safety Act 2011*;
- (d) *Maternity Leave (Commonwealth Employees) Act 1973*;
- (e) *Public Service Act 1999*;
- (f) *Safety, Rehabilitation and Compensation Act 1988*;
- (g) *Superannuation Act 1976*;
- (h) *Superannuation Act 1990*;
- (i) *Superannuation Act 2005*;
- (j) *Superannuation Benefits (Supervisory Mechanisms) Act 1990*;
- (k) *Superannuation (Productivity Benefit) Act 1988*; and
- (l) *Fair Work Act 2009*.

PART 2 - CLASSIFICATION, REMUNERATION AND RELATED MATTERS

Classification structure and remuneration levels

2.1 The classification structure for offices of Departmental Secretary and the pay points for each level in the classification structure are shown in table 2A below, with amounts of Total Remuneration having effect on and from 8 December 2016.

Table 2A – Classification Structure and Total Remuneration for Specified Pay Points

Level	Pay point	8 December 2016
Level 1A (PM&C)		\$861,700
Level 1B (Treasury)		\$840,810
Level 1	1	\$814,700
	2	\$772,920
	3	\$731,140
Level 2	1	\$731,140
	2	\$705,030
	3	\$678,920

- 2.2** Offices of Secretary are classified by reference to the Department to which each office relates as shown in table 2B below.

Table 2B – Classification of Offices of Secretary

Level	Departments
Level 1A	Prime Minister and Cabinet
Level 1B	Treasury
Level 1	Defence; Finance; Foreign Affairs and Trade; Health; Human Services; Industry, Innovation and Science; Social Services
Level 2	Agriculture and Water Resources; Attorney-General's; Communications and the Arts; Education and Training; Employment; Environment and Energy; Immigration and Border Protection; Infrastructure and Regional Development; Veterans' Affairs

- 2.3** A Secretary at classification Level 1A or Level 1B is entitled to the Total Remuneration specified for that level in Table 2A.
- 2.4** Subject to clause 2.7, subclauses 2.8(1) and 2.8(2) and subclauses 2.9(1) and 2.9(2), a Secretary at classification Level 1 or Level 2 is entitled to the Total Remuneration specified for the pay point to which the office is assigned by a Pay Point Assignment.
- 2.5** If a person is appointed to more than one office of Secretary at the same time, the person is entitled to the Total Remuneration specified for the highest of the pay points that would apply in relation to any of the appointments on its own.
- 2.6** If a person is appointed to an office of Secretary that does not appear in the classification in Table 2B, then, until the Table has been amended to include the office and a Pay Point Assignment has been made for the office, the Secretary is entitled to:
- if the Secretary has been transferred from another office of Secretary — the Total Remuneration specified for the pay point that applied to the person in his or her former office; or
 - in any other case — the Total Remuneration specified for the lowest pay point for Level 2.

Pay Point Assignments

- 2.7** Unless subclause 2.9(1) or subclause 2.9(2) applies, a Pay Point Assignment must assign an office of Secretary to a pay point within the classification level of the office.
- 2.8(1)** If a person who is a Secretary is appointed to another office of Secretary that is assigned to a pay point which is lower than the pay point that applied to the person in the former office, then until the time when the instrument of appointment to the previous office would have expired according to its terms, the Secretary is entitled to the Total Remuneration specified from time to time for the pay point that would have applied to him or her in the former office.
- 2.8(2)** If during the period of a person's appointment to an office of Secretary the pay point which applies to that office is lowered, the person is entitled, until that period of appointment ends, to the Total Remuneration specified from time to time for the pay point that would have applied to him or her if the pay point had not been lowered.

2.9(1) If subclause 2.8(1) has applied to a person appointed to an office of Secretary and, at the time that the instrument of appointment to the previous office would have expired according to its terms, the Secretary of PM&C, after consultation with the President of the Tribunal and the Australian Public Service Commissioner, is satisfied that it is appropriate in the circumstances to maintain the remuneration of the Secretary at a higher level than would apply under clause 2.7, a Pay Point Assignment may assign the person to a pay point not higher than the one that previously applied to the person.

2.9(2) This subclause applies if, upon the end of the appointment (the 'previous appointment') of a person referred to in subclause 2.8(2), that person is appointed to another office of Secretary or reappointed to the same office of Secretary (the 'current appointment'). If, where this subclause applies, the Secretary of PM&C, after consultation with the President of the Tribunal and the Australian Public Service Commissioner, is satisfied that it is appropriate for the remuneration of the Secretary in respect of the current appointment to be at a higher level than would otherwise apply through the application of clause 2.7, a Pay Point Assignment may assign the person to a pay point not higher than the one that applied to the person immediately before the end of the previous appointment.

Content of Total Remuneration and remuneration packaging

2.10 Subject to this Part, a Secretary may elect to receive the benefit of the Total Remuneration, other than the value of the Employer's Superannuation Contribution, in cash as salary or as a combination of salary and other Benefits.

2.11 Any election made in accordance with clause 2.10 must be consistent with relevant taxation laws and rulings or guidelines issued by the Australian Taxation Office applicable to salary packaging schemes.

2.12 Any election made in accordance with clause 2.10 must not result in cost to the Commonwealth (including in relation to any fringe benefits taxation) additional to the cost which would be incurred if all of the Total Remuneration elements able to be taken as salary were taken as salary.

2.13 The value attributable to the following is not taken to be part of the Total Remuneration:

- (a) facilities provided as business support under clauses 2.22 to 2.25; or
- (b) travelling allowances and expenditure specified in Part 3; or
- (c) compensation for early loss of office specified in Part 5; or
- (d) removal costs, accommodation allowances and reunion airfares specified in Part 7; or
- (e) any other Benefits provided by the Commonwealth that the Tribunal determines should not be taken to be part of the Total Remuneration.

Superannuation

2.14 For a Secretary who is a member of the Commonwealth Superannuation Scheme:

- (a) the Secretary's annual rate of salary for the purposes of the scheme is the Secretary's Base Salary; and
- (b) the value attributed to the Employer's Superannuation Contribution is taken to be 15.4% of the Secretary's Base Salary.

- 2.15** For a Secretary who is a member of the Public Sector Superannuation Scheme:
- (a) the Secretary's basic salary for the purposes of the scheme is the Secretary's Base Salary; and
 - (b) the amount of the Secretary's recognised allowances for the purpose of the scheme is zero; and
 - (c) the value attributed to the Employer's Superannuation Contribution is taken to be 15.4% of the Secretary's Base Salary.
- 2.16** For a Secretary who is a member of the Public Sector Superannuation Accumulation Plan, the Secretary's superannuation salary for the purposes of the scheme is the Secretary's ordinary time earnings (OTE).
- 2.17** For a Secretary who is a member of any other superannuation fund, the Employer's Superannuation Contribution is to be made at the rate elected by the Secretary, which must not be less than a rate that would, under section 23 of the *Superannuation Guarantee (Administration) Act 1992*, reduce the charge percentage in relation to that Secretary to zero.

Vehicle and parking

- 2.18** A Secretary may elect to receive a Commonwealth provided vehicle as a Benefit. The value attributed to this Benefit is to be the actual cost (including fringe benefits tax) of the vehicle to the Commonwealth.
- 2.19** The Executive Vehicle Scheme Guidelines issued by the APSC apply to the selection of a vehicle referred to in clause 2.18.
- 2.20** A Secretary's Total Remuneration amount includes provision for any use of a vehicle by the Secretary for business-related purposes.
- 2.21** Where a Secretary accepts an offer of a car park at Commonwealth expense, the actual cost (including fringe benefits tax) of the car park to the Department will be a Benefit for Total Remuneration purposes.

Business support

- 2.22** A Secretary is entitled to the provision by his or her Department of communications, information technology and other office facilities necessary for the efficient conduct of the Commonwealth's business, and such provision includes incidental private use of those facilities. Where required, separate telecommunications lines to a Secretary's residence in support of these facilities may be provided at no cost to the Secretary.
- 2.23** A Secretary is entitled to be reimbursed by the Commonwealth for all costs of installation and rental of a telephone line and telephone at his or her residence and for all call charges on that telephone.
- 2.24** If a Secretary maintains 2 residences, he or she is entitled to be reimbursed by the Commonwealth in the terms of clause 2.23 in relation to a telephone line and telephone at one of his or her residences and, in relation to the other residence, is entitled to be reimbursed only for 50% of the call charges and no other costs.
- 2.25** A Secretary is entitled to 2 domestic airline lounge memberships at Commonwealth expense.

PART 3 - OFFICIAL TRAVEL

Entitlement to official travel

- 3.1** A Secretary is entitled to Tier 1 travel entitlements as determined by the Remuneration Tribunal in Determination 2016/07 – *Official Travel by Office Holders* (or any Determination that supersedes Determination 2016/07).

PART 4 - LEAVE

Normal duty

- 4.1** A Secretary is to be available for duty when required by the Secretary's Minister and on all days his or her Department is open for and conducts normal business.

Recreation (Annual) leave

- 4.2** A Secretary is entitled to recreation leave at a rate of 20 working days for each completed 12 months of service, or pro rata for lesser periods, to be credited in the same way as recreation leave entitlements are credited to employees generally in the Secretary's Department.
- 4.3** A Secretary's recreation leave credit includes any existing recreation leave accrued either through prior service in the Australian Public Service or the ACT Government Service, or through employment in a Commonwealth Authority, that in either case ceased not more than 2 months prior to being appointed as a Secretary.
- 4.4** Where a Secretary ceases to be a Secretary, other than by death, and does not carry forward a recreation leave credit to other Commonwealth employment, he or she is entitled to be paid, at the Reference Salary rate at that time, for any recreation leave credit accrued and unused at the date he or she ceased to be a Secretary, but if a Secretary has died, the Secretary's Minister may authorise payment of this amount to a dependant of the Secretary or the Secretary's legal personal representative.
- 4.5** A Secretary may elect to cash out up to half of his or her annual recreation leave entitlement in any year, at the Reference Salary rate at the time of election. The balance of leave remaining must be at least 4 weeks after any cashing out. This provision is only available where the Secretary's Department has a policy that allows employees generally in that Department to cash out up to half of their annual recreation leave entitlements.

Personal leave

- 4.6** A Secretary is entitled to personal leave which may be accessed at full or half pay to accommodate personal illness or injury, to care for a family member or to meet family responsibilities of an emergency and unscheduled nature.
- 4.7** A Secretary's entitlement to personal leave accrues at the rate of 15 days full pay on the date of initial appointment plus a further 15 days at the end of each 12 months' service.
- 4.8** In addition to the personal leave entitlement specified in clause 4.7, a Secretary's sick leave entitlements accrued either through prior service in the Australian Public Service or in the service of an Australian State or Territory Government, or through employment in a Commonwealth Authority, that in either case ceased not more than 2 months prior to being appointed a Secretary, will be recognised as if accrued while as a Secretary and will be paid at full pay or half pay as recognised on appointment.
- 4.9** Neither unused personal leave nor unused sick leave accrued through prior service referred to in clause 4.9 will be paid out where a Secretary ceases for whatever reason to be a Secretary.

4.10 The Secretary's Minister may grant additional personal leave to a Secretary at the Secretary's Minister's discretion.

Miscellaneous leave

4.11 The Prime Minister or his or her delegate may grant leave of absence to a Secretary for a purpose that the Prime Minister or his or her delegate considers to be in the interests of the Commonwealth. Such leave of absence may be with or without pay and subject to conditions at the discretion of the Prime Minister or his or her delegate.

Statutory leave provisions

4.12 A Secretary is entitled to long service leave in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976* and maternity leave in accordance with the *Maternity Leave (Commonwealth Employees) Act 1973*.

Application for leave

4.13 If a Secretary wishes to take any recreation leave, long service leave, personal leave or maternity leave to which he or she is entitled, or a mixture of them, he or she must apply:

- (a) for a total period of 3 months or less — to the Secretary's Minister; and
- (b) for a total period of more than 3 months — to the Prime Minister or his or her delegate.

PART 5 - LOSS OF OFFICE

5.1 Where a Secretary is terminated in accordance with the provisions of subsection 56(2) or subsection 59(1) of the *Public Service Act 1999* and the Commonwealth has not made the Secretary an offer of suitable alternative employment, the Secretary is entitled upon his or her termination to be paid:

- (a) for a termination 12 months or more before the end of the Secretary's term of appointment — 12 months' Reference Salary at the time of termination; or
- (b) for a termination less than 12 months before the end of the Secretary's term of appointment — 1 month's Reference Salary for each full month of the balance of the term not served, subject to a minimum payment of 6 months' Reference Salary at the time of termination.

5.2 In determining whether, for the purpose of clause 5.1, there has been an offer of suitable alternative employment, account is to be taken of any offer of employment with the Commonwealth, the administration of a Territory, or a public statutory corporation referred to in paragraph 3(4)(d) of the *Remuneration Tribunal Act 1973*, or an incorporated company all the stock or shares in the capital of which is or are beneficially owned by the Commonwealth or by a public statutory corporation, or an incorporated company limited by guarantee where the interests and rights of the members in or in relation to the company are beneficially owned by the Commonwealth or by a public statutory corporation.

5.3 If:

- (a) a Secretary who has been terminated (the '**former Secretary**') is appointed to suitable alternative employment in an office within the jurisdiction of the Tribunal; and
- (b) the Total Remuneration that applies to that position is less than the Total Remuneration for the lowest pay point in the classification level of the office from which the former Secretary has been terminated;

then the Tribunal may determine that, for up to 12 months from the appointment:

- (c) the former Secretary is entitled to Total Remuneration at that pay point; and

- (d) the former Secretary's superannuation salary for the purposes of a Commonwealth defined benefits scheme will be 70% of that Total Remuneration.

Note: The Remuneration Tribunal will make an individual determination in each case.

PART 6 - NOTICE OF A DECISION NOT TO REAPPOINT

- 6.1** A Secretary who is not given 3 months' notice that he or she will not be reappointed to an office of Secretary at the expiration of his or her current term is entitled to 3 months' Reference Salary unless the Commonwealth has made the Secretary an offer of suitable alternative employment.
- 6.2** In determining whether, for the purpose of clause 6.1, an offer of suitable alternative employment has been made, regard is to be had to any offer of employment of the kind described in clause 5.2.

PART 7 - REMOVAL AND RELOCATION ASSISTANCE

Interpretation

- 7.1** In this Part:

'home locality' means the locality where the Secretary ordinarily lives immediately before the commencement of the term of appointment as Secretary takes place.

'locality of the Australian Capital Territory' means the Australian Capital Territory and those parts of New South Wales which fall within a 100 kilometre radius of Canberra.

'new locality' means the locality of the Australian Capital Territory.

'family reunion' means reunion between the Secretary and members of his or her immediate family who have elected to reside in the residence maintained by the Secretary in his or her home locality.

Relocation costs and allowances

- 7.2** A Secretary is entitled to payment at Commonwealth expense of his or her relocation costs from his or her home locality to the new locality in order to take up his or her appointment as a Secretary.
- 7.3** For the purposes of clause 7.2, relocation costs include, as applicable:
- (a) transportation of the Secretary and his or her partner and dependants, if any, from the home locality to the new locality, and their return to the home locality when the Secretary ceases to hold office as Secretary for whatever reason; and
 - (b) the insured removal of the furniture, household effects and domestic animals of the Secretary and his or her partner and dependants from the home locality to the new locality, and their return to the home locality when the Secretary ceases to hold office as Secretary for whatever reason.

Settling out allowance

- 7.4** The **'settling out period'** is the period of up to 7 days beginning on the day when the furniture and other household effects of the Secretary and his or her dependants, if any, are removed from the residence of the Secretary at the home locality.
- 7.5** During the settling out period, a Secretary is entitled to settling out allowance of:
- (a) in relation to the costs of accommodation – \$1,727 per week; and

- (b) in relation to meals and incidentals – up to the rate per week applicable to a member of the Senior Executive Service as advised from time to time under the APSC Allowance Subscription Scheme for Temporary Accommodation Allowances.

Settling in allowance

7.6 The '**settling in period**' is the period beginning up to 7 days before the day when the Secretary begins duty at the new locality and ending on the earlier of:

- (a) the day when suitable accommodation or suitable temporary accommodation becomes available at that locality; or
- (b) the day 13 weeks after the day when the Secretary begins duty at the locality.

7.7 During the settling in period, a Secretary is entitled to settling in allowance of:

- (a) in relation to the costs of accommodation – \$1,727 per week; and
- (b) in relation to meals and incidentals – up to the rate per week applicable to a member of the Senior Executive Service as advised from time to time under the APSC Allowance Subscription Scheme for Temporary Accommodation Allowances.

Accommodation support

7.8 A Secretary who did not live in the locality of the Australian Capital Territory immediately before the commencement of his or her term of appointment as Secretary is entitled to accommodation support of an amount per week equal to \$34,500 per annum for the duration of his or her term and any subsequent term as Secretary if he or she:

- (a) continues to maintain a residence in his or her home locality; and
- (b) does not buy a property in the locality of the Australian Capital Territory.

Reunion travel

7.9 A Secretary who, immediately before the commencement of his or her initial term of appointment as a Secretary, did not ordinarily live in the locality of the Australian Capital Territory and who maintains a principal place of residence elsewhere in Australia during the initial term of appointment as a Secretary and during any successive term of appointment as a Secretary, is entitled, for the purposes of family reunion, in each 12 months of service, at his or her election at the time of appointment or reappointment to:

- (a) 12 Business Class return airfares between Canberra and the capital city nearest the principal place of residence each year; or
- (b) travel for the purposes of reunion up to the value of 12 Business Class return fares between Canberra and the capital city nearest the principal place of residence for each 12 month period.

7.10 The travel entitlement provided to a Secretary under clause 7.12 may be used by a Secretary and his or her immediate family members. Where business travel to the capital city nearest to the principal place of residence provides an opportunity for family reunion (such as when the business travel is adjacent to a weekend), the reunion fare entitlement should be reduced by the equivalent of one return Business Class fare.

7.11 Travel provided to a Secretary under clause 7.12 may be exercised only while he or she occupies the office of a Secretary. Any travel not taken by the day a Secretary ceases to occupy the office of a Secretary ceases to be available.

7.12 The value of the travel provided to a Secretary under clause 7.12 may not be taken as a cash equivalent or converted to any other use.

PART 8 - ASSISTANCE FOR TRAINING AND DEVELOPMENT

Leave for training and development

- 8.1** The Prime Minister or his or her delegate may grant leave of absence with pay to a Secretary to enable him or her to pursue training or development activities that the Prime Minister or his or her delegate considers to be in the interests of the Commonwealth. Such leave of absence may be subject to conditions at the discretion of the Prime Minister or his or her delegate.

Costs of training and development

- 8.2** The Secretary's Minister may approve reimbursement of costs incurred by a Secretary in connection with training or development activities. Such reimbursement is at the discretion of the Secretary's Minister and may be in full or in part and may be subject to conditions.

PART 9 - DELEGATION

Secretary's Minister may delegate functions

- 9.1** The Secretary's Minister may delegate any of his or her functions under this Determination to another Minister.

Notes to Remuneration Tribunal Determination 2016/13: Departmental Secretaries – Classification Structure and Terms and Conditions

This determination as shown in this compilation is amended as indicated in the tables below.

Table of Instruments

Title	Date of Gazettal registration	Date of commencement
Determination 2016/13 – Departmental Secretaries – Classification Structure and Terms and Conditions	7/12/2016 C2016G01590	8/12/2016
Determination 2017/05 – Departmental Secretaries – Classification Structure and Terms and Conditions	29/05/2017 C2017G00588	1/06/2017

**Notes to Remuneration Tribunal Determination 2016/13:
Departmental Secretaries – Classification Structure and Terms and
Conditions**

Table of Amendments

ad = added or inserted

am = amended

rep = repealed

rs = repealed and substituted

Provision affected	How affected
Part 7	
Clause 7.3	
Sub clauses (c), (d)	rep 2017/05
Clause 7.4	rep 2017/05
Clause 7.9 (a), (b), (c)	rep 2017/05
Clause 7.10 (a), (b), (c), (d), (e)	rep 2017/05
Clause 7.16	rep 2017/05
