



## REMUNERATION TRIBUNAL

---

# Determination 2004/13: Remuneration and Allowances for Holders of Full-Time Public Office

---

This Determination governs remuneration and allowances for the full-time Public Offices specified in Table 2A. These offices remain outside the Principal Executive Office structure because an employing body cannot be specified and/or it is not appropriate to apply a system of performance assessment and remuneration due to the offices' independence from Government or their regulatory role.

A primary objective of this Determination is to determine the total value an Office Holder is to receive by way of salary and other benefits in respect of carrying out the functions and exercising the powers of his or her office. It is the intention of the Tribunal that the salary and benefits provided for in this Determination by way of remuneration and allowances not be supplemented by the employer of the Office Holder.

### The Determination comprises:

- **Part 1** – General;
- **Part 2** – Remuneration and related matters;
- **Part 3** – Allowances;
- **Part 4** – Official travel;
- **Part 5** – Recreation leave; and
- **Part 6** – Compensation for Loss of Office.

## PART 1 – GENERAL

- 1.1 Authority:** The Remuneration Tribunal has made this Determination in accordance with sub-sections 7(3) and 7(4) of the *Remuneration Tribunal Act 1973*.
- 1.2 Effective Date:** This Determination takes effect on and from 1 July 2004.
- 1.3 Effect on Earlier Determinations:** This Determination revokes and supercedes Determination 2003/11 – *Remuneration and Allowances for Holders of Full-Time Public Office*.
- 1.4 Definitions:** For the purposes of this Determination, the following definitions apply.
- 1.4.1 'Agency'** means the agency to which the Office Holder is attached, or the portfolio department, if the office holder is not attached to an agency.
- 1.4.2 'Base Salary'** means the amount specified in column 2 of Table 2A of this Determination.
- 1.4.3 'Benefits'** means all non-monetary benefits provided at the employer's expense to or on behalf of an Office Holder as a personal benefit including a vehicle (where provided - refer clause 2.8), the value attributed by the Remuneration Tribunal to the

employer's superannuation contributions or Superannuation Support (refer clauses 2.6 and 2.7) and any other benefits received by way of remuneration packaging (refer clause 2.5).

**1.4.4 'DEWR Allowance Subscription Scheme'** means the Department of Employment and Workplace Relations Allowance Subscription Scheme.

**1.4.5 'Employer'** means the Commonwealth and includes any person authorised to exercise powers, perform acts, grant approvals or give directions for, or on behalf of, the Commonwealth.

**1.4.6 'Office Holder'** means a person appointed to an office listed in Table 2A of this Determination.

**1.4.7 'Total Remuneration'** is the amount shown in Column 3 of Table 2A plus any additional remuneration shown in Column 4, representing the value, calculated at the total cost to the employer (including Fringe Benefits Tax), of:

- salary (including Base Salary), allowances or lump sum payments; and
  - Benefits;
- but does not include:
- allowances specified in Part 3;
  - reimbursement of expenses incurred on geographic relocation following appointment as an Office Holder, in accordance with agency policies and practices where approved by the employer;
  - travelling allowances and expenditure referred to in Part 4;
  - recreation leave specified in Part 5; and
  - compensation for early loss of office provisions specified in Part 6.

**1.5** The Tribunal may issue guidance notes from time to time to assist employing bodies to administer this Determination.

## PART 2 – REMUNERATION AND RELATED MATTERS

**2.1 Total Remuneration:** Office Holders will be eligible for the annual amounts of Base Salary, Total Remuneration and additional remuneration, as set out in Table 2A below with effect from 1 July 2004 unless otherwise specified.

**Table 2A – Full-Time Office Holders – Total Remuneration and other Benefits**

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>	<u>Column 5</u>	<u>Column 6</u>
Office	Base Salary (per annum)	Total Remuneration for office (per Annum)	Additional Total Remuneration for Office Holder (per annum)	Refer Clause	Travel Tier
Chair, Australian Prudential Regulation Authority	\$356,380	\$509,110	Nil	2.6.1	Tier 1
Solicitor-General	\$335,510	\$446,770	Nil		Tier 1
Deputy Chair, Australian Prudential Regulation Authority	\$298,200	\$425,990	Nil		Tier 1
Member, Australian Prudential Regulation Authority	\$283,650	\$405,210	Nil		Tier 1
Director of Public Prosecutions	\$269,580	\$353,160	Nil		Tier 1

Chairperson, Australian Securities and Investments Commission	\$244,970	\$355,300	Nil		Tier 1
Chair, Australian Competition and Consumer Commission	\$244,970	\$355,300	Nil		Tier 1
Deputy Chairperson, Australian Securities and Investments Commission	\$233,620	\$325,340	Nil		Tier 1
Commissioner, Australian Federal Police	\$220,460	\$315,710	Nil		Tier 1
Director-General, Australian Security Intelligence Organisation	\$220,460	\$305,000	\$11,150	2.2.1	Tier 1
Director-General, Office of National Assessments	\$220,460	\$305,000	Nil		Tier 1
Vice-Chief of the Defence Force	\$211,690	\$305,000	Nil		Tier 1
Chief Executive Officer, Australian Crime Commission	\$211,690	\$305,000	Nil		Tier 1
Member, Australian Securities and Investments Commission	\$209,120	\$303,930	Nil		Tier 1
Inspector-General of Intelligence and Security	\$209,120	\$291,090	Nil		Tier 1
Commonwealth Ombudsman	\$209,120	\$291,090	Nil		Tier 1
Chief of Navy	\$205,270	\$291,090	Nil		Tier 1
Chief of Air Force	\$205,270	\$291,090	Nil		Tier 1
Chief of Army	\$205,270	\$291,090	Nil		Tier 1
Chairperson, Productivity Commission	\$205,270	\$272,900	Nil		Tier 1
Examiner, Australian Crime Commission	\$205,270	\$291,090	Nil		Tier 1
Inspector-General of Taxation	\$195,100	\$278,250	Nil		Tier 1
President, Human Rights and Equal Opportunity Commission	\$136,060	\$194,840	Nil	2.2.4	Tier 1
Deputy Chair, Australian Competition and Consumer Commission	\$195,100	\$262,200	Nil		Tier 1
Chairperson, Australian Communications Authority	\$195,100	\$257,920	\$27,420	2.2.5	Tier 1
Chairperson, Australian Broadcasting Authority	\$195,100	\$256,850	Nil		Tier 1
Chairperson, ATSI Board of Commissioners	\$195,100	\$257,210	Nil	2.9	Tier 1
Privacy Commissioner	\$185,470	\$267,550	Nil		Tier 1
Associate Director of Public Prosecutions	\$185,470	\$246,140	Nil		Tier 1

Chairperson, Commonwealth Grants Commission	\$185,470	\$240,790	Nil		Tier 1
Member, Australian Competition and Consumer Commission	\$176,270	\$230,090	Nil		Tier 1
Australian Electoral Commissioner	\$165,130	\$222,600	Nil		Tier 1
Deputy Chair, Australian Communications Authority	\$165,130	\$217,250	Nil		Tier 1
CEO, Australian Radiation Protection and Nuclear Safety Agency	\$165,130	\$246,140	Nil		Tier 1
Administrator of the Northern Territory	\$165,130	\$207,620	Nil		Tier 1
Director, Professional Services Review	\$165,130	\$234,370	Nil		Tier 1
Chief Executive Officer, National Transport Commission	\$165,130	\$233,780	Nil		Tier 1
Director, Classification Board	\$160,000	\$224,740	Nil		Tier 2
Principal Member, Migration Review Tribunal	\$160,000	\$224,740	\$29,770	2.2.3	Tier 2
Principal Member, Refugee Review Tribunal	\$160,000	\$224,740	\$29,770	2.2.3	Tier 2
Member, Australian Communications Authority	\$160,000	\$210,830	Nil		Tier 1
Deputy Chairperson, Australian Broadcasting Authority	\$160,000	\$208,690	Nil		Tier 2
Chairman, Indigenous Business Australia	\$160,000	\$184,070	Nil		Tier 1
Gene Technology Regulator	\$155,080	\$203,340	Nil		Tier 2
Deputy Commonwealth Ombudsman	\$155,080	\$197,990	Nil		Tier 2
Disability Discrimination Commissioner	\$148,230	\$210,830	Nil		Tier 2
Human Rights Commissioner	\$148,230	\$210,830	Nil		Tier 2
Race Discrimination Commissioner	\$148,230	\$210,830	Nil		Tier 2
Aboriginal and Torres Strait Islander Social Justice Commissioner	\$148,230	\$210,830	Nil		Tier 2
Sex Discrimination Commissioner	\$148,230	\$210,830	Nil		Tier 2
Member, Australian Broadcasting Authority	\$148,230	\$196,920	Nil		Tier 2
Chairperson, Indigenous Land Corporation	\$148,230	\$196,920	Nil		Tier 2

Official Secretary to the Governor-General	\$148,230	\$197,990	Nil		Tier 2
Director of Safeguards	\$141,590	\$190,500	Nil		Tier 2
Administrator, Christmas and Cocos (Keeling) Islands	\$134,420	\$187,280	Nil		Tier 2
Principal Member, Veterans' Review Board	\$132,820	\$180,860	Nil		Tier 2
Deputy Director, Classification Board	\$131,210	\$189,430	Nil		Tier 2
Deputy Principal Member, Refugee Review Tribunal	\$131,210	\$184,070	Nil		Tier 2
Private Health Insurance Ombudsman	\$131,210	\$180,860	Nil		Tier 2
Executive Director, Social Security Appeals Tribunal	\$131,210	\$175,510	Nil		Tier 2
Chairperson, Superannuation Complaints Tribunal <sup>1</sup>	\$131,210	\$172,300	Nil		Tier 2
Chairperson, Torres Strait Regional Authority	\$120,510	\$183,040	Nil	2.9	Tier 2
Administrator, Torres Strait Regional Authority	\$120,510	\$183,040	Nil	2.9	Tier 2
Deputy Chairperson, ATSI Board of Commissioners	\$120,510	\$164,100	Nil	2.9	Tier 2
Senior Member, Migration Review Tribunal	\$107,670	\$155,180	Nil		Tier 2
Senior Member, Refugee Review Tribunal	\$107,670	\$155,180	Nil		Tier 2
Director, Social Security Appeals Tribunal	\$107,670	\$150,900	Nil		Tier 2
Deputy Chairperson, Superannuation Complaints Tribunal	\$107,670	\$143,410	Nil		Tier 2
Administrator, Norfolk Island	\$96,760	\$146,190	Nil		Tier 2
Senior Member, Veterans' Review Board	\$96,760	\$139,350	Nil		Tier 2
Chairman (full-time), Central Land Council	\$96,760	\$138,490	Nil		Tier 2
Member, Refugee Review Tribunal	\$96,760	\$138,190	Nil	2.2.2	Tier 3
Member, Migration Review Tribunal	\$96,760	\$138,190	Nil		Tier 2
Chairman (full-time), Northern Land Council	\$96,760	\$130,570	Nil		Tier 2
Commissioner, ATSI Board of Commissioners	\$96,760	\$136,240	Nil	2.9	Tier 2

<sup>1</sup> **SCT:** Under Regulation 3 of the Judicial and Statutory Officers (Remuneration and Allowances) Regulation 1986, Mr Graham McDonald is paid remuneration and allowances prescribed in relation to the office of Deputy President of the Administrative Appeals Tribunal while occupying the office of Chairman, Superannuation Complaints Tribunal.

Senior Classifier, Classification Board	\$96,760	\$111,300	Nil		Tier 2
Chairperson, ATSI Regional Council	\$91,410	\$110,920	Nil	2.9	Tier 2
Regional Council Administrator, ATSI	\$91,410	\$105,200	Nil	2.9	Tier 2
Member, Veterans' Review Board	\$87,870	\$103,280	Nil		Tier 2
Member, SSAT	\$80,010	\$92,010	Nil		Tier 3
Classifier, Classification Board	\$76,310	\$87,760	Nil	2.4	Tier 3

**2.2 Additional Provisions:** Where an additional annual amount is specified in Column 4 of Table 2A, payment of that amount to the Office Holder specified below will be subject to the provisions of the sub-clause shown in Column 5. The amount will be added to the figure in Column 3 to provide Total Remuneration for that Office Holder.

**2.2.1 Australian Security Intelligence Organisation, Director-General:** Mr Dennis Richardson will receive a personal loading as shown in Column 4 of Table 2A while he occupies the office shown in Column 1. This loading is included in superannuation salary.

**2.2.2 Refugee Review Tribunal:** Where a person held an appointment as a Full-time Member of the Refugee Review Tribunal on 17 April 2004, that person will be eligible for a personal loading of \$3,990 per annum while continuing to hold an appointment (including re-appointment) as a Member. The loading does not count towards superannuation salary.

**2.2.3 Migration Review Tribunal and Refugee Review Tribunal, Principal Member:** Mr Steve Karas will receive a personal loading as shown in Column 4 of Table 2A while he occupies the office of Principal Member of both the Migration Review Tribunal and Refugee Review Tribunal. This loading is included in superannuation salary.

**2.2.4 HREOC President:** The Base Salary and Total Remuneration as shown in Table 2A only applies to the Hon John von Doussa while he occupies the office of President, HREOC. The normal remuneration for the office is \$195,100 Base Salary and \$278,250 Total Remuneration (as at 1 July 2004).

**2.2.5 Australian Communications Authority, Chairperson:** Mr Anthony Shaw will receive a personal loading as shown in Column 4 of Table 2A while he occupies the office shown in Column 1. This loading is included in superannuation salary.

**2.3 Part-time work:** Where approval is given by the employer for an Office Holder to perform the duties of an Office on a part-time basis, the Base Salary, Total Remuneration and Additional Provisions (where applicable) contained in Table 2A will be payable on a pro-rata basis in accordance with the proportion of full-time hours worked. Where proposed hours are less than 60% of the full-time rate, prior agreement of the Remuneration Tribunal is required to the remuneration level.

**2.4 Temporary Classifier:** Where a person is appointed to the Classification Board as a Temporary Classifier, a daily fee of \$343 is payable in lieu of other provisions in this Part. The provisions of Parts 3 (Allowances), Part 5 (Recreation Leave) and Part 6 (Compensation for Loss of Office) do not apply.

- 2.5 Remuneration packaging:** Subject to this Part, an Office Holder may elect to receive the benefit of Total Remuneration as salary or a combination of salary and benefits, in accordance with agency policies and procedures on salary packaging. The Office Holder must take at least 50% of Total Remuneration as salary. Any election will be consistent with relevant taxation laws and rulings or guidelines applicable to salary packaging schemes issued by the Australian Taxation Office (ATO). Any election must not result in a cost to the Commonwealth (including in relation to any fringe benefits taxation) additional to the cost which would be incurred if benefits able to be taken as salary were taken as salary.
- 2.6 Superannuation Salary:** Regardless of anything else in this Determination, salary for superannuation purposes comprises Base Salary plus any additional amount shown in Column 4 of Table 2A where the relevant sub-clause specifies that the loading is included as superannuation salary. This will be:
- a) the Office Holder's annual rate of salary for the purposes of the Superannuation (CSS) Regulations, (and therefore the superannuation salary for the purposes of the *Superannuation Act 1976* and the *Superannuation Act 1990*); or
  - b) in the case of the holders of the offices of Vice-Chief of the Defence Force, Chief of Navy, Chief of Air Force and Chief of Army, that officer holder's annual rate of salary for the purposes of the *Defence Force Retirement and Death Benefits Act 1973*, the *Defence Force Retirement and Death Benefits (Annual Rate of Pay) Regulations*, the *Military Superannuation and Benefits Scheme Act 1991* and the Rules of the Military Superannuation and Benefits Scheme.
- 2.6.1 APRA:** Notwithstanding the above provisions, the salary for superannuation purposes of Dr J Laker will be \$408,408 from 1 July 2004, while he occupies the office of Chair, Australian Prudential Regulation Authority.
- 2.7 Superannuation Support:** The Total Remuneration of an Office Holder will be taken to include the value of the Superannuation Support provided or superannuation contributions made in respect of the Office Holder, determined in accordance with the following sub-clauses.
- 2.7.1** In the case of an Office Holder participating wholly or partly in the Commonwealth Superannuation Scheme or the Public Sector Superannuation Scheme or the Defence Force Retirement and Death Benefits Scheme or the Military Superannuation and Benefits Scheme, the value of the provision by the Commonwealth of Superannuation Support in respect of the Office Holder will be taken to be 15% of Superannuation Salary (refer clause 2.6).
  - 2.7.2** In the case of a Office Holder participating in any other superannuation scheme, the value of the superannuation contributions made by the Commonwealth in respect of the Office Holder to the superannuation scheme will reflect the amounts actually made or liable to be made.
  - 2.7.3** Notwithstanding anything else in this Part, the value attributable by virtue of sub-clauses 2.7.1 or 2.7.2 to Superannuation Support or superannuation contributions is referable to a non-salary component of Total Remuneration and may not be the subject of an election to take an equivalent amount of salary instead.
- 2.8 Vehicles:** Where an Office Holder accepts an offer of an agency owned or leased vehicle for private use, the office holder's Total Remuneration will be reduced by the actual cost of the vehicle to the agency plus parking and fringe benefits taxation, less a reasonable amount (if any) reflecting business usage patterns. Where an Office Holder has access to an agency owned or leased vehicle for private use, the Office Holder will be considered to have accepted an offer of a vehicle for the purposes of this provision.

Any business usage amount is to be assessed on log book records for at least a 12 week representative period. Where the annual business kilometres are less than 5,000 it will be based on the 'cents per kilometre' method. Where business kilometres are 5,000 kilometres or more, the percentage of business use to total kilometres travelled per annum will be applied to the total cost of the vehicle.

- 2.9 ATSIC Regional Council:** The provisions set out in Schedule A may apply to ATsIC Commissioners and ATsIC Regional Council Chairpersons.

## PART 3 – ALLOWANCES

- 3.1 Accommodation Allowance:** The Office Holders listed in Column 1 of Table 3A will be eligible to receive an accommodation allowance (subject to expenditure) as shown in Column 3 of Table 3A whilst they occupy the office shown in Column 2. This amount is to assist the Office Holder in meeting settling-in and commercial rental accommodation costs (including one-off utility connection costs) in the office location:

- (a) while they also continue to have a property other than in the office location, as their principal place of residence; and
- (b) it will not be paid for such periods that they live in premises owned by them at the office location.

An Office Holder will not be eligible to access travel allowance entitlements in the home locality or the office locality whilst they remain eligible to receive the accommodation allowance.

Where the commercial accommodation does not include cooking facilities, the cost of meals may form part of the payment, within the accommodation cap set for an Office Holder.

**3.1.1 Transitional:** This provision applies in respect of the accommodation allowances for Mr M Keelty, Mr G Clark and Mr T Wilson. Where the terms and conditions applying to the allowance immediately prior to being prescribed in a Remuneration Tribunal Determination (ie at 18 December 2002) differ from the above clause, the former provisions will apply to the extent of any inconsistency.

**3.1.2 Limitations:** The allowance payable to Mr R Jones will cease on 1 July 2005.

**TABLE 3A – ACCOMMODATION ALLOWANCES**

<b>Column 1 Office Holder</b>	<b>Column 2 Office</b>	<b>Column 3 Allowance (pa)</b>	<b>Column 4 Refer Clause</b>
Mr M Keelty	Commissioner, Australian Federal Police	\$15,600	3.1 and 3.1.1
Mr G Clark	Chair, ATsIC Board of Commissioners	\$25,480	3.1 and 3.1.1
Mr T Wilson	CEO, National Transport Commission	\$27,000	3.1 and 3.1.1
Ms P Goward	Sex Discrimination Commissioner	\$23,400	3.1
Mr Jeffrey Lucy	Chairman, ASIC	\$23,000	3.1
Mr S Somogyi	Member, APRA	\$25,000	3.1
Mr R Jones	Deputy Chair, APRA	\$13,000	3.1 and 3.1.2

**3.1.3 Classification Board:** The employer may approve reimbursement of accommodation expenses for Members of the Classification Board in accordance with agency policy, based on the Rates of Contribution and Rental Ceilings specified in the DEWR Allowance Subscription Scheme.

**3.1.4 Defence Chiefs:** The employer may approve housing assistance in accordance with agency policy and practices for the Vice-Chief of the Defence Force, the Chief of Navy, the Chief of Air Force and the Chief of Army.

**3.2 Reunion Travel:** The Office Holders shown in Column 1 of Table 3B may receive travel costs of up to the amount shown in column 3 from their employer for travel back to their principal place of residence for the purposes of family reunion while they continue to occupy the office shown in Column 2.

<b>Column 1 Office Holder</b>	<b>Column 2 Office</b>	<b>Column 3 Allowance (pa)</b>	<b>Column 4 Refer Clause</b>
Mr S Somogyi	Member, Australian Prudential Regulation Authority	\$7,128	3.2
Mr S Karas	Principal Member, Migration Review Tribunal and Refugee Review Tribunal	\$47,187	3.2

## **PART 4 - OFFICIAL TRAVEL**

### **General Travel Provisions**

**4.1** The provisions of Determination 2004/03 – Official Travel by Office Holders – apply to offices covered by this Determination, subject to any exclusions or limitations in this Determination. In establishing entitlements, the Travel Tier identified in this Determination for an office will apply under Determination 2004/03.

## **PART 5 - RECREATION LEAVE**

**5.1 Recreation Leave entitlements:** The provisions of *Determination 2002/20 – Recreation Leave for Full-Time Holders of Relevant Offices* apply to full-time<sup>2</sup> Offices listed in Column 1 of Table 2A in this Determination to the extent specified in that Determination.

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

**6.1** Compensation for early loss of office for an Office Holder will be in accordance with the provisions of *Determination 1992/11 – Compensation for Loss of Office*.

**6.2** Where an Office Holder serves the full term of appointment, no entitlement to a payment under this part arises.

Signed this 18<sup>th</sup> day of May 2004



John C Conde AO  
PRESIDENT



Janet E Grieve  
MEMBER



John D C Allen  
MEMBER

<sup>2</sup> Note that the Remuneration Tribunal may only determine recreation leave in respect of full-time office holders – refer s7(3AA) of RT Act. Leave (if any) for Part-time Office Holders is determined by the relevant Minister or Governor-General.

## SCHEDULE A – ATSIC TRANSITIONAL PROVISIONS

In December 2002 the Tribunal moved most full-time offices to the total remuneration approach. In recognition of the significant changes and complexity in moving some ATsIC offices to Total Remuneration including related changes to remote locality benefits, the following transitional provisions may apply to some office holders.

**A1. Availability of accrued remote locality benefits:** Where a holder of an office of ATsIC Commissioner or Chairperson ATsIC Regional Council, accrued or received remote locality benefits in the period from 19 December 2002 to 31 December 2003, those benefits will not form part of Total Remuneration provided any such benefits are utilised by 1 January 2006. No remote locality benefits will accrue from 1 January 2004.

**A2. Personal loadings:** The ATsIC Office holders listed in Column 1 of Table A2.A will receive an additional \$6,000 per annum in recognition of the high level of remote locality benefits received prior to 1 January 2004, while they continue to occupy the office shown in column 2.

**TABLE A2.A**

Column 1 Name	Column 2 ATSIC Office	Column 3 Location
Elia Doolah	Commissioner	Thursday Island
Ian Trust	Commissioner	Kununurra
Robbie Salee	Commissioner	Injinoo Community
Darren Farmer	Commissioner	Jigalong
George Hamilton	Chairperson, Regional Council	Kununurra
Dickie Bedford	Chairperson, Regional Council	Derby
Tony Binalany	Chairperson, Regional Council	Nhulunbuy
Michael Berto	Chairperson, Regional Council	Katherine
Kevin Neade	Chairperson, Regional Council	Elliott - Tennant Creek
Eddie Woodley	Chairperson, Regional Council	Mapoon
Bruce Hogan	Chairperson, Regional Council	Tjuntjunjarra Community

**A3. Transitional vehicle caps:** Should the cost to the agency of the personal use of a vehicle for an office in Column 1 of Table A3.B exceed the amount shown in Column 2, the value of that vehicle will be taken to be the amount in Column 2 for the purposes of assessing Total Remuneration, until the expiration of the lease arrangement in place at 1 January 2004.

**TABLE A3.B**

Column 1 ATsIC Office	Column 2 Maximum vehicle cost
Chairperson	\$25,000
Deputy Chair	\$18,500
Commissioner	\$18,500

**A4. Travel allowance:** The Deputy Chairperson and Commissioners who hold office as at 1 January 2004 will be entitled to travelling allowance at the Tier 1 rate (rather than the Tier 2 rate) for travel within Australia until the expiry of their current appointments as Deputy Chairperson and / or Commissioner.