



Australian Capital Territory

# **Remuneration Tribunal Act 1995**

**A1995-55**

**Republication No 5**

**Effective: 1 July 2004 – 1 September 2005**

Republication date: 1 July 2004

Last amendment made by A2004-28

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Remuneration Tribunal Act 1995* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 1 July 2004. It also includes any amendment, repeal or expiry affecting the republished law to 1 July 2004.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

# Remuneration Tribunal Act 1995

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01/07/04

Remuneration Tribunal Act 1995  
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Australian Capital Territory

## Remuneration Tribunal Act 1995

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An Act to establish a tribunal to determine the remuneration and allowances to be paid, and the entitlements to be granted, to the holders of certain offices, and for related purposes

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## Part 1 Preliminary

### 1 Short title

This Act may be cited as the *Remuneration Tribunal Act 1995*.

### 3 Interpretation for Act

(1) In this Act:

*Note* A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

**determination** means a determination under section 9, 10 or 14.

**inquiry** means an inquiry conducted by the tribunal under section 9 or 10.

**member** means a member of the tribunal.

**tribunal** means the Remuneration Tribunal established by section 4 (1).

(2) A reference in this Act to the holder of an appointment is a reference to a person who has been requested or authorised in writing to perform functions, duties or services either alone or together with another person or persons.

## Part 2                      Remuneration Tribunal

### 4                      **Establishment**

- (1) The Remuneration Tribunal is established.
- (2) The tribunal shall consist of not more than 3 members appointed by the Executive.
- (3) Subject to this Act, a member holds office for the period not longer than 5 years stated in the instrument of appointment, but is eligible for reappointment.

### 5                      **Members**

- (1) The tribunal may be constituted by the appointment of 1 member.
- (2) Where more than 1 member is appointed to the tribunal under section 4 (2), the Executive shall appoint a member to be the chairperson of the tribunal.

### 6                      **Fees and allowances**

A member shall be paid the fees and allowances determined under section 20.

### 7                      **Resignation**

A member may resign by writing given to the Chief Minister.

### 8                      **Termination of appointment**

The Executive may remove a member from office for misbehaviour or physical or mental incapacity.

## Part 3                    Inquiries and determinations

### Division 3.1            General

#### 9                    Inquiries in relation to members of the Legislative Assembly

- (1) The tribunal shall, from time to time as provided by this division, inquire into, and determine, the remuneration and allowances to be paid, and the entitlements to be granted, to—
  - (a) the Chief Minister; and
  - (b) a Deputy Chief Minister; and
  - (c) other Ministers.
- (2) The tribunal shall, from time to time as provided by this division, inquire into, and determine, the remuneration and allowances to be paid, and other entitlements to be granted, to members of the Legislative Assembly other than Ministers by reason of their membership of the Legislative Assembly or by reason of their holding particular offices, or performing particular functions, in relation to the Legislative Assembly.
- (3) For the *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), section 73 (1), definition of **office**, paragraph (g), each of the following offices is declared to be an office to which that Act, section 73 applies:
  - (a) Leader of the Opposition in the Legislative Assembly;
  - (b) Deputy Leader of the Opposition in the Legislative Assembly;
  - (c) Government Whip in the Legislative Assembly;
  - (d) Opposition Whip in the Legislative Assembly;
  - (e) the presiding member (however designated) of a committee of the Legislative Assembly.



**10 Inquiries in relation to holders of certain offices**

- (1) Subject to subsection (2), the tribunal shall, from time to time as provided by this division, inquire into, and determine, the remuneration and allowances to be paid, and other entitlements to be granted, to—
- (a) the Chief Justice; and
  - (b) the President of the Court of Appeal; and
  - (c) a judge of the Supreme Court; and
  - (d) the Master of the Supreme Court; and
  - (e) the Chief Magistrate; and
  - (f) a magistrate; and
  - (g) the Clerk of the Legislative Assembly; and
  - (h) the director of public prosecutions; and
  - (i) the auditor-general; and
  - (j) a chief executive; and
  - (k) a person who is an executive within the meaning of the *Public Sector Management Act 1994*; and
  - (l) the director of the Canberra Institute of Technology; and
  - (m) the commissioner for health complaints; and
  - (n) the electoral commissioner; and
  - (o) the chief executive officer of the legal aid commission; and
  - (p) an assistant executive officer of the legal aid commission; and
  - (q) the community advocate; and
  - (r) the holder of any other office or appointment that is—
    - (i) specified for this paragraph; or

(ii) included in a class of offices or appointments specified for this paragraph;

in an instrument given to the tribunal by the Chief Minister.

- (2) Subsection (1) (a) and (b) only authorise the tribunal to inquire into and determine the remuneration and allowances to be paid, and other entitlements to be granted, to the Chief Justice or the President of the Court of Appeal in relation to that office in addition to any remuneration, allowances and entitlements of the Chief Justice or the President as a resident judge or a judge of the Federal Court.
- (3) Subsection (1) (c) does not apply to—
- (a) a resident judge of the Supreme Court who is also a judge of the Federal Court; or
  - (b) a resident judge of the Supreme Court to whom the *Supreme Court Act 1933*, section 37U applies; or
  - (c) an additional judge of the Supreme Court; or
  - (d) an acting judge of the Supreme Court.
- (4) An instrument under subsection (1) (r) is a notifiable instrument.
- Note*     A notifiable instrument must be notified under the *Legislation Act 2001*.
- (5) An instrument under subsection (1) (r) must be notified under the *Legislation Act 2001* within 14 days after the day the instrument is given to the tribunal.

## 11                   **Certain allowances and entitlements not to be granted**

In making a determination under section 9 or 10, the tribunal shall not determine that an allowance is to be paid, or that an entitlement is to be granted, to the holder of an office or appointment if an allowance or entitlement of that kind is to be paid or granted to the holder of that office or appointment under—

- (a) a law of the Territory or the Commonwealth; or

- (b) the instrument by which he or she was appointed, engaged, authorised or requested to perform the functions and duties of the office or appointment.

## **12 Determinations—tabling and commencement**

- (1) A determination of the tribunal under section 9 or 10 shall—
  - (a) be in writing; and
  - (b) be presented to the Chief Minister.
- (2) The Chief Minister shall cause each determination presented to him or her under subsection (1) to be laid before the Legislative Assembly within 6 sitting days after the day on which he or she receives the determination.
- (3) A determination under section 9 or 10 shall come into operation on such day as the tribunal specifies for that purpose in the determination, being a day that is not more than 90 days after the day on which the determination is made.

## **13 Time of making determinations under ss 9 and 10**

The tribunal shall make determinations under sections 9 and 10 within 1 year after 21 December 1996 and at subsequent intervals of not more than 1 year.

## **14 Interim determinations**

- (1) If—
  - (a) no determination has been made under this Act; or
  - (b) the subsisting determinations make no provision for the remuneration and allowances to be paid, and other entitlements to be granted, to a person referred to in section 9 (1) or 10 (1);the Chief Minister may make an interim determination of the remuneration, allowances and entitlements of that person.

- (2) A determination under subsection (1) shall come into operation on the day the Chief Minister specifies for that purpose in the determination.
- (3) An interim determination under subsection (1) ceases to have effect on the coming into operation of a determination under section 9 (1) or 10 (1) that makes provision for the remuneration, allowances or entitlements of the person referred to in the interim determination.

## **15           Payment of remuneration and allowances**

- (1) Remuneration or allowances to which a subsisting determination applies shall—
  - (a) for remuneration or allowances payable to a person who is paid by a body established by or under a Territory law—be paid in accordance with the determination by that body; and
  - (b) in any other case—be paid in accordance with the determination out of the consolidated revenue fund.
- (2) The consolidated revenue fund is appropriated for subsection (1) (b).

## **Division 3.2           Procedure**

### **16           Conduct of inquiry**

In conducting an inquiry, the tribunal—

- (a) may inform itself in any manner it thinks fit; and
- (b) may receive written and oral statements; and
- (c) is not required to conduct an inquiry in a formal manner; and
- (d) is not bound by the rules of evidence.

### **17           Meetings of tribunal**

If the tribunal is constituted by more than 1 member—

- (a) the chairperson may convene meetings of the tribunal; and
- (b) the chairperson shall preside at all meetings of the tribunal at which he or she is present; and
- (c) if the chairperson is absent from a meeting—the members present shall elect 1 of their number to preside; and
- (d) at meetings of the tribunal—
  - (i) the tribunal may determine its own procedure; and
  - (ii) 2 members constitute a quorum; and
  - (iii) all questions shall be decided by a majority of votes of the members present and voting; and
  - (iv) the member presiding has a deliberative vote and, in the event of an equality of votes, a casting vote.

## Part 4 Miscellaneous

### 18 Arrangements for the use of staff or facilities

The tribunal may make arrangements with the chief executive of the Chief Minister's Department for the use of—

- (a) the services of public servants in that department; or
- (b) facilities of that department.

### 19 Engagement of consultants

- (1) The tribunal may engage persons having suitable qualifications and experience as consultants to, or to perform services for, the tribunal for this Act.
- (2) An engagement under subsection (1) shall be made—
  - (a) on behalf of the Territory; and
  - (b) in writing.

### 20 Determination of fees and allowances of members

- (1) The Chief Minister may, in writing, determine the fees and allowances payable to members.
- (2) A determination is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
cl = clause	pres = present
def = definition	prev = previous
dict = dictionary	(prev...) = previously
disallowed = disallowed by the Legislative Assembly	pt = part
div = division	r = rule/subrule
exp = expires/expired	reg = regulation/subregulation
Gaz = Gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

## Endnotes

3 Legislation history

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### 3 Legislation history

#### **Remuneration Tribunal Act 1995 No 55**

notified 20 December 1995 (Gaz 1995 No S313)  
s 1, s 2 commenced 20 December 1995 (s 2 (1))  
remainder commenced 21 December 1995 (s 2 (2) and Gaz 1995 No S315)

as amended by

#### **Land (Planning and Environment) (Amendment) Act (No 3) 1996 No 85 pt 3 div 8**

notified 24 December 1996 (Gaz 1996 No S345)  
s 1, s 2 commenced 24 December 1996 (s 2 (1))  
pt 3 div 8 commenced 24 June 1997 (s 2 (3))

#### **Community and Health Services Complaints (Amendment) Act 1997 No 50 sch 2**

notified 19 September 1997 (Gaz 1997 No S264)  
ss 1-3 commenced 19 September 1997 (s 2 (1))  
sch 2 commenced 3 October 1997 (s 2 (2) and Gaz 1997 No S288)

#### **Remuneration Tribunal (Amendment) Act 1998 No 3**

notified 5 May 1998 (Gaz 1998 No S120)  
commenced 21 February 1998 (s 2)

#### **Supreme Court (Amendment) Act (No 2) 1998 No 72 s 8**

notified 23 December 1998 (Gaz 1998 No S212)  
s 1, s 2 commenced 23 December 1998 (s 2 (1))  
s 8 commenced 23 December 1998 (s 2 (1))

#### **Legislation (Consequential Amendments) Act 2001 No 44 pt 331**

notified 26 July 2001 (Gaz 2001 No 30)  
s 1, s 2 commenced 26 July 2001 (IA s 10B)  
pt 331 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

#### **Supreme Court Amendment Act 2001 (No 2) 2001 No 54 sch 2 pt 2.6**

notified 15 August 2001 (Gaz 2001 No S57)  
s 1, s 2 commenced 15 August 2001 (IA s 10B)  
sch 2 pt 2.6 commenced 15 August 2001 (s 2)



**Planning and Land (Consequential Amendments) Act 2002 A2002-56 sch3 pt 3.14**

notified LR 20 December 2002

s 1, s 2 commenced 20 December 2002 (LA s 75 (1))

sch 3 pt 3.14 commenced 1 July 2003 (s 2 and see Planning and Land Act 2002 A2002-55, s 2)

**Emergencies Act 2004 A2004-28 pt 3.19**

notified LR 29 June 2004

s 1, s 2 commenced 29 June 2004 (LA s 75 (1))

pt 3.19 commenced 1 July 2004 (s 2 (1) and CN2004-11)

**4 Amendment history****Commencement**

s 2 om 2001 No 44 amdt 1.3629

**General**

div 3.1 hdg (prev pt 3 div 1 hdg) renum R3 LA

**Inquiries in relation to members of the Legislative Assembly**

s 9 am 1998 No 3 s 4

**Inquiries in relation to holders of certain offices**

s 10 am 1996 No 85 s 104; 1997 No 50 sch 2; 1998 No 72 s 8; 2001 No 44 amdt 1.3630; 2001 No 54 amdt 2.7, amdt 2.9; pars renum R3 LA (see 2001 No 54 amdt 2.8); A2002-56 amdt 3.49; pars renum R4 LA (see A2002-56 amdt 3.50); A2004-28 amdt 3.59; pars renum R5 LA (see A2004-28 amdt 3.60)

**Procedure**

div 3.2 hdg (prev pt 3 div 2 hdg) renum R3 LA

**Determination of fees and allowances of members**

s 20 sub 2001 No 44 amdt 1.3631

## Endnotes

5 Earlier republications

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### 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Act 1997 No 50	31 December 1997
2	Act 1998 No 72	31 March 1999
3	A2001-54	28 March 2002
4	A2002-56	1 July 2003

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