



## REMUNERATION TRIBUNAL

John C Conde AO  
*President*

Mr Gary Banks AO  
Chairman  
Productivity Commission  
GPO Box 1428  
CANBERRA CITY ACT 2601

Dear Mr Banks

I am writing to you in the context of the Productivity Commission's inquiry into executive remuneration in Australia.

The Tribunal appreciates that the private sector is the primary focus of your inquiry. However, in the Tribunal's view, some aspects of the framework by which the remuneration of senior public offices is fixed may have more general relevance. Specifically, based on a consideration of similarities in roles and responsibilities at the most senior levels of each sector, there is an argument that the remuneration of public offices should be accorded some weight in setting appropriate remuneration for senior private sector positions.

Based on the Tribunal's experience in the public sector, we make the following observations with respect to your inquiry:

1. Appointees to certain offices where there is a clear 'honour', or even overt public service, will accept less financial reward than would otherwise be the case. This doesn't seem to be a feature of private sector appointments where little value seems to be ascribed to 'psychic income'. We believe that the private sector should acknowledge that certain very senior positions involve very considerable aspects of prestige, honour, power and influence, and that the remuneration arrangements for appointees to such positions should accept and reflect this.
2. Performance pay (or short and long term incentive pay) is not a feature of some of the highest public sector offices (see later in this letter). Consideration should be given by the private sector as to the appropriateness, from the perspective of shareholders, of some of the extraordinarily remunerative arrangements enjoyed by senior private sector executives. The public sector experience would suggest that excellence on the job can be achieved without excessive financial reward.

3. Security of tenure in the public sector used to be cited by the private sector as lowering the job and remuneration risk for senior officers in the public sector vis-à-vis the private sector, and therefore supporting much higher levels of remuneration in the private sector for the (riskier) jobs. Security of tenure is no longer a feature of top public sector offices.
4. The role of remuneration consultants needs careful analysis. It seems that in most instances the net effect of these 'independent experts' is to increase executive remuneration. There seems to us to be a danger of systemic salary escalation as companies reach for the upper quartiles of executive remuneration. The Productivity Commission's 'Issues Paper' mentions remuneration consultants and we feel that their influence is very considerable in shaping the remuneration outcomes of senior executives.

### **The Tribunal's Approach**

The Tribunal determines remuneration for a wide range of public offices. Details of all of the Tribunal's Determinations are available on our website – <http://www.remtribunal.gov.au>. The Tribunal's determinative responsibilities include judicial and related offices. Although they would appear to be less relevant to your inquiry, reference is included here because the whole of our Australian work place is dependent on and bounded by our judicial system. As you will note from the current Judicial and Related Offices Determination<sup>1</sup>, compared to the upper levels of corporate executive remuneration, our judges are not highly paid.

The public offices in our jurisdiction most pertinent, we think, to your inquiry are the full-time public offices. Tribunal Determination 2008/08, *Remuneration and Allowances for Holders of Full-Time Public Office*<sup>2</sup>, lists them. The following table shows the highest fifteen offices based on total remuneration level determined by the Tribunal.

Office	Total Remuneration for office
Chair, Australian Prudential Regulation Authority (APRA)	\$603,130
Solicitor-General	\$529,390
Chairperson, Australian Securities and Investments Commission (ASIC)	\$529,830
Chairperson, Australian Competition and Consumer Commission (ACCC)	\$529,830
Deputy Chair, APRA	\$502,660

<sup>1</sup> <http://www.remtribunal.gov.au/determinationsReports/byYear/2009/2009-07%20Determination.pdf>

<sup>2</sup> <http://www.remtribunal.gov.au/determinationsReports/Current%20Principal%20Determinations/2008-08%20Determination%2019.5.09.pdf>

Office	Total Remuneration for office
Member, APRA	\$480,060
Deputy Chairperson, ASIC	\$445,050
Director of Public Prosecutions	\$418,510
Chair, Australian Communications and Media Authority (ACMA)	\$385,850
Member, ASIC	\$384,130
Commissioner, Australian Federal Police	\$374,040
Director-General of Security, Australian Security Intelligence Organisation	\$361,370
Director-General, Office of National Assessments	\$361,370
Deputy Chairperson, ACCC	\$344,390
Vice Chief of the Defence Force	\$344,860

Remuneration for each of these offices is determined as a 'total remuneration' amount. This amount presents the value, calculated as the total cost to the employer (including Fringe Benefits Tax) of salary, allowances, lump sum payments, and other elements of personal benefit to the office holder.

The 'total remuneration' amount includes the cost to the employer of membership of a superannuation scheme. This cost is specified as 15.4% of salary for superannuation purposes (specified in the Tribunal's determination is "base salary") which is itself determined, generally, at 73% of the 'total remuneration' amount. The Tribunal accepts that this understates the actual cost to the employer of membership of the defined benefit superannuation schemes. However, as these schemes have been closed to new members for some time, the Tribunal takes the view that the better approach is to specify remuneration in terms appropriate to new appointees to public offices.

The Tribunal also determines the annual leave entitlements of full-time offices. It does not determine long service leave entitlements; they are prescribed by the *Long Service Leave (Commonwealth Employees) Act 1976*.

The Tribunal publishes all its determinations on its website - [www.remtribunal.gov.au](http://www.remtribunal.gov.au). Each is a legislative instrument and is, accordingly, tabled in the Parliament. This means that the remuneration of each individual full-time office for which the Tribunal determines remuneration is known publicly and is readily discernible. Further, the history of the remuneration of each individual office may, with a little effort, be established from the reviews and reports published by the Tribunal since its inception in 1973.

The Tribunal also determines remuneration for the public offices of Chief of the Defence Force; Commissioner of Taxation; Chief Executive Officer of Customs; Auditor-General for Australia; and Australian Statistician. They are referred to, collectively, as the Specified Statutory Officers and their current total remuneration is set out in Tribunal Determination 2008/06<sup>3</sup>. Total remuneration for the Chief of the Defence Force is \$428,560; total remuneration for each of the other Specified Statutory Officers is \$400,960. Each of these offices is also entitled to an annual, non-superannuable, lump sum amount of 14% of total remuneration in lieu of the entitlement to performance pay that had been, until 1 July 2008, a component of the remuneration arrangements of Departmental Secretaries. I note, in this regard, that, under the *Public Service Act 1999*, the Prime Minister determines the remuneration of Departmental Secretaries, on the advice of the Tribunal.

### No Performance Pay

A notable feature of the remuneration arrangements of full-time public offices is that there is no performance-related component. This reflects a common feature of each such office, namely that it is invested with a high degree of independence in the exercise of its responsibilities (generally derived from the statute by which the office itself is established). A performance-related component of remuneration would, in the Tribunal's view, be incompatible with such independence.

### **Attributes of Public Offices**

The responsibilities of the most senior full-time office holders, and those of each Specified Statutory Officer, are significant.

The management demands, alone, that some office holders must meet are at the very least the equivalent of those of all but the largest private sector enterprises. For example:

- the Australian Taxation Office employs some 20,000 full-time, ongoing, staff in a national network of offices; its reach extends to every member of Australia's adult population and all its enterprises; the dimensions of its information technology systems would, at the very least, match those of even the largest Australian business enterprises;
- the Australian Defence Force Permanent Force has more than 50,000 members supporting and using equipment of levels of sophistication (and cost) on a scale unparalleled in the private sector.

Other functions, while less focused on direct management responsibilities, are fundamental to the proper operation of the regulatory infrastructure that underpins nation's economic well-being. For example:

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<sup>3</sup> <http://www.remtribunal.gov.au/determinationsReports/byYear/2008/2008-06Determination.pdf>

- the Australian Prudential Regulation Authority (APRA) is responsible for the prudential supervision of banks, building societies, credit unions, life and general insurance companies, friendly societies and certain superannuation funds. In performing its functions to protect the interest of depositors, policyholders and fund members, APRA is required to balance the objectives of financial safety and efficiency, competition, contestability and competitive neutrality and, in balancing these objectives, is to promote financial system stability in Australia. APRA has failure management and enforcement powers to deal with a distressed institution and will be responsible for administering the Financial Claims Scheme;
- the Australian Securities and Investments Commission (ASIC) is responsible for monitoring, regulating and enforcing corporations and financial services laws, and for promoting market integrity and consumer protection across the financial services sector and the payments system.

The Tribunal wonders if *any* senior office in *any* private sector entity exercises comparable responsibilities or is subject to like levels of accountability.

The Tribunal is in the final stages of a review of Departmental Secretaries. As part of that work, the Tribunal commissioned an external adviser with extensive experience in reviewing senior executive roles in both the public and private sectors to assess the similarities and differences between these senior public sector offices and comparable private sector positions.

It is self-evident that public office holders and Departmental Secretaries are not subject to the continual demand of ensuring the ongoing commercial viability of a significant business enterprise in changing market and economic circumstances. As the Tribunal's adviser expressed this point:

- ....the position of Secretary (does) not have comparable accountability to that of a Chief Executive ... where those executives have traditionally been accountable for creating shareholder value with a primary focus on developing and implementing strategies to achieve growth in revenue, assets and profitability, with an increasing international footprint ...

However, the advice to the Tribunal also indicates that defensible parallels may be drawn across the range of responsibilities of the most senior public and private sector executives. For example:

- a Secretary's principal leadership obligations were aligned with the accountabilities of a corporate entity's CEO;
- the responsibilities of Secretaries as CEOs are considerably more complex and demanding than those of the most senior staff executives in the private sector;
- while acknowledging that the traditional role of a major private sector Chief Executive was distinctly different .... the accountability of

a Secretary, particularly those managing substantial workforces and expenditures, were not indicatively replicated in their scope or enterprise scale by either business group chief executives or principal staff executives among Australia's leading corporate entities;

- matters of national and/or regional consequence take on a character and a scale not normally reflective of a significant enterprise's involvements in its national or international workforce adjustments, debt refinancing or asset sales programs. The demands on a nation are fluid and variations in the nature of those demands and scale highlight the challenges for Departments of State and their Secretaries. These are generally not demands observed in the private sector, albeit that the private sector is a key constituent in contributing to the economic wellbeing of the nation.

### **Shaping Advice on Remuneration**

The Tribunal's intent is not to assert that the similarities between the roles and responsibilities of public offices and senior positions in the private sector are such as to justify closer alignment between the remuneration of the former and that of the latter.

Rather, as indicated earlier in this letter, it is the Tribunal's view that the demonstrable similarities in roles and responsibilities at the most senior levels of each sector support an argument that the remuneration of public offices should be accorded weight in assessing appropriate remuneration for senior private sector positions.

The Tribunal's approach to the setting of remuneration for public offices could properly be described as conservative - even cautious.

It has been invariably the case that the remuneration of public offices is not only less than that of comparable jobs in the private sector, but very much less. This is so even after setting aside entirely the excesses in recent years in corporate remuneration that are now, hopefully, being purged.

The Tribunal outlined its approach to setting the remuneration of public offices in its 2005-2006 Annual Report as follows:

*"In determining annual adjustments, the Tribunal takes account of a range of factors. Statistical indicators, such as movements in the labour price index; increases incorporated in Australian Public Service and public sector certified agreements; and increases in agreements generally, provide some guidance.*

*"Movements in senior management remuneration are also relevant, given the nature of many of the offices in the Tribunal's jurisdiction. The Tribunal is not, however, overly influenced by executive remuneration surveys. Although justifiable comparisons can be drawn between senior private and federal public sector*

*jobs, the Tribunal, while mindful of movements indicated by such surveys, regards private sector remuneration practice as being only one of the factors to be taken into account in setting the remuneration of public offices."*

### Remuneration Consultants

Notwithstanding the Tribunal's public expression of its approach, it is not uncommon for public sector agencies to advance an analysis of the public office by remuneration consultants to support increases in remuneration. Typically, such analyses are confined to identified comparisons (generally without weighting) between the roles and responsibilities of the public office concerned, and those of senior offices in private enterprises.

While some remuneration consultants may express the view, in respect of public/private comparisons, that there "... *is little crossover, and at the elite level, incomparable competency sets*"<sup>4</sup>, it seems evident, from the submissions to the Tribunal, that this view is not shared universally.

As acknowledged above, there are differences between senior offices in the public and private sectors. However, in the Tribunal's experience, it seems apparent that remuneration consultants provide advice consistent with the particulars of the commission governing their engagement.

It would not be surprising to the Tribunal were commissions to remuneration consultants from the private sector to be based - implicitly or explicitly - only upon comparisons with positions in the private sector. One unavoidable consequence is that, over time, the remuneration of each position that has been the object of remuneration consultant advice becomes, itself, input to the remuneration survey that shapes the advice provided in respect of another position. Such 'self-referencing' is a recipe for movements in one direction only - upwards - or, even worse, leapfrogging. Another unsatisfactory consequence is that this essentially circular activity produces measures of 'remuneration quartiles' that tend only to increase as successive companies try to position themselves better in the executive job market.

The Tribunal agrees absolutely that remuneration is the principal determinant in attraction and retention of executives. The Tribunal wrestles with this in the public sector all the time and often relies on the non-financial rewards of a particular job to attract and retain officers.

In the Tribunal's view, private sector boards and remuneration consultants should take a broad view of a position based upon the reasonable assumptions that:

- the fundamental responsibilities of all senior executives have demonstrable similarities; and
- the most senior public offices display these responsibilities in publicly demonstrable ways.

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<sup>4</sup> CGI Glass Lewis and Guerdon Associates, "Regulation of Director and Executive Remuneration Australia - Submission to the Productivity Commission", 5 June 2009, p50

On this basis, advice and decisions about appropriate base remuneration will be founded properly on the consideration of the essential management, policy and operational features of a senior position. To the extent that market exposure entails "*incomparable competency sets*", then they can be properly take into account in clearly graduated, and publicly defensible, variable components of remuneration.

### **The Significance of the Prestige of a Senior Position**

*"The prestige associated with appointment to a high public office entails acceptance, on the part of appointees, of less remuneration than might apply to a comparable job in the private sector."*

This quotation from the Tribunal's Annual Report refers to the Tribunal's approach over many years. The reality is, of course, that there is considerable prestige, honour, power and influence associated with many senior positions in the private sector. The Tribunal believes tangible account should be taken by the private sector of these attributes of an office when setting remuneration for it.

For example, it would not be unreasonable to expect the Chief Executive of a listed company ranked, say, between the top 100 and top 200 companies to see appointment as the Chief Executive of a top 50 company in the same industry as being attended by greater 'prestige'. As well as the attributes, mentioned above, being attached in greater degree to such an appointment, there would conceivably be reinforced industry standing, precedence and more ready access to those in a position to shape any of the dimensions of the industry concerned.

In the Tribunal's view, while not having the answer for the private sector, it seems that in progressing from smaller to larger enterprises the rate of increase in remuneration, based on consistent, measurable features, should be tempered by the significant increment in 'prestige'.

That said, the Tribunal has not fully resolved this issue in the federal public sector. We have anomalies and inconsistencies in both full-time and part-time offices within our responsibilities where, clearly, men and women of capacity accept appointment without appropriate financial reward. They accept the appointment because of a genuine desire to serve and a preparedness to balance honour and prestige with simple financial gain. We have commented on these matters in recent Annual Reports and we will continue with our reviews so that, in the medium term, attention is drawn to such difficulties, and, as circumstances permit, they are corrected.



### **Concluding Remarks**

My Tribunal colleagues and I hope that the observations expressed in this letter convey a constructive and helpful perspective for the Productivity Commission's Inquiry into Executive Remuneration.

We would be pleased to elaborate on any aspect which may be of interest.

Yours sincerely

A handwritten signature in blue ink, reading "John C Conde". The signature is fluid and cursive, with the first name "John" and last name "Conde" clearly distinguishable.

John C Conde AO  
President  
21 July 2009

#### Attachments:

1. Determination 2009/07: Judicial and Related Offices – Remuneration and Allowances
2. Determination 2008/08: Remuneration and Allowances for Holders of Full-Time Public Office
3. Determination 2008/06: Specified Statutory Officers – Remuneration and Allowances



## REMUNERATION TRIBUNAL

### Attachment 1

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**Determination 2009/07**

**Judicial and Related Offices - Remuneration and Allowances**

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## REMUNERATION TRIBUNAL

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### **Determination 2009/07: Judicial and Related Offices – Remuneration and Allowances**

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This Determination governs remuneration and allowances for the offices specified in Tables 1, 2 and 3.

**The Determination comprises the following parts:**

- **Part 1** – General
- **Part 2** – Remuneration and related matters
- **Part 3** – Official travel and related matters
- **Part 4** – Commonwealth provided vehicles and reimbursement of private vehicle running costs for Judges
- **Part 5** – Provisions for Offices on Total Remuneration.

#### **PART 1 – GENERAL, RELATING TO OFFICES IN ALL TABLES**

**1.1 Authority:** This Determination is issued pursuant to the *Remuneration Tribunal Act 1973*, sub-sections 7(3) and 7(4).

**1.2 Effect of this determination:** This Determination takes effect on and from 1 July 2009 except where specified otherwise. It supersedes and revokes in full Determination 2008/09 – *Judicial and Related Offices – Remuneration and Allowances*.

**1.2.1** Subject to Clause 1.2.2, this Determination sets a base level of remuneration and benefits for office holders. Other authorities may prescribe additional remuneration and/or benefits under, for example:

- (i) general Commonwealth laws concerned with employment;
- (ii) the specific Commonwealth Act that establishes an office (if any); and/or
- (iii) the Constitution, which grants certain executive powers to the Governor-General and to Ministers of State.

**1.2.2** Clause 1.2.1 does not apply to office holders paid under Part 5 (see Clause 5.2), whose offices are listed in Table 3. This clause does not affect the application of the remainder of Parts 1- 4 of this Determination to all office holders.

**1.3 Administration:** In administering this Determination, authorities:

- (i) shall pay the annual benefits specified in proportion (*pro rata*) to the office holder's period of service during that year;
- (ii) may issue procedural instructions to assist in the implementation of this Determination;
- (iii) may elect to apply the same instructions as they do for employees, except where those instructions are not in accordance with this Determination. This includes the utilisation of agency policies or procedures in relation to the administration of recreation leave.

**1.4 Use of term 'Judge':** Unless the contrary intention appears, a reference in this Determination to a 'Judge' includes a reference to a Federal Magistrate.

## **PART 2 - REMUNERATION AND RELATED MATTERS**

**2.1 Base Salary:** A person who holds a full-time office specified in Table 1 or Table 2 shall be paid the Base Salary specified in Table 1 or Table 2.

**2.2 Additional Allowances:** A Judge who also holds any of the following part-time offices shall be provided with an additional expense allowance of \$1,805 a year:

- (i) Aboriginal Land Commissioner;
- (ii) Chairman of the Australian Electoral Commission;
- (iii) Chief Judge of the Supreme Court of Norfolk Island; and
- (iv) other offices as specified in Table 1.

**2.3 Remuneration of part-time office:** Notwithstanding any other provision of this determination, a person who holds office on a part-time basis, other than a member of the National Native Title Tribunal:

- (i) may not be paid more than the base salary of the equivalent full-time office (if any) in respect of any financial year; and
- (ii) is deemed to hold a full-time office in that year for the purposes of entitlements, other than separation benefits and salary packaging, if paid an

amount equal to the base salary of the equivalent full-time office in any given financial year.

**2.3.1 Remuneration of Part-Time NNTT Members:** Notwithstanding any other provision of this determination, a person who holds office as a member of the National Native Title Tribunal on a part-time basis:

- (i) may not be paid more than the amount calculated as the Total Remuneration of the equivalent full-time office less 15.4 per cent of the full-time office's Base Salary, in respect of any financial year; and
- (ii) is deemed to hold a full-time office in that year for the purposes of entitlements, other than separation benefits and salary packaging, if paid an amount equal to the amount calculated under 2.3.1 (i) in any given financial year.

**2.4 Use of specified rates for part-time office:** The appropriate authority may elect to pay a person who holds office on a part-time basis a proportion of the base salary of the equivalent full-time office specified in Table 2 (if any), in accordance with the hours worked, subject to a cap of 12 hours pay in any one day. Otherwise, the office holder shall be paid the daily fee specified in Table 2. The proportion of base salary of the equivalent full-time office (hourly rate) will be ascertained by applying the following formula:

$$\frac{\text{Base Salary}}{313} \times \frac{6}{36.75} = \text{Hourly Rate.}$$

#### **Payment of daily fees**

**2.5 Use of daily fees:** A person who is eligible to receive a daily fee may not be paid more than one daily fee in respect of any one day.

**2.5.1** Where a day includes a formal meeting of the authority and official business (including reasonable preparation time and reasonable travel time other than travel between the person's home and principal place of work) and is of:

- (i) three or more hours duration – the full daily fee is payable;
- (ii) two or more (but less than three) hours duration – three-fifths of the daily fee is payable;
- (iii) less than two hours duration – two-fifths of the daily fee is payable.

**2.5.2** On another day or days, where official business is of at least five hours duration in aggregate – a daily fee is payable.

**2.5.3** The appropriate authority must certify the nature and duration of work undertaken prior to any payment of fees to a person who holds office on a part-time basis.

**2.5.4 Payment of daily fees to Part-Time AAT Members:** The following clauses apply, (and clauses 2.5.1-2.5.3 do not apply) in relation to a person who holds office as a member of the Administrative Appeals Tribunal on a part-time basis.

- (i) A daily fee is payable once such a person has undertaken official business of five hours duration in aggregate, regardless of the day or days on which that work is done.
- (ii) The President of the Administrative Appeals Tribunal must certify the nature, reasonableness and duration of official business undertaken prior to any payment of fees to such a person.
- (iii) Official business may include a hearing, preparation for a hearing, reading submissions, decision writing and travel time other than for travel between the person's home and principal place of work.

**2.6 Leave:** A person who holds an office other than that of a Judge shall be entitled to the following types and amounts of leave of absence:

- (i) any unused leave credits accrued previously, including under Determination 2007/09 (as amended) – *Recreation Leave for Full-Time Holders of Relevant Offices*;
- (ii) if a full-time office holder:
  - (a) the public holidays observed by the Australian Public Service in the location in which the office is based;
  - (b) paid recreation leave of four weeks per year of service, accruing on 1 January each year;
- (iii) other paid and unpaid leave, including sick and carers' leave, at the discretion of the Commonwealth.

**2.6.1** A person who holds an office other than that of a Judge:

- (i) may elect to take recreation leave on a half-pay basis and/or to

cash out up to one week's recreation leave per financial year; and

- (ii) shall be paid the balance of their recreation leave on leaving office.

**2.7 Separation benefits:** The separation benefits of an Office Holder are to be determined in accordance with the following sub-clauses.

**2.7.1** A person who holds an office other than that of a Judge is not entitled to separation benefits under Clause 2.7.3 where:

- (i) the person served the full term of appointment;
- (ii) the person was appointed on a part-time basis and is eligible for a daily fee;
- (iii) the appointment was terminated prematurely for reasons of misbehaviour or unsatisfactory performance; or
- (iv) the appointment was terminated prematurely on account of mental or physical incapacity and the person is entitled to receive invalidity retirement benefits under Commonwealth superannuation legislation.

**2.7.2** Subject to Clause 2.7.1, where a person's appointment to a public office is terminated prematurely, the Commonwealth may elect to offer suitable alternative employment (including in a Commonwealth company or authority).

**2.7.3** Where the Commonwealth does not offer alternative employment under Clause 2.7.2, the Commonwealth will pay the office holder one-third of one month's base salary, or salary for superannuation purposes in the case of an office holder remunerated under Part 5, per month of service remaining, in lieu of obligations such as provision of notice or payment instead of notice or redundancy pay and subject to:

- (i) a minimum payment of four month's base salary or salary for superannuation purposes; and
- (ii) a maximum payment of one year's base salary or salary for superannuation purposes.

**2.7.4** Under Clause 2.7.3, the Commonwealth may calculate service remaining taking into account any period of continuing Commonwealth service in alternative employment, and may require an office holder to sign a release in return for the payment.

**2.7.5** For the purposes of calculating a separation benefit under Clause 2.7.3 in respect of a part-time office holder:

- (i) the reference in Clause 2.7.3 to base salary shall be understood as a reference only to the applicable annual base salary, or salary for superannuation purposes in the case of an office holder remunerated under Part 5, and not to include daily fees;
- (ii) the applicable annual base salary, or salary for superannuation purposes in the case of an office holder remunerated under Part 5, shall be notionally converted to a monthly figure by dividing it by 12; and
- (iii) no account shall be taken of any period of potential future service in respect of which the office holder has already been, or is to be, paid the applicable base salary or salary for superannuation purposes in the case of an office holder remunerated under Part 5.

**2.8 Cashing out and purchasing of recreation leave for Federal Magistrates:**  
Federal Magistrates shall:

- (i) be entitled to paid recreation leave of four weeks per year of service accruing on 1 January each year;
- (ii) be paid on leaving office as though they were then to take the balance of their recreation leave;
- (iii) be eligible to cash out part of their recreation leave credits providing they:
  - (a) have accrued in excess of four weeks' recreation leave;
  - (b) take an amount of leave equal to or greater than that cashed out; and
  - (c) cash out a maximum of two weeks' recreation leave in any year;
- (iv) be eligible to elect to purchase one, two, three or four weeks' additional leave per year. Federal Magistrates will have an amount deducted from their annual salary, dependent on the amount of leave purchased and their salary, which will be reflected in their regular salary payments. Purchased leave counts as service for all purposes.

**2.9 Salary packaging:** A full-time office holder, including a Federal Magistrate, but otherwise excluding Judges, may elect to take benefits in lieu of base salary but must take at least 50 per cent of their base salary as salary.



- 2.9.1** A part-time office holder, other than a Judge, may elect to take benefits in lieu of her or his part-time office fee or a combination of part-time office fee and benefits, where this is in accordance with agency policies and procedures on salary packaging.
- 2.9.2** Any election to salary package in accordance with this section must be consistent with relevant taxation laws and rulings or guidelines applicable to salary packaging schemes issued by the Australian Taxation Office.
- 2.9.3** Any election to salary package in accordance with this section 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 benefits able to be taken as salary were taken as salary.

### **PART 3 – OFFICIAL TRAVEL AND RELATED MATTERS**

- 3.1** The provisions of Determination 2004/03 (as amended) – *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.
- 3.2** Justices of the High Court of Australia (including the Chief Justice) who do not establish their place of residence in Canberra shall be paid \$26,800 a year in lieu of the travelling allowance that would otherwise be payable.
- 3.3** **Australian Military Court:** The employer may approve housing, relocation and medical assistance in accordance with agency policy and practices for the offices of Chief Judge Advocate, Chief Military Judge, Military Judge and the Registrar of the Australian Military Court.

**PART 4 - COMMONWEALTH PROVIDED VEHICLES AND REIMBURSEMENT OF PRIVATE VEHICLE RUNNING COSTS FOR JUDGES**

**4.1 Definitions:** For the purposes of this part of the Determination, the following definitions apply.

**4.1.1 'Judge'** refers to a Judge other than a Federal Magistrate.

**4.1.2 'The Executive Vehicle Scheme'**, (EVS) means the scheme for the use of privately plated Commonwealth vehicles administered by the Department of Education, Employment and Workplace Relations (DEEWR);

**4.1.3 'Commonwealth car-with-driver service'** means the arrangements for the use of a Commonwealth car-with-driver established from time to time by the Attorney-General with the Chief Justice of the High Court of Australia, the Chief Justice of the Federal Court of Australia and the Chief Justice of the Family Court of Australia for Judges of those Courts;

**4.1.4 'principal registry'** means –

- (i) in the case of the High Court of Australia, the Registry of the Court;
- (ii) in the case of the Federal Court of Australia, the Principal Registry;
- (iii) in the case of the Family Court of Australia, the Principal Registry;

**4.1.5 'private vehicle running costs'** include costs of a kind described in guidelines issued by the relevant Chief Justice or the Chief Federal Magistrate, but does not include expenditure relating to the acquisition, leasing or hire of any vehicle; and

**4.1.6** references in the EVS to **'Agency Heads'** should be read as references to the person or group of persons within each Court with responsibility for managing the administrative affairs of the Court.

**4.2 Guidelines:** The Chief Justice of the High Court of Australia, the Chief Justice of the Federal Court of Australia, the Chief Justice of the Family Court of Australia and the Chief Federal Magistrate may issue guidelines for the purposes of this Part.

**4.2.1** Guidelines issued under this section must take account of established Commonwealth standards for the efficient, effective and ethical use of Commonwealth resources.

- 4.3 Arrangements for the Chief Justice of the High Court:** In addition to a Commonwealth car-with-driver service, the Chief Justice of the High Court of Australia is allowed annually:
- (i) a Commonwealth-provided privately plated vehicle in accordance with the EVS; or
  - (ii) reimbursement of private vehicle running costs incurred by the Chief Justice up to \$9,725.
- 4.4 Access to privately plated vehicles or reimbursement of private vehicle running costs for Judges:** A Judge, other than the Chief Justice of the High Court of Australia, who has elected for the time being to forgo the entitlement, either in the Judge's city of residence or in the city in which the principal registry of the Court is situated, to a regular Commonwealth car-with-driver service, is allowed annually in that city and as the alternatives to that service:
- (i) a Commonwealth-provided privately plated vehicle in accordance with the EVS; or
  - (ii) reimbursement of private vehicle running costs incurred by the Judge up to \$9,725.
- 4.5 Access to privately plated vehicles or reimbursement of private vehicle running costs for Federal Magistrates:** A Federal Magistrate is allowed annually:
- (i) a Commonwealth-provided privately plated vehicle in accordance with the EVS; or
  - (ii) reimbursement of private vehicle running costs incurred by the Federal Magistrate up to \$9,725.
- 4.6 No cashing out:** The value of the entitlement allowed under clauses 4.3, 4.4 or 4.5 may not be taken as cash, except to the extent that reimbursement is claimed for expenditure in accordance with paragraphs 4.3(ii), 4.4(ii) or 4.5(ii).
- 4.7 Election to vary allowance:** During a year, the Chief Justice of the High Court of Australia, a Judge or a Federal Magistrate may elect to vary his or her election under clause 4.3, 4.4 or 4.5 to, or from, a privately plated vehicle under the EVS from, or to, obtaining reimbursement of private vehicle running costs, provided that no additional administrative or other expenses are incurred by the Commonwealth as a result of the election to so vary this allowance.

**Table 1 RATES OF REMUNERATION – JUDICIAL OFFICES**  
Effective on and from 1 July 2009

<b>Column 1</b> <b>Authority</b>	<b>Column 2</b> <b>Office</b>	<b>Column 3</b> <b>Full-Time Office Base Salary \$</b>	<b>Column 4</b> <b>Part-Time Office Daily Fee \$</b>	<b>Column 5</b> <b>Travel Tier</b>
High Court of Australia	Chief Justice	433,570	-	1
	Justice	393,460	-	1
Federal Court of Australia	Chief Justice	367,150	-	1
	Judge	333,660	-	1
Family Court of Australia	Chief Justice	367,150	-	1
	Deputy Chief Justice	343,520	-	1
	Judge (including Judges assigned to the appeal division, Judge administrators and senior Judges)	333,660	-	1
	Judicial Registrar (1) (2)	258,510	1,023	1
Federal Magistrates Court	Chief Federal Magistrate	306,680	-	1
	Federal Magistrate	260,220	-	1
Copyright Tribunal	President (3)	333,660	-	1
	Deputy President (Judicial)	-	-	1
Australian Competition Tribunal	President (3)	333,660	-	1
Australian Law Reform Commission	President (Judicial)	333,660	-	1
Administrative Appeals Tribunal	President (3)	333,660	-	1
National Native Title Tribunal	President (Judicial)	333,660	-	1
Defence Force Discipline Appeal Tribunal	President	-	-	
Federal Police Disciplinary Tribunal	President	-	-	

(1) For part-time office holders a minimum annual payment of ten times the daily fee applies.

(2) A person appointed to this office before 10 December 1991 shall accrue recreation leave of six weeks per year of service.

(3) An expense of office allowance of \$1,805 a year is payable to a sitting Judge who also holds this office on a part-time basis.

**Table 2 RATES OF REMUNERATION – NON-JUDICIAL OFFICES**  
Effective on and from 1 July 2009

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Authority</b>	<b>Office</b>	<b>Full-Time Office Base Salary \$</b>	<b>Part-Time Office Daily Fee \$</b>	<b>Travel Tier</b>
Federal Court of Australia	Registrar (1)	(see table 3)	871	1
	Assessor (Full-time)	175,020	-	2
	Assessor (Part-time)	175,020	807	1
Copyright Tribunal	Deputy President (non-Judicial) (1)	-	871	1
	Member (1)	-	871	1
Australian Competition Tribunal	Member (2)	-	807	1
Australian Law Reform Commission	President (non-Judicial)	291,530	-	1
	Deputy President	210,110	-	1
	Member (Full-time)	166,070	-	2
	Member (Part-time) (3)	166,070	807	1
Administrative Appeals Tribunal	Deputy President (1) (4)	276,400	1,274	1
	Senior Member (1) (4)	218,160	1,007	1
	Member (4) (5)	183,520	844	1
National Native Title Tribunal	Deputy President (1)	(see table 3)	1,101	1
	Member (1)	(see table 3)	807	1
Defence Force Discipline Appeal Tribunal	Member	-	691	1
Federal Police Disciplinary Tribunal	Member	-	691	1
Australian Security Intelligence Organisation	Prescribed Authority	-	1,221	1
Australian Military Court	Military Judge	(see table 3)	967	2

- (1) For part-time office holders a minimum annual payment of ten times the daily fee applies, whether the office holder receives a fee based on daily rates or on hourly rates (under 2.4).
- (2) For part-time office holders an additional annual payment of \$19,370 a year applies.
- (3) For part-time office holders an additional annual payment of \$12,600 a year applies.
- (4) In addition to fees specified a part-time member shall be paid a cancellation fee equivalent to 50 per cent of one day's fee for the cancellation of all work on a day with fewer than 5 working days' notice.
- (5) An AAT part-time Member appointed prior to 12 August 2004 will continue to receive an additional annual payment of ten times the daily fee whether they receive a fee based on daily rates or on hourly rates (under 2.4). An AAT Member appointed, or reappointed, after 12 August 2004 shall receive a minimum annual payment of ten times the daily fee whether they receive a fee based on daily rates or on hourly rates (under 2.4).

## **PART 5 - PROVISIONS FOR OFFICES ON TOTAL REMUNERATION**

**5.1 Coverage and definitions:** The provisions in this part of the Determination apply only to the offices listed in Table 3. For the purposes of this part of the Determination, the following definitions apply.

**5.1.1 'Authority'** means the court, tribunal or other body to which the Office Holder is attached.

**5.1.2 'Base Salary'** means the amount specified in column 3 of Table 3 of this Determination.

**5.1.3 'Benefits'** means all non-monetary benefits provided at the Commonwealth's expense to or on behalf of an Office Holder as a personal benefit including a vehicle (where provided), the value attributed by the Remuneration Tribunal to the Commonwealth's superannuation contributions or Superannuation Support (refer clause 5.6) and any other benefits received by way of remuneration packaging (refer clause 5.4).

**5.1.4 'Office Holder'** means a person appointed to an office listed in Table 3 of this Determination.

**5.1.5 'Total Remuneration'** is the amount shown in Columns 4 and 5 of Table 3 representing the value, calculated at the total cost to the Commonwealth (including Fringe Benefits Tax where applicable), of:

- salary (including Base Salary), allowances or lump sum payments; and
- benefits;

but does not include:

- reimbursement of expenses incurred on geographic relocation following appointment as an Office Holder, in accordance with the authority's policies and practices where approved by the appropriate authority;
- travelling allowances and expenditure referred to in Part 3;
- any payment in lieu of recreation leave; and
- any separation benefits in accordance with clauses 2.7 – 2.7.5.

**5.2 Total Remuneration should not be supplemented:** The intention of this Determination is that the Total Remuneration amount payable to an office holder under Table 3 represents an exhaustive statement of the office holder's remuneration and significantly-related benefits, to the extent that the Tribunal is empowered to determine them. In other words, the intention is that the Total Remuneration amount to which an office holder is entitled under this part should

not be supplemented by any other authority where that may be inconsistent with this Determination.

**5.3** An office holder listed in Table 3 is eligible to receive the annual amount of Total Remuneration set out in Table 3 for the relevant office.

**5.4 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 the authority's policies and procedures on salary packaging. The Office Holder must take at least 50 per cent of Total Remuneration as salary. Any election must be consistent with relevant taxation laws and rulings or guidelines applicable to salary packaging schemes issued by the Australian Taxation Office (ATO).

**5.5 Superannuation salary:** Regardless of anything else in this Determination, salary for superannuation purposes comprises Base Salary plus any additional amount shown in Column 5 of Table 3 where the relevant sub-clause specifies that the loading is included as superannuation salary. This will be:

- 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
- in the case of the holders of the offices of Chief Judge Advocate, Chief Military Judge, Military Judge and Registrar of the Australian Military Court, that office 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.

**5.6 Value of 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.

- (i) In the case of an Office Holder who may be eligible for defined benefits under a Commonwealth superannuation scheme, the value of Superannuation Support will be taken to be 15.4 per cent of Superannuation Salary (refer clause 5.5).
- (ii) In the case of an 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.

- (iii) Notwithstanding anything else in this Part, the value attributable by virtue of sub-clauses 5.6 (i) or (ii) 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.

**5.7 Vehicles:** Where an Office Holder accepts an offer of an authority 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 authority plus parking and fringe benefits taxation, less a reasonable amount (if any) reflecting business usage patterns. Where an Office Holder has access to an authority 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.

**5.7.1** Any business usage amount is to be assessed on log book records for 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



<b>Table 3</b> <b>RATES OF REMUNERATION - OFFICES ON TOTAL REMUNERATION</b> <b>Effective on and from 1 July 2009</b>					
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>	<b>Column 6</b>
<b>Authority</b>	<b>Office</b>	<b>Base Salary \$</b>	<b>Total Remuneration \$</b>	<b>Reference Clause</b>	<b>Travel Tier</b>
High Court of Australia	Chief Executive and Principal Registrar	219,310	309,950		1
Federal Court of Australia	Registrar	219,310	309,950		1
Family Court of Australia	Chief Executive Officer	219,310	309,950		1
Federal Magistrates Court	Chief Executive Officer	196,260	280,350		1
National Native Title Tribunal	President (non-judicial)	253,770	350,180		1
	Deputy President	239,080	318,120		1
	Member	175,140	244,280		1
	Registrar	163,530	230,890		2
Australian Military Court	Chief Judge Advocate	251,900	315,510	-	2
	Chief Military Judge	251,900	315,510	-	2
	Military Judge	214,110	271,000	-	2
	Registrar of the Australian Military Court	164,530	189,870	-	2

Signed this 12 day of May 2009

  
 John C Conde AO  
 PRESIDENT

  
 Janet E Grieve  
 MEMBER

  
 John D C Allen  
 MEMBER



## REMUNERATION TRIBUNAL

### Attachment 2

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#### **Determination 2008/08**

#### **Remuneration and Allowances for Holders of Full-time Public Office**

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## REMUNERATION TRIBUNAL

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### **Determination 2008/08: Remuneration and Allowances for Holders of Full-Time Public Office**

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**As amended.**

**Made under sub-section 7(3) and 7(4) of the Remuneration Tribunal Act 1973**

**Consolidated as at 19 May 2009 and incorporates amending determinations up to and including 2009/05 – Remuneration and Allowances for Holders of Public Office**

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This Determination governs remuneration and allowances for the full-time Public Offices specified in Table 2A.

This Determination specifies 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. The salary and benefits provided for in this Determination must not be supplemented.

#### **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 early loss of office.

#### **PART 1 – GENERAL**

- 1.1 Authority:** This Determination is issued pursuant to 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 2008.
- 1.3 Effect on Earlier Determinations:** This Determination supersedes and revokes in full Determination 2007/13 (as amended) – *Remuneration and Allowances for Holders of Full-Time Public Office*.
- 1.4 Definitions:** For the purposes of this Determination, the following definitions apply.
- '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.

**'Base Salary'** means the applicable amounts specified in Column 2 of Table 2A of this Determination.

**'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 Superannuation Support (refer clause 2.7) and any other benefits received by way of remuneration packaging (refer clause 2.5).

**'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.

**'Office Holder'** means the holder of an office listed in Column 1 of Table 2A of this Determination.

**'Superannuation Support'** means the amount ascertained in accordance with clause 2.7, representing the employer superannuation liability.

**'Total Remuneration'** is the amount shown in Column 3 of Table 2A plus any additional amount shown in Column 4. It represents 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:

- facilities provided as business support as referred to in Part 2;
- 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;
- any payment in lieu of recreation leave in accordance with Part 5; and
- any compensation for early loss of office in accordance with Part 6.

**1.5 Guidance notes:** The Tribunal may issue guidance notes from time to time to assist agencies to administer this Determination.

## **PART 2 – REMUNERATION AND RELATED MATTERS**

**2.1 Total Remuneration:** Office Holders are eligible for the annual amounts of Base Salary and Total Remuneration (including any additional amount shown in Column 4), as set out in Table 2A below with effect from 1 July 2008, unless otherwise specified.

**TABLE 2A – FULL-TIME OFFICE HOLDERS – TOTAL REMUNERATION AND OTHER BENEFITS**

<u>Column 1</u> Office	<u>Column 2</u> Base Salary (per annum)	<u>Column 3</u> Total Remuneration for office (per annum)	<u>Column 4</u> Additional Amount of Total Remuneration (per annum)	<u>Column 5</u> Refer Clause	<u>Column 6</u> Travel Tier
Chair, Australian Prudential Regulation Authority (APRA)	\$421,030	\$603,130	Nil	2.6.1	Tier 1
Solicitor-General	\$396,380	\$529,390	Nil		Tier 1
Chairperson, Australian Securities and Investments Commission (ASIC)	\$364,300	\$529,830	Nil		Tier 1
Chairperson, Australian Competition and Consumer Commission (ACCC)	\$364,300	\$529,830	Nil		Tier 1
Deputy Chair, APRA	\$352,300	\$504,660	Nil		Tier 1
Member, APRA	\$335,100	\$480,060	Nil		Tier 1
Deputy Chairperson, ASIC	\$318,670	\$445,050	Nil		Tier 1
Director of Public Prosecutions	\$318,490	\$418,510	Nil		Tier 1
Chair, Australian Communications and Media Authority (ACMA)	\$270,100	\$385,850	\$22,710	2.2.1	Tier 1
Member, ASIC	\$263,580	\$384,130	Nil	2.2.10	Tier 1
Commissioner, Australian Federal Police	\$260,450	\$374,040	Nil		Tier 1
Director-General of Security, Australian Security Intelligence Organisation	\$260,450	\$361,370	Nil		Tier 1
Director-General, Office of National Assessments	\$260,450	\$361,370	Nil		Tier 1
Deputy Chairperson, ACCC	\$255,510	\$344,390	Nil		Tier 1
Vice Chief of the Defence Force	\$242,510	\$344,860	Nil	2.2.6	Tier 1
Chief Executive Officer, Australian Crime Commission	\$250,100	\$361,330	Nil		Tier 1
Inspector-General of Intelligence and Security	\$247,060	\$344,880	Nil		Tier 1
Commonwealth Ombudsman	\$247,060	\$344,880	Nil		Tier 1
Member, ACCC	\$242,800	\$317,900	Nil		Tier 1
Examiner, Australian Crime Commission	\$242,510	\$344,860	Nil	2.2.9	Tier 1
Law Enforcement Integrity Commissioner	\$242,510	\$344,860	Nil		Tier 1
Chief of Navy	\$242,510	\$344,860	Nil		Tier 1
Chief of Army	\$242,510	\$344,860	Nil	2.2.6	Tier 1
Chief of Air Force	\$242,510	\$344,860	Nil		Tier 1

<u>Column 1</u> Office	<u>Column 2</u> Base Salary (per annum)	<u>Column 3</u> Total Remuneration for office (per annum)	<u>Column 4</u> Additional Amount of Total Remuneration (per annum)	<u>Column 5</u> Refer Clause	<u>Column 6</u> Travel Tier
Chair, Australian Energy Regulator	\$242,510	\$323,500	Nil		Tier 1
Chairperson, Productivity Commission	\$242,510	\$323,380	Nil		Tier 1
Chief Commissioner, Australian Transport Safety Bureau Commission <i>Effective 26 March 2009 ref Det 2009/05</i>	\$242,510	\$330,000	Nil		Tier 1
Chief Scientist <i>Effective 3 November 2008 ref Det 2008/20</i>	\$240,900	\$330,000	Nil		Tier 1
Chief Executive, Murray-Darling Basin Authority <i>Effective 15 December 2008 ref Det 2009/02</i>	\$236,040	\$323,330	Nil		Tier 2
Fair Work Ombudsman <i>Effective 16 April 2009 ref Det 2009/04</i>	\$231,410	\$317,000	Nil		Tier 1
Chair, Tax Practitioners Board <i>Effective 27 April 2009 ref Det 2009/05</i>	\$226,300	\$310,000	Nil		Tier 1
Director of Military Prosecutions	\$231,510	\$288,730	Nil		Tier 2
Inspector-General of the Australian Defence Force	\$231,510	\$288,730	Nil		Tier 2
Inspector-General of Taxation	\$230,500	\$329,650	Nil		Tier 1
Deputy Chair, ACMA	\$224,480	\$296,260	Nil		Tier 1
CEO, National Offshore Petroleum Safety Authority	\$220,940	\$315,130	Nil		Tier 1
Privacy Commissioner	\$219,130	\$316,970	Nil		Tier 1
General Manager, Fair Work Australia <i>Effective 16 April 2009 ref Det 2009/04</i>	\$222,650	\$305,000	Nil		Tier 1
Australian Electoral Commissioner	\$219,130	\$296,940	Nil	2.2.8	Tier 1
Associate Director of Public Prosecutions	\$219,130	\$291,680	Nil		Tier 1
Chairperson, Commonwealth Grants Commission	\$219,130	\$285,350	Nil		Tier 1
CEO, Australian Pesticides and Veterinary Medicines Authority	\$211,960	\$290,360	Nil		Tier 2
Chief Executive Officer, Australian Organ and Tissue Donation and Transplantation Authority <i>Effective 1 January 2009 ref Det 2009/01</i>	\$212,000	\$290,000	Nil	2.2.11	Tier 2
Member, Australian Energy Regulator	\$208,250	\$272,670	Nil		Tier 1
Member, ACMA	\$208,250	\$272,670	Nil		Tier 1
Chief Executive Officer, Australian Fisheries Management Authority Commission <i>Effective 1 July 2008 ref Det 2008/13</i>	\$205,580	\$281,610	\$20,558	2.2.7	Tier 1
Chairman, Pharmaceutical Benefits Advisory Committee	\$198,830	\$272,360	Nil		Tier 1

<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 Amount of Total Remuneration (per annum)	Refer Clause	Travel Tier
Registrar, Administrative Appeals Tribunal	\$197,970	\$271,180	Nil		Tier 1
Infrastructure Coordinator <i>Effective 1 July 2008 ref det 2008/16</i>	\$196,450	\$269,100	Nil		Tier 1
CEO, Australian Radiation Protection and Nuclear Safety Agency	\$195,100	\$291,570	Nil		Tier 1
Director, Professional Services Review	\$195,100	\$277,670	Nil		Tier 1
CEO, National Transport Commission	\$195,100	\$276,980	Nil		Tier 1
Administrator of the Northern Territory	\$195,100	\$246,080	Nil		Tier 1
Principal Member, Refugee Review Tribunal (RRT)	\$189,040	\$266,270	\$35,340	2.2.3	Tier 2
Principal Member, Migration Review Tribunal (MRT)	\$189,040	\$266,270	\$35,340	2.2.3	Tier 2
Chairman, Indigenous Business Australia	\$189,040	\$218,230	Nil		Tier 1
Aged Care Commissioner	\$183,890	\$251,900	Nil		Tier 2
Gene Technology Regulator	\$183,230	\$240,980	Nil	2.2.12	Tier 2
Deputy Commonwealth Ombudsman	\$183,230	\$234,660	Nil		Tier 2
Executive Director, Social Security Appeals Tribunal (SSAT)	\$182,210	\$249,590	Nil		Tier 2
Official Secretary to the Governor-General <i>Effective 1 July 2008 ref Det 2008/17</i>	\$190,000	\$257,000	Nil		Tier 2
Sex Discrimination Commissioner	\$175,140	\$249,790	Nil		Tier 2
Race Discrimination Commissioner	\$175,140	\$249,790	Nil		Tier 2
Human Rights Commissioner	\$175,140	\$249,790	Nil		Tier 2
Disability Discrimination Commissioner	\$175,140	\$249,790	Nil		Tier 2
Aboriginal and Torres Strait Islander Social Justice Commissioner	\$175,140	\$249,790	Nil		Tier 2
Chief Executive, National Capital Authority <i>Effective 20 December 2008 ref Det 2008/22</i>	\$181,940	\$249,230	Nil		Tier 2
Member, Tax Practitioners Board <i>Effective 27 April 2009 ref Det 2009/05</i>	\$171,550	\$235,000	Nil		Tier 2
Director General, Australian Safeguards and Non-Proliferation Office	\$175,140	\$233,920	Nil		Tier 2
Chairperson, Indigenous Land Corporation	\$175,140	\$233,360	Nil		Tier 2

<u>Column 1</u> Office	<u>Column 2</u> Base Salary (per annum)	<u>Column 3</u> Total Remuneration for office (per annum)	<u>Column 4</u> Additional Amount of Total Remuneration (per annum)	<u>Column 5</u> Refer Clause	<u>Column 6</u> Travel Tier
Registrar of Aboriginal and Torres Strait Islander Corporations <i>Effective 18 November 2008 ref Det 2009/03</i>	\$175,200	\$240,000	Nil		Tier 2
President, Human Rights and Equal Opportunity Commission <i>Effective 18 September 2008 ref Det 2008/18</i>	\$230,500	\$329,650	Nil	2.2.2	Tier 1
Administrator, Christmas and Cocos (Keeling) Islands	\$158,820	\$221,900	Nil		Tier 2
Principal Member, Veterans' Review Board (VRB)	\$177,310	\$242,900	Nil		Tier 1
Director, SSAT	\$156,630	\$214,570	Nil		Tier 2
Executive Director of Township Leasing	\$156,450	\$214,340	Nil		Tier 2
Deputy Principal Member, RRT	\$155,030	\$218,090	\$13,040	2.2.5	Tier 2
Private Health Insurance Ombudsman	\$155,030	\$214,310	Nil		Tier 2
Chairperson, Superannuation Complaints Tribunal (SCT)	\$163,700	\$224,250	Nil		Tier 2
Director, Classification Board	\$151,830	\$207,990	Nil	2.9	Tier 2
Chairperson, Torres Strait Regional Authority	\$142,400	\$216,820	Nil		Tier 2
Administrator, Torres Strait Regional Authority	\$142,400	\$216,820	Nil		Tier 2
Deputy Chairperson, SCT	\$134,220	\$183,850	Nil		Tier 2
Deputy Director, Classification Board	\$130,530	\$178,800	Nil	2.9	Tier 2
Senior Member, RRT	\$127,220	\$183,850	Nil		Tier 2
Senior Member, MRT	\$127,220	\$183,850	Nil		Tier 2
Senior Member, VRB <i>Effective 28 July 2008 ref Det 2008/16</i>	\$122,320	\$176,580	Nil		Tier 2
Assistant Director, SSAT <i>Effective 7 November 2008 ref Det 2008/20</i>	\$116,800	\$160,000	Nil		Tier 2
Administrator, Norfolk Island	\$114,320	\$173,180	Nil		Tier 2
Chairman (full-time), Central Land Council	\$114,320	\$164,100	Nil		Tier 3
Member, RRT	\$114,320	\$163,740	Nil	2.2.4	Tier 2
Member, MRT	\$114,320	\$163,740	Nil		Tier 2
Chairman (full-time), Northern Land Council	\$114,320	\$154,720	Nil		Tier 2
Senior Classifier, Classification Board	\$114,320	\$131,970	Nil		Tier 2
Member, SSAT	\$107,270	\$146,940	Nil		Tier 3
Classifier, Classification Board	\$90,170	\$104,070	Nil	2.4	Tier 3



- 2.2 Additional Provisions:** Where an additional annual amount is specified in Column 4 of Table 2A in relation to an Office Holder, payment 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 ACMA, Chair:** Mr Christopher Chapman will receive a personal loading as shown in Column 4 of Table 2A while he occupies the office shown in Column 1.
- 2.2.2 HREOC President:** the Hon John Von Doussa will receive \$160,750 base salary and \$230,840 Total Remuneration while he occupies the office shown in Column 1. The Hon Catherine Branson will receive \$187,530 base salary and \$256,880 Total Remuneration when she occupies the office commencing on 14 October 2008.
- 2.2.3 Migration Review Tribunal and Refugee Review Tribunal, Principal Member:** A dual appointee as Principal Member of the Migration Review Tribunal and Refugee Review Tribunal is entitled to Tier 1 travel and will receive an additional loading as shown in Column 4 of Table 2A. This loading is included in superannuation salary.
- 2.2.4 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 \$4,940 per annum while continuing to hold an appointment (including re-appointment) as a Member. The loading does not count towards superannuation salary.
- 2.2.5 Refugee Review Tribunal and Migration Review Tribunal:** Ms Mary Urquhart will receive a personal loading as shown in Column 4 of Table 2A while she occupies the office shown in Column 1 and also acts as a Senior Member of the Migration Review Tribunal.
- 2.2.6 Lieutenant General Ken J Gillespie** will receive an additional amount of total remuneration of \$1,570 until 30 June 2009.
- 2.2.7 Australian Fisheries Management Authority Commission:** Mr Glenn Hurry will receive a personal loading as shown in Column 4 of Table 2A while he occupies the office shown in Column 1. The loading does not count towards superannuation salary.
- 2.2.8 Australian Electoral Commissioner:** Mr Ed Killesteyn will receive \$231,970 base salary and \$329,760 Total Remuneration while he occupies the office shown in Column 1.
- 2.2.9 Australian Crime Commission:** The Hon John Hannaford will receive \$207,770 base salary and \$295,461 Total Remuneration when he occupies the office shown in Column 1, commencing on 12 January 2009.
- 2.2.10 ASIC:** Dr Peter Boxall AO will receive \$365,670 base salary and \$457,080 Total Remuneration while he occupies the office shown in Column 1, commencing on 2 February 2009.
- 2.2.11 CEO, Donation and Transplantation Authority:** Ms Karen Murphy will receive a personal loading of \$60,000 to be added to the determined Total Remuneration figure while she occupies the office shown in Column 1, commencing on 1 January 2009.
- 2.2.12 Gene Technology Regulator:** Dr Joe Smith will receive \$201,400 base salary and \$265,000 Total Remuneration while he occupies the office shown in Column 1, commencing on 23 March 2009.

- 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 and Total Remuneration 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 per cent 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 \$418 is payable from 1 July 2008, in lieu of other provisions in this Part. The provisions of Part 3 (Allowances), Part 5 (Recreation leave) and Part 6 (Compensation for early loss of office) do not apply.
- 2.5 Remuneration packaging:** Subject to this Part, an Office Holder may elect to receive the value of remuneration as salary or as a combination of salary and Benefits. The Office Holder must take at least 50 per cent of Superannuation Salary as salary, except where agency policies and procedures on salary packaging allow otherwise. Any election must be consistent with relevant taxation laws and rulings or guidelines applicable to salary packaging schemes issued by the Australian Taxation Office. Any election must not result in a cost to the employer (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 will be the 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:
- 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
  - in the case of the holders of the offices of Vice-Chief of the Defence Force, Chief of Navy, Chief of Air Force, Chief of Army and Director of Military Prosecutions, 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 John Laker will be \$483,400, from 1 July 2008, while he occupies the office of Chair, Australian Prudential Regulation Authority.
- 2.7 Employer Superannuation Support:** Total Remuneration will be taken to include the Superannuation Support provided by the employer in respect of an Office Holder, which has the value ascertained under sub-clause 2.7.1 or the amount of contributions under sub-clause 2.7.2. Contributions made on a salary sacrifice basis do not form part of Superannuation Support; these are covered by clause 2.5 (Remuneration packaging).
- 2.7.1 Defined Benefits Schemes:** In the case of an Office Holder who may be eligible for defined benefits under a Commonwealth superannuation scheme, the value of Superannuation Support will be taken to be 15.4 per cent of Base Salary.
- 2.7.2 Other Schemes:** In the case of an Office Holder not covered by sub-clause 2.7.1, the value of Superannuation Support will be the contributions actually paid, or liable to be paid, by the employer in respect of the Office Holder to a superannuation scheme.

**2.7.3 No cash in lieu:** The value attributable by virtue of this clause to Superannuation Support 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 Classification Board:** On any occasion when the Deputy Director acts as Director, he or she will be entitled to the remuneration and other conditions determined for the Director.

**2.10 Business Support:** Where an Office Holder is provided with communications, information technology and other office facilities necessary for the efficient conduct of his or her office, incidental private use of those facilities by the office holder does not necessitate the value of the facilities being included in Total Remuneration.

### **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. However, where in terms of the ongoing arrangement it would clearly be more cost effective for the agency to provide travel allowance entitlements in the office locality, the agency should decide at the earliest practical opportunity to pay travel allowance rather than 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.

**TABLE 3A – ACCOMMODATION ALLOWANCES**

<b><u>Column 1</u></b> <b><u>Office Holder</u></b>	<b><u>Column 2</u></b> <b><u>Office</u></b>	<b><u>Column 3</u></b> <b><u>Allowance (pa)</u></b>	<b><u>Column 4</u></b> <b><u>Refer Clause</u></b>
Mr T Calma	ATSI Social Justice Commissioner	\$32,780	
Mr D O'Brien	Principal Member, MRT/RRT	\$32,780	
Mr G Samuel	Chairman, ACCC	\$28,500	
Ms S Court <i>Effective</i>	Member, ACCC	\$28,500	

1 May 2008 ref Det 2008/13			
Mr R Freeman Effective 15 December 2008 ref Det 2009/02	Chief Executive, Murray-Darling Basin Authority	\$28,500	

Column 3: Allowance effective 1 July 2008. Ref det 2008/16

**3.1.1 Classification Board:** Subject to individual qualification for this allowance, to be decided by the employer in accordance with agency guidelines, Members who have, or had, to relocate to Sydney to take up their appointment will be paid an accommodation allowance of \$13,500 per annum. The allowance does not represent salary for superannuation.

**3.1.2 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, the Chief of Army and the Director of Military Prosecutions.

**3.1.3 Official residence:** Where residing in an official residence is a requirement of an office, total remuneration does not include the value of accommodation in the official residence, or the running costs of the premises.

**3.1.4 Non-commercial accommodation:** Where an office holder listed in Column 1 of Table 3A elects to be accommodated in private, non-commercial accommodation, such as the home of a family member or friend, a rate of one third of the accommodation allowance in Column 3 of Table 3A is payable in lieu of the amount specified in Column 3.

**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. Where the agency decides, as provided in Clause 3.1 of this Determination, to pay an office holder travel allowance instead of accommodation allowance, any reunion travel allowance in Table 3B for that office holder will cease to apply at the same time.

**TABLE 3B – REUNION TRAVEL**

<b>Column 1 Office Holder</b>	<b>Column 2 Office</b>	<b>Column 3 Allowance (pa)</b>
Mr T Calma	Aboriginal and Torres Strait Islander Social Justice Commissioner	\$9,950
Mr D O'Brien	Principal Member, Migration Review Tribunal and Refugee Review Tribunal	\$9,950
Mr G Samuel	Chairman, ACCC	\$30,000
Ms S Court Effective 1 May 2008 ref Det 2008/13	Member, ACCC	\$21,950
Mr R Freeman Effective 15 December 2008 ref Det 2009/02	Chief Executive, Murray-Darling Basin Authority	\$20,930

## **PART 4 – OFFICIAL TRAVEL**

### **General Travel Provisions**

- 4.1** The provisions of Determination 2004/03 (as amended) – *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.
- 4.1.1 Administrator Christmas and Cocos (Keeling) Islands.** For the period of his appointment Mr Neil Lucas and any immediate family members resident with him on Christmas Island shall be entitled to two return economy class fares per annum between his home and work base.
- 4.1.2 ACCC:** the ACCC may put in place arrangements for Members' travel to Canberra that are more cost effective than the travel entitlements they are otherwise entitled to under this Determination.

## **PART 5 – RECREATION LEAVE**

- 5.1 Recreation Leave entitlements:** The provisions of Determination 2007/09 (as amended) – *Recreation Leave for Full-Time Holders of Relevant Offices* apply to full-time<sup>1</sup> Offices listed in Column 1 of Table 2A in this Determination to the extent specified in that Determination.
- 5.1.1 Administrator Christmas and Cocos (Keeling) Islands.** For the period of his appointment, Mr Neil Lucas is entitled to seven days recreation leave per annum, additional to any entitlement in Clause 5.1.
- 5.1.2 Human Rights and Equal Opportunity Commission.** For the period of her appointment as President, the Hon Catherine Branson is entitled to two weeks recreation leave per annum, additional to any entitlement in Clause 5.1.

## **PART 6 – COMPENSATION FOR EARLY LOSS OF OFFICE**

- 6.1** Compensation for early loss of office for an Office Holder will be in accordance with the provisions of *Determination 2007/07: Compensation for Loss of Office for Holders of Public Office*.
- 6.2** Where an Office Holder serves the full term of appointment, no entitlement to payment under this part arises.

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<sup>1</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 the Governor-General.

## Notes to Remuneration Tribunal Determination 2008/08: Remuneration and Allowances for Holders of Full-Time Public Office

This determination as shown in this compilation is amended as indicated in the tables below. Under the Legislative Instruments Act 2003, which came into force on 1 January 2005, it is a requirement for all non-exempt legislative instruments to be registered on the Federal Register of Legislative Instruments.

### Table of Instruments

Title	Date of FRLI registration	Date of commencement	Application, saving or transitional provisions
Determination 2008/08 – Remuneration and Allowances for Holders of Full-Time Public Office	12/06/2008 F2008L02072	1/07/2008	-
Determination 2008/11 – Remuneration and Allowances for Holders of Public Office	30/06/2008 F2008L02342	1/07/2008	-
Determination 2008/13 – Remuneration and Allowances for Holders of Public Office	31/07/2008 F2008L02738	CI 2.1, 2.4, 2.7 - 1/8/2008 CI 2.2, 2.3 - 1/7/2008 – CI 2.5, 2.6 - 1/5/2008	-
Determination 2008/16 – Remuneration and Allowances for Holders of Public Office	12/08/2008 F2008L03044	CI 2.1, 2.3, 2.4, 2.6, 2.8, 2.10 – 13/08/2008 CI 2.2 - 28/07/2008 CI 2.5, 2.7 - 1/07/2008 - CI 2.9 - 11/08/2008	-
Determination 2008/17 – Remuneration and Allowances for Holders of Public Office	2/09/2008 F2008L03405	CI 1.1, 1.3, 1.4 - 3/09/2008 CI 1.2 - 1/07/2008	-
Determination 2008/18 – Remuneration and Allowances for Holders of Public Office	17/09/2008 F2008L03461	CI 2.1, 2.3, 2.4, 2.5, 2.6 18/9/2008 – CI 2.2- 1/7/2008	-
Determination 2008/20 – Remuneration and Allowances for Holders of Public Office	6/11/2008 F2008L04268	CI 2.1, 2.2, 2.4, 2.5, 2.6, 2.7, 2.9 - 7/11/2008 - CI 2.3 - 12/09/2008 CI 2.8 - 3/11/2008	-
Determination 2008/22 – Remuneration and Allowances for Holders of Public Office	19/12/2008 F2008L04725	CI 1.1, 1.4, 1.5, 1.6, 1.7 - 20/12/2008 CI 1.2, 1.3 - 5/1/2009	-
Determination 2009/01 – Remuneration and Allowances for Holders of Public Office and Members of Parliament - Entitlements	14/01/2009 F2009L00049	CI 2.1, 2.2, 2.3, 2.5, 2.6 - 15/01/2009 CI 2.4 - 1/01/2009	-
Determination 2009/02 – Remuneration and Allowances for Holders of Public Office	11/02/2009 F2009L00306	CI 2.1, 2.5 - 12/02/2009 CI 2.2, 2.3, 2.4 - 15/12/2008	-
Determination 2009/03 – Remuneration and Allowances for Holders of Public Office	25/03/2009 F2009L01174	CI 2.1, 2.3 - 26/3/2009 CI 2.2 - 18/11/2008	-
Determination 2009/04 – Remuneration and Allowances for Holders of Public Office; and Members of Parliament – Entitlements and Office Holders Additional Salary	28/04/2009 F2009L01579	CI 2.1, 2.4 – 29/4/2009 CI 2.2, 2.3 – 16/4/2009	-
Determination 2009/05 – Remuneration and Allowances for Holders of Public Office	19/05/2009 F2009L01820	CI 2.1, 2.4, 2.6, 2.7, 2.8, 2.9 - 20/5/2009 CI 2.2, 2.3 – 27/4/2009 CI 2.5 - 26/3/2009	-

## Notes to Remuneration Tribunal Determination 2008/08: Remuneration and Allowances for Holders of Full-Time Public Office

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### Table of Amendments

ad. = added or inserted	am. = amended	rs. = repealed and substituted	rep. = repealed
Provision affected	How affected		
<b>Part 1</b>			
Clause 1.4	am 2008/20		
<b>Part 2</b>			
Table 2A	am 2008/11, am 2008/13, am 2008/16, am 2008/17, am 2008/18, am 2008/20, am 2008/22, am 2009/01, am 2009/02, am 2009/03, am 2009/04, am 2009/05		
Clause 2.2.2	am 2008/18		
Clause 2.2.6	ad 2008/11		
Clause 2.2.7	ad 2008/13		
Clause 2.2.8	ad 2008/22		
Clause 2.2.9	ad 2008/22		
Clause 2.2.10	ad 2009/01		
Clause 2.2.11	ad 2009/01		
Clause 2.2.12	ad 2009/05		
Clause 2.9	ad 2008/20		
Clause 2.10	ad 2008/20		
<b>Part 3</b>			
Table 3A	ad 2008/13, am 2008/16, am 2008/17, am 2009/02		
Clause 3.1.1	am 2008/18		
Table 3B	ad 2008/13, am 2008/16, am 2009/02, am 2009/05		
<b>Part 5</b>			
Clause 5.1.2	ad 2008/18		



REMUNERATION TRIBUNAL

**Attachment 3**

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**Determination 2008/06**

**Specified Statutory Officers – Remuneration and Allowances**

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## REMUNERATION TRIBUNAL

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### **Determination 2008/06: Specified Statutory Officers – Remuneration and Allowances**

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This Determination governs remuneration and allowances for the Specified Statutory Officers specified in Table 1. It comprises:

- Part 1** – General;
- Part 2** – Remuneration and related matters;
- Part 3** – Official travel;
- Part 4** – Compensation for loss of office; and
- Part 5** – Recreation leave.

#### **PART 1 – GENERAL**

- 1.1 Authority:** This Determination is issued pursuant to subsections 7(3) and 7(4) of the *Remuneration Tribunal Act 1973*.
- 1.2 Effective Date:** This Determination takes effect on and from 1 July 2008.
- 1.3 Effect on Earlier Determinations:** This Determination supersedes and revokes in full Determination 2007/12 (as amended) - *Specified Statutory Officers – Remuneration and Allowances*.
- 1.4 Definitions:** For the purposes of this Determination the following definitions apply.
  - 1.4.1 'Base Salary'** means the amounts specified under clause 2.1 as applicable of this Determination.
  - 1.4.2 'Benefits'** means all non-monetary benefits provided at the Employer's expense to or on behalf of a Specified Statutory Officer as a personal benefit, including a vehicle (where provided – refer clause 2.5), the value attributed by the Remuneration Tribunal to the Superannuation Support (refer clause 2.4) and any other benefits received by way of remuneration packaging (refer clause 2.2).
  - 1.4.3 '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.
  - 1.4.4 'Specified Statutory Officer'** means the holder of a particular office as specified in Column 1 of Table 1 of this Determination.
  - 1.4.5 'Superannuation Support'** means the amount ascertained in accordance with clause 2.4, representing the Employer superannuation liability.

**1.4.6 'Total Remuneration'** is the value attributed to the remuneration to be paid to a Specified Statutory Officer, including:

- salary (including Base Salary), allowances or lump sum payments; and
  - Benefits, calculated at the total cost to the Employer (including Fringe Benefits Tax);
- but does not include;
- adjustment in lieu of performance bonus in accordance with clause 2.7;
  - reimbursement of expenses incurred on geographic relocation following appointment as a Specified Statutory Officer, in accordance with agency policies and practices, where approved by the Employer;
  - travelling allowances and expenditure in accordance with Part 3;
  - any compensation for early loss of office in accordance with Part 4; and
  - any payment in lieu of recreation leave in accordance with Part 5.

## **PART 2 – REMUNERATION AND RELATED MATTERS**

**2.1 Remuneration:** Specified Statutory Officers are eligible for Base Salary and Total Remuneration as set out in Table 1 of this Determination with effect from 1 July 2008.

**Table 1 – Specified Statutory Offices**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Specified Statutory Office</b>	<b>Base (superannuable) Salary – per annum</b>	<b>Total Remuneration per annum</b>
Chief of the Defence Force	\$312,840	\$428,560
Auditor-General for Australia	\$292,710	\$400,960
Australian Statistician	\$292,710	\$400,960
Commissioner of Taxation	\$292,710	\$400,960
CEO of Customs (subject to review on vacancy)	\$292,710	\$400,960

**2.2 Remuneration packaging:** Subject to this part, a Specified Statutory Officer may elect to receive the value of remuneration as salary or as a combination of salary and Benefits. The office holder must take at least 50 per cent of Superannuation Salary as salary, except where agency policies and procedures on salary packaging allow otherwise. Any election must be consistent with relevant taxation laws and rulings or guidelines applicable to salary packaging schemes issued by the Australian Taxation Office. Any election must not result in a cost to the employer (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.

**2.3 Superannuation Salary:** Regardless of anything else in this Determination, salary for superannuation purposes will be the Base Salary for a Specified Statutory Officer, as specified under clause 2.1. This will be:

- the officer's annual rate of salary for the purposes of the Superannuation (CSS) Salary Regulations (and therefore the superannuation salary for the purposes of the *Superannuation Act 1976* and the *Superannuation Act 1990*); or
- in the case of the holder of the office of the Chief of the Defence Force, that officer's annual rate of salary for the purposes of the *Defence Force Retirement and Death Benefits Act 1973* and the Defence Force Retirement and Death Benefits (Annual Rate of Pay) Regulations (and therefore the superannuation salary for the purposes of the *Military Superannuation and Benefits Scheme Act 1991* and the Rules of the Military Superannuation and Benefits Scheme).

- 2.4 Employer Superannuation Support:** Total Remuneration will be taken to include the Superannuation Support provided by the Employer in respect of a Specified Statutory Officer, which has the value ascertained under sub-clause 2.4.1 or the amount of contributions under sub-clause 2.4.2. Contributions made on a salary sacrifice basis do not form part of Superannuation Support; these are covered by clause 2.2 (Remuneration Packaging).
- 2.4.1 Defined Benefits Schemes:** In the case of a Specified Statutory Officer who may be eligible for defined benefits under a Commonwealth superannuation scheme, the value of Superannuation Support will be taken to be 15.4 per cent of Base Salary.
- 2.4.2 Other Schemes:** In the case of a Specified Statutory Officer not covered by sub-clause 2.4.1, the value of Superannuation Support will be the contributions actually paid, or liable to be paid, by the Employer in respect of the Specified Statutory Officer to a superannuation scheme.
- 2.4.3 No cash in lieu:** The value attributable by virtue of this clause to Superannuation Support 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.
- 2.5 Private plated vehicles and parking:** Where a Specified Statutory Officer accepts an offer of an agency owned or leased vehicle for private use, the Specified Statutory Officer shall have deducted from his or her Total Remuneration, an amount equal to the actual cost of the vehicle to the agency including the value of parking, plus fringe benefits tax, less \$3,500 per annum (in recognition of business use).
- 2.6 Salary sacrifice vehicle:** Where a Specified Statutory Officer elects not to receive a Commonwealth provided vehicle but instead enters into a salary sacrifice arrangement for the provision of another vehicle, and that vehicle is used for business-related purposes, the Specified Statutory Officer is entitled to an amount of \$3,500 per annum being recognised in the calculation of the salary sacrifice.
- 2.7 Adjustment in lieu of performance pay:** A Specified Statutory Officer shall be entitled to an amount of 14 per cent of Total Remuneration in recognition that the officer is not eligible for performance bonuses. The adjustment will be made in an annualised lump sum payment.

## **PART 3 – OFFICIAL TRAVEL**

- 3.1 Official travel:** The provisions of Determination 2004/03 (as amended) - *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.
- 3.2 Travel tier:** A Specified Statutory Officer is eligible for Tier 1 travel entitlements for travel on official business.

## **PART 4 – COMPENSATION FOR LOSS OF OFFICE**

- 4.1 Loss of Office:** Compensation for early loss of office for a Specified Statutory Officer shall be in accordance with the provisions of Determination 2007/07 - *Compensation for Loss of Office for Holders of Public Office*.
- 4.1.1** Where a Specified Statutory Officer serves the full term of appointment, no entitlement to a payment under this part arises.

## PART 5 – RECREATION LEAVE

- 5.1 Recreation Leave entitlements:** The provisions of Determination 2007/09 (as amended) - *Recreation Leave for Full-Time Holders of Relevant Offices* - apply to full-time<sup>1</sup> Specified Statutory Officers to the extent specified in that Determination.

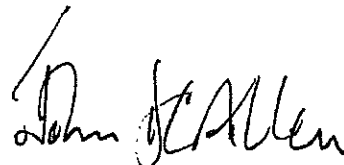
Signed this 5<sup>th</sup> day of June 2008



John C Conde AO  
PRESIDENT



Janet E Grieve  
MEMBER



John D C Allen  
MEMBER

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<sup>1</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 Governor-General or relevant Minister. The Tribunal does not have the power to determine recreation leave entitlements for the Chief of the Defence Force and the Australian Statistician.