

AUSTRALIAN CAPITAL TERRITORY

ADMINISTRATIVE APPEALS TRIBUNAL ACT 1989

DETERMINATION OF WITNESSES' FEES AND ALLOWANCES FOR EXPENSES IN THE ADMINISTRATIVE APPEALS TRIBUNAL

NO. 37 OF 1994

EXPLANATORY STATEMENT

Subsection 59(1) of the *Administrative Appeals Tribunal Act 1989* (the Act) provides that a person summoned to appear as a witness before the Administrative Appeals Tribunal (the Tribunal) is entitled to be paid fees, and allowances for expenses, fixed by or in accordance with a determination of the Minister published in the *Gazette* in respect of his or her attendance.

This Determination revokes the present determination of witnesses' fees and allowances for expenses with effect from 1 July 1994 and determines new fees and allowances to commence on that date.

The fees and allowances are paid in respect of a person's attendance before the Tribunal. This Determination allows the Tribunal or a presidential member of the Tribunal to determine the fees and allowances to be paid to a witness in accordance with the scale of witnesses' fees and allowances for expenses applicable in the Commonwealth's Administrative Appeals Tribunal. At present, the fees are determined in accordance with the Schedule to the present determination which is as follows.

"1. A witness appearing before the Administrative Appeals Tribunal because of his or her professional, scientific or other special skill or knowledge shall be paid an allowance of not less than \$45.00 nor more than \$225.00 for each day on which he or she so appears.

2. A witness, other than a witness referred to in item 1, appearing before the Tribunal shall be paid -

(a) if he or she is remunerated by wages, salary or fees -

(i) an allowance equal to the amount of wages, salary or fees lost by him or her because of the appearance; or

(ii) an allowance of \$50 00 for each day on which he or she so appears;

whichever is the lesser; or

(b) if he or she is not so remunerated - an allowance of \$25.00 for each day on which he or she so appears.

3. A witness appearing before the Tribunal to give expert evidence shall be paid, in addition to any other allowance payable under item 1 or 2, a reasonable amount for qualifying to give that evidence.

4. A witness appearing before the Tribunal to give evidence shall be paid a reasonable amount -

(a) in respect of his or her transport to and from the place at which he or she so attends; and

(b) if he or she is required to be absent overnight from his or her usual place of residence, for meals and accommodation."

The scale presently applying in the Commonwealth's Administrative Appeals Tribunal is as follows:

"1 A person summoned to appear as a witness, because of his or her professional, scientific or other special skill or knowledge, before the Tribunal must be paid:

(a) if the person is remunerated in his or her occupation by wages, salary or fees - an amount equal to the amount of wages, salary or fees not paid to the person because of his or her attendance for that purpose; and

(b) in any other case - an amount of not less than \$95, or more than \$475, for each day on which he or she so attends.

2. A person summoned to appear as a witness, other than a witness referred to in item 1, before the Tribunal must be paid:

(a) if the person is remunerated in his or her occupation by wages, salary or fees - an amount equal to the amount of wages, salary or fees not paid to the person because of his or her attendance for that purpose; and

(b) in any other case - an amount of not less than \$54, or more than \$89, for each day on which he or she so attends.

3. A person summoned to appear as a witness before the Tribunal must be paid a reasonable amount for allowances for:

(a) transport between the usual place of residence of the person and the place that he or she attends for that purpose; and

(b) if he or she is required to be absent overnight from his or her usual place of residence - meals and accommodation."

While application of the Commonwealth scale may result in higher daily amounts being paid for attendance before the Tribunal, it introduces a criterion, in respect of expert witnesses, that wages, salary or fees otherwise payable to such persons because of their occupation must, in fact, not have been paid in order for a daily fee to be payable in respect of the attendance. The new scale does not incorporate an allowance for qualifying to give expert evidence

Revenue/cost implications

Parties (including Territory agencies) will have to pay an increased amount in respect of witnesses' attendances. The additional cost to the Territory, however, is not expected to be substantial.

Circulated by authority of
Terry Connolly
Attorney General