



Australian Capital Territory

Remuneration Tribunal Act 1995

A1995-55

Republication No 8

Effective: 1 January 2006 – 28 February 2006

Republication date: 1 January 2006

Last amendment made by A2005-60
(republication for amendments by A2005-52)

Not all amendments are in force: see last endnote

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 January 2006. It also includes any amendment, repeal or expiry affecting the republished law to 1 January 2006.

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):

- 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 does not include 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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R8
01/01/06

Remuneration Tribunal Act 1995
Effective: 01/01/06-28/02/06

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Australian Capital Territory

Remuneration Tribunal Act 1995

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

Part 1 Preliminary

1 Name of Act

This Act is the *Remuneration Tribunal Act 1995*.

2 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

3 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

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) If more than 1 member is appointed to the tribunal under section 4 (2), the Executive must 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 about members of Legislative Assembly

- (1) The tribunal must, 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 must, 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 because of their membership of the Legislative Assembly or because of their holding particular offices, or exercising 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 about holders of certain positions

- (1) The tribunal must inquire into, and determine, the remuneration, allowances and other entitlements of—
 - (a) the holders of the positions mentioned in schedule 1; and
 - (b) the holders of any other position or appointment notified in writing to the tribunal by the Chief Minister for this paragraph.
- (2) The tribunal is authorised under subsection (1) to inquire into, and determine, the remuneration, allowances and other entitlements of the Chief Justice or the President of the Court of Appeal only in relation to that position 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) An instrument under subsection (1) (b) is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.
- (4) An instrument under subsection (1) (b) must be notified under the Legislation Act within 14 days after the day the instrument is given to the tribunal.
- (5) The tribunal must inquire into, and determine, the remuneration, allowances and other entitlements of the commissioner for health complaints.
- (6) Subsection (5) and this subsection expire on the day the *Human Rights Commission Act 2005* commences.

11 Certain allowances and entitlements not to be granted

In making a determination under section 9 or section 10, the tribunal must 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 the office or appointment under—

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

- (b) the instrument by which the holder was appointed, engaged, authorised or requested to exercise the functions of the office or appointment.

12 Determinations—tabling and commencement

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

13 Time of making determinations under s 9 and s 10

The tribunal must make determinations under section 9 and section 10 within 1 year after 21 December 1996 and at subsequent intervals of not longer 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 mentioned in section 9 (1) or section 10 (1);

the Chief Minister may make an interim determination of the remuneration, allowances and entitlements of the person.

- (2) A determination under subsection (1) comes 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 section 10 (1) that makes provision for the remuneration, allowances or entitlements of the person mentioned in the interim determination.

15 Payment of remuneration and allowances

- (1) Remuneration or allowances to which a subsisting determination applies must—
 - (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 the 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 way it considers appropriate; and
- (b) may receive written and oral statements; and
- (c) is not required to conduct an inquiry in a formal way; 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 call meetings of the tribunal; and
- (b) the chairperson presides at all meetings of the tribunal at which the chairperson is present; and
- (c) if the chairperson is absent from a meeting—the members present must elect a member present to preside; and
- (d) at meetings of the tribunal—
 - (i) the tribunal may decide its own procedure; and
 - (ii) 2 members form a quorum; and
 - (iii) all questions are decided by a majority of votes of the members present and voting; and
 - (iv) the member presiding has a deliberative vote and, if the votes are equal, 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 people having suitable qualifications and experience as consultants to, or to perform services for, the tribunal for this Act.
- (2) An engagement under subsection (1) must 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.

Schedule 1 Positions to which Act applies

(see s 10)

Part 1.1 Judicial positions

- Chief Justice
- President of the Court of Appeal
- acting judge
- master of the Supreme Court
- Chief Magistrate
- magistrate

U Part 1.2 Other positions

- a member (including the chief executive officer) of the governing board of a territory authority, other than a member employed under the *Public Sector Management Act 1994*

Note For territory authorities with governing boards, see the *Financial Management Act 1996*, pt 9, note 1.

- assistant executive officer of the legal aid commission
- auditor-general
- chief executive
- chief executive officer of the legal aid commission
- children and young people commissioner
- clerk of the Legislative Assembly
- community advocate
- director of public prosecutions
- director of the Canberra Institute of Technology
- disability and community services commissioner
- discrimination commissioner
- electoral commissioner
- executive within the meaning of the *Public Sector Management Act 1994*
- health services commissioner
- human rights commissioner
- president of the human rights commission

Dictionary

(see s 2)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- Chief Justice
- Chief Minister
- Commonwealth
- Executive
- Territory
- writing.

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

holder, of an appointment, includes a person asked or authorised in writing to exercise functions, or provide services, either alone or together with someone else.

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).

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
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
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

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 sch 3 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)

Human Rights Commission Legislation Amendment Act 2005 A2005-41 sch 1 pt 1.12

notified LR 1 September 2005
s 1, s 2 commenced 1 September 2005 (LA s 75 (1))
sch 1 pt 1.12 commenced 2 September 2005 (s 2 (1))

Justice and Community Safety Legislation Amendment Act 2005 (No 3) A2005-43 sch 1 pt 1.10

notified LR 30 August 2005
s 1, s 2 commenced 30 August 2005 (LA s 75 (1))
sch 1 pt 1.10 commenced 2 September 2005 (s 2 (1) and see Human Rights Commission Legislation Amendment Act 2005 A2005-41 s 2 (1))

Public Advocate Act 2005 A2005-47 sch 1 pt 1.9

notified LR 2 September 2005
s 1, s 2 commenced 2 September 2005 (LA s 75 (1))
sch 1 pt 1.9 commences on the commencement of the Human Rights Commission (Children and Young People Commissioner) Amendment Act 2005 A2005-46 (s 2)

Financial Management Legislation Amendment Act 2005 A2005-52 sch 1 pt 1.19

notified LR 26 October 2005
s 1, s 2 commenced 26 October 2005 (LA s 75 (1))
sch 1 pt 1.19 commenced 1 January 2006 (s 2 (2))

Endnotes

4 Amendment history

Justice and Community Safety Legislation Amendment Act 2005 (No 4) A2005-60 sch 1 pt 1.22

notified LR 1 December 2005

s 1, s 2 taken to have commenced 23 November 2005 (LA s 75 (2))
sch 1 pt 1.22 commenced 22 December 2005 (s 2 (4))

4 Amendment history

Name of Act

s 1 sub A2005-41 amdt 1.123

Dictionary

s 2 om 2001 No 44 amdt 1.3629
ins A2005-60 amdt 1.121

Notes

s 3 defs reloc to dict A2005-60 amdt 1.22
sub A2005-60 amdt 1.123

General

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

Inquiries about members of Legislative Assembly

s 9 am 1998 No 3 s 4

Inquiries about holders of certain positions

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)
sub A2005-41 amdt 1.124
am A2005-43 amdt 1.28; ss renum R6 LA (see A2005-43 amdt
1.29)
(5), (6) exp on the day the Human Rights Commission Act
2005 A2005-40 commences (s 10 (6))

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

Positions to which Act applies

sch 1 ins A2005-41 amdt 1.125
am A2005-43 amdt 1.30; A2005-60 amdt 1.124; A2005-52
amdt 1.259; A2005-47 amdt 1.21, amdt 1.22

Dictionary

dict

ins A2005-60 amdt 1.125

def **determination** reloc from s 3 A2005-60 amdt 1.122def **holder** ins A2005-60 amdt 1.125def **inquiry** reloc from s 3 A2005-60 amdt 1.122def **member** reloc from s 3 A2005-60 amdt 1.122def **tribunal** reloc from s 3 A2005-60 amdt 1.122**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. 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
5	A2004-28	1 July 2004
6	A2005-43	2 September 2005
7	A2005-60	22 December 2005

Endnotes

6 Uncommenced amendments

6 Uncommenced amendments

The following amendments have not been included in this republication because they were uncommenced at the republication date:

Public Advocate Act 2005 A2005-47 sch 1 pt 1.9

Part 1.9 Remuneration Tribunal Act 1995

[1.21] Schedule 1, part 1.2

omit

- community advocate

[1.22] Schedule 1, part 1.2

insert

- public advocate

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