



Australian Capital Territory

Remuneration Tribunal Act 1995

A1995-55

Republication No 17

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Last amendment made by A2010-29

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 28 February 2011. It also includes any commencement, amendment, repeal or expiry affecting the republished law to 28 February 2011.

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

At the republication date, the value of a penalty unit for an offence against this law is \$110 for an individual and \$550 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

Remuneration Tribunal Act 1995

Contents

	Page
Part 1	Preliminary
1	Name of Act 2
2	Dictionary 2
3	Notes 2
Part 2	Remuneration tribunal
4	Establishment 3
5	Members 3
6	Fees and allowances 3
7	Resignation 3
8	Termination of appointment 4

	Page	
Part 3	Inquiries and determinations	
Division 3.1	General	
9	Inquiries about members of Legislative Assembly	5
10	Inquiries about holders of certain positions	6
11	Determinations subject to law etc	6
12	Determinations—tabling and commencement	7
13	Time of making determinations under s 9 and s 10	7
14	Interim determinations	7
15	Payment of remuneration and allowances	8
Division 3.2	Procedure	
16	Conduct of inquiry	8
17	Meetings of tribunal	9
Part 4	Miscellaneous	
18	Arrangements for the use of staff or facilities	10
19	Engagement of consultants	10
20	Determination of fees and allowances of members	10
Schedule 1	Positions to which Act applies	11
Part 1.1	Judicial positions	11
Part 1.2	Other positions	12
Dictionary		13
Endnotes		
1	About the endnotes	14
2	Abbreviation key	14
3	Legislation history	15
4	Amendment history	18
5	Earlier republications	19



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.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

- (3) An appointment must be for a term of not longer than 5 years.

Note A person may be reappointed to a position if the person is eligible to be appointed to the position (see Legislation Act, s 208 and dict, pt 1, def *appoint*).

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.

11 Determinations subject to law etc

- (1) 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 under a territory law or a law of the Commonwealth.
- (2) A determination under section 9 or section 10 has effect in relation to the holder of an office, position or appointment subject to—
 - (a) any territory law or law of the Commonwealth; and

- (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

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.

- a member of the University of Canberra council appointed under the *University of Canberra Act 1989*, section 11 (1) (d)
- a presidential member of the ACAT
- a non-presidential member of the ACAT, other than an assessor
- 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
- 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
- public advocate
- victims of crime commissioner

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:

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

assessor, of the ACAT—see the *ACT Civil and Administrative Tribunal Act 2008*, dictionary.

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.

non-presidential member, of the ACAT—see the *ACT Civil and Administrative Tribunal Act 2008*, dictionary.

presidential member, of the ACAT—see the *ACT Civil and Administrative Tribunal Act 2008*, dictionary.

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

Endnotes

1 About the endnotes

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

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

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)

Endnotes

3 Legislation history

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 (as am by A2006-3
amdt 1.8)**

notified LR 2 September 2005
s 1, s 2 commenced 2 September 2005 (LA s 75 (1))
sch 1 pt 1.9 commenced 1 March 2006 (s 2 (1) as am by A2006-3
amdt 1.8)

**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))

**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))

**Human Rights Commission Legislation Amendment Act 2006 A2006-3
amdt 1.8**

notified LR 22 February 2006

s 1, s 2 commenced 22 February 2006 (LA s 75 (1))
amdt 1.8 commenced 23 February 2006 (s 2)

Note This Act only amends the Public Advocate Act 2005 A2005-47

Remuneration Tribunal Amendment Act 2006 A2006-35

notified LR 30 August 2006

s 1, s 2 commenced 30 August 2006 (LA s 75 (1))
remainder commenced 31 August 2006 (s 2)

University of Canberra Amendment Act 2006 A2006-56 s 13

notified LR 18 December 2006

s 1, s 2 commenced 18 December 2006 (LA s 75 (1))
s 13 commenced 19 December 2006 (s 2)

Statute Law Amendment Act 2008 A2008-28 sch 3 pt 3.49

notified LR 12 August 2008

s 1, s 2 commenced 12 August 2008 (LA s 75 (1))
sch 3 pt 3.49 commenced 26 August 2008 (s 2)

**ACT Civil and Administrative Tribunal Legislation Amendment
Act 2008 A2008-36 sch 1 pt 1.43**

notified LR 4 September 2008

s 1, s 2 commenced 4 September 2008 (LA s 75 (1))
sch 1 pt 1.43 commenced 17 October 2008 (s 2 (6) and DI2008-263)

**Justice and Community Safety Legislation Amendment Act 2009
(No 2) A2009-19 pt 14**

notified LR 1 September 2009

s 1, s 2 commenced 1 September 2009 (LA s 75 (1))
pt 14 commenced 29 September 2009 (s 2)

Endnotes

4 Amendment history

Victims of Crime Amendment Act 2010 A2010-29 sch 1 pt 1.2

notified LR 31 August 2010

s 1, s 2 commenced 31 August 2010 (LA s 75 (1))

sch 1 pt 1.2 commenced 28 February 2011 (s 2 and LA s 79)

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

Establishment

s 4 am A2008-28 amdt 3.146, amdt 3.147

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 1 November 2006 (s 10 (6))

Determinations subject to law etc

s 11 sub A2006-35 s 4
(3)-(6) exp 31 August 2007 (s 11 (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; A2006-56 s 13;
 A2008-36 amdt 1.580; A2009-19 s 64; A2010-29 amdt 1.2

Dictionary

dict ins A2005-60 amdt 1.125
 am A2008-36 amdt 1.581
 def **assessor** ins A2008-36 amdt 1.582
 def **determination** reloc from s 3 A2005-60 amdt 1.122
 def **holder** ins A2005-60 amdt 1.125
 def **inquiry** reloc from s 3 A2005-60 amdt 1.122
 def **member** reloc from s 3 A2005-60 amdt 1.122
 def **non-presidential member** ins A2008-36 amdt 1.582
 def **presidential member** ins A2008-36 amdt 1.582
 def **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	A1997-50	31 December 1997
2	A1998-72	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
8	A2005-60	1 January 2006
9	A2006-3	1 March 2006
10	A2006-35	31 August 2006

Endnotes

5 Earlier republications

Republication No	Amendments to	Republication date
11	A2006-35	2 November 2006
12	A2006-56	19 December 2006
13	A2006-56	1 September 2007
14	A2008-28	26 August 2008
15	A2008-36	17 October 2008
16	A2009-19	29 September 2009

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