

1995

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Chief Minister)

Remuneration Tribunal Bill 1995

A BILL

FOR

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

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART I—PRELIMINARY

Short title

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

Commencement

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

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(2) The remaining provisions commence on a day fixed by the Minister by notice in the *Gazette*.

5 (3) If the provisions referred to in subsection (2) have not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, those provisions, by force of this subsection, commence on the first day after the end of that period.

Interpretation

3. (1) In this Act, unless the contrary intention appears—

“determination” means a determination under section 9, 10 or 14;

10 “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 subsection 4 (1).

15 (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 II—REMUNERATION TRIBUNAL

20 Establishment

4. (1) The Remuneration Tribunal is established.

(2) The Tribunal shall consist of not more than 3 members appointed by the Executive.

25 (3) Subject to this Act, a member holds office for such period not exceeding 5 years as is specified in the instrument of his or her appointment, but is eligible for reappointment.

Members

5. (1) The Tribunal may be constituted by the appointment of 1 member.

30 (2) Where more than 1 member is appointed to the Tribunal under subsection 4 (2), the Executive shall appoint a member to be the Chairperson of the Tribunal.

Fees and allowances

6. A member shall be paid such fees and allowances as are determined under section 20.

Resignation

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

Termination of appointment

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

PART III—INQUIRIES AND DETERMINATIONS

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Division 1—General**Inquiries in relation to members of the Legislative Assembly**

9. (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—

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- (a) the Chief Minister;
- (b) a Deputy Chief Minister; and
- (c) other Ministers.

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(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.

Inquiries in relation to holders of certain offices

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10. (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—

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- (a) the Chief Justice of the Supreme Court;
- (b) a Judge of the Supreme Court;
- (c) the Master of the Supreme Court;
- (d) the Chief Magistrate;
- (e) a magistrate;

- (f) the Clerk of the Legislative Assembly;
- (g) the Director of Public Prosecutions;
- (h) the Auditor-General;
- (j) a Chief Executive;
- 5 (k) a person who is an Executive within the meaning of the *Public Sector Management Act 1994*;
- (m) the Director of the Canberra Institute of Technology;
- (n) the Commissioner for Health Complaints;
- (p) the Fire Commissioner;
- 10 (q) the Chief Planner;
- (r) the Electoral Commissioner;
- (s) the Chief Executive of the Legal Aid Commission (A.C.T.);
- (t) an Assistant Executive Officer of the Legal Aid Commission (A.C.T.);
- 15 (u) the Community Advocate; and
- (w) the holder of any other office or appointment that is—
 - (i) specified for the purposes of this paragraph; or
 - (ii) included in a class of offices or appointments specified for the purposes of this paragraph;
- 20 in an instrument given to the Tribunal by the Chief Minister.

(2) The Tribunal shall not make a determination under subsection (1) in respect of a person referred to in paragraph (1) (a) or (b) who is a Judge of the Federal Court of Australia.

25 (3) If the Chief Justice of the Supreme Court is also a Judge of the Federal Court of Australia, 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 him or her in respect of the first-mentioned office in addition to the remuneration, allowances and entitlements payable or due to him or her as a Judge of the
30 Federal Court of Australia.

(4) The Chief Minister shall, within 14 days after the day on which an instrument is given to the Tribunal under paragraph (1) (w), cause notice of the instrument having been given to be published in the *Gazette*.

Certain allowances and entitlements not to be granted

5 11. 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—

- 10 (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.

Determinations—tabling and commencement

12. (1) A determination of the Tribunal under section 9 or 10 shall—

- (a) be in writing; and
(b) be presented to the Chief Minister.

15 (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.

20 (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.

Time of making determinations under sections 9 and 10

25 13. The Tribunal shall make determinations under sections 9 and 10 within 1 year after the day fixed for the purposes of subsection 2 (2) and at subsequent intervals of not more than 1 year.

Interim determinations

14. (1) Where—

- 30 (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 subsection 9 (1) or 10 (1);

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

35 (2) A determination under subsection (1) shall come into operation on such day as the Chief Minister specifies for that purpose in the determination.

(3) An interim determination under subsection (1) ceases to have effect upon the coming into operation of a determination under subsection 9 (1) or 10 (1) that makes provision for the remuneration, allowances or entitlements of the person referred to in the interim determination.

5 **Payment of remuneration and allowances**

15 **15. (1)** Remuneration or allowances to which a subsisting determination applies shall—

- 10 (a) in the case of remuneration or allowances payable to a person who is paid by a body established by or under a law of the Territory—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 the purposes of paragraph (1) (b).

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Division 2—Procedure

Conduct of inquiry

16. In conducting an inquiry, the Tribunal—

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

Meetings of Tribunal

17. If the Tribunal is constituted by more than 1 member—

- (a) the Chairperson may convene meetings of the Tribunal;
- 25 (b) the Chairperson shall preside at all meetings of the Tribunal at which he or she is present;
- (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—
- 30 (i) the Tribunal may determine its own procedure;
- (ii) 2 members constitute a quorum;
- (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 IV—MISCELLANEOUS

Arrangements for the use of staff or facilities

5 18. 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.

Engagement of consultants

10 19. (1) The Tribunal may engage persons having suitable qualifications and experience as consultants to, or to perform services for, the Tribunal for the purposes of this Act.

(2) An engagement under subsection (1) shall be made—

- (a) on behalf of the Territory; and
- 15 (b) in writing.

Determination of members fees and allowances

20. (1) The Chief Minister may, by instrument, determine the fees and allowances payable to a member in respect of the performance of his or her functions under this Act.

20 (2) A determination under subsection (1) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.