



REMUNERATION TRIBUNAL

Determination 2017/09: Judicial and Related Offices – Remuneration and Allowances

As amended

Made under sub-section 7(3), 7(4) and 7(4B) of the *Remuneration Tribunal Act 1973*.

Consolidated by the Remuneration Tribunal Secretariat as at 19 April 2018 and incorporates amending determinations up to and including 2018/03 – Remuneration and Allowances for Holders of Public Office and Judicial and Related Offices.

Compilation No. 7

This Determination governs remuneration and allowances for the offices specified in Tables 1, 2A, 2B, 3 and 4.

Contents

PART 1 – GENERAL, RELATING TO OFFICES IN ALL TABLES	1
PART 2 – REMUNERATION AND RELATED MATTERS	2
PART 3 – OFFICIAL TRAVEL AND RELATED MATTERS	9
PART 4 – COMMONWEALTH PROVIDED VEHICLES AND REIMBURSEMENT OF PRIVATE VEHICLE RUNNING COSTS FOR JUDGES.....	9
PART 5 – PROVISIONS FOR OFFICES ON TOTAL REMUNERATION	11
PART 6 – TRANSITIONAL ARRANGEMENTS FOR AAT MEMBERS COVERED BY SCHEDULE 9 OF THE TRIBUNALS AMALGAMATION ACT 2015 (the Amending Act)	15

PART 1 – GENERAL, RELATING TO OFFICES IN ALL TABLES

- 1.1 Authority:** This Determination is issued pursuant to the *Remuneration Tribunal Act 1973*, sub-sections 7(3), 7(4) and 7(4B).
- 1.2 Effect of this determination:** This Determination commences on 1 July 2017 except where specified otherwise. It supersedes and revokes in full Determination 2016/17 (as amended) – *Judicial and Related Offices – Remuneration and Allowances*.
- 1.2.1** Subject to Clause 1.2.2, this Determination sets a base level of remuneration and benefits for office holders. Other authorities may prescribe additional remuneration and/or benefits under, for example:
- (i) general Commonwealth laws concerned with employment;
 - (ii) the specific Commonwealth Act that establishes an office (if any); and/or
 - (iii) the Constitution, which grants certain executive powers to the Governor-General and to Ministers of State.

1.2.2 Clause 1.2.1 does not apply to office holders paid under Part 5 (see Clause 5.2), whose offices are listed in Table 3. This clause does not affect the application of the remainder of Parts 1-4 of this Determination to all office holders.

1.3 Administration: In administering this Determination, authorities:

- (i) shall pay the annual benefits specified in proportion (*pro rata*) to the office holder's period of service during that year;
- (ii) may issue procedural instructions to assist in the implementation of this Determination;
- (iii) may elect to apply the same instructions as they do for employees, except where those instructions are not in accordance with this Determination. This includes the utilisation of agency policies or procedures in relation to the administration of recreation leave.

PART 2 – REMUNERATION AND RELATED MATTERS

2.1 Base Salary: A person who holds a full-time office specified in Table 1 or Table 2A shall be paid the Base Salary specified in Table 1 or Table 2A.

2.2 Additional Allowances: A Judge who also holds any of the following part-time offices shall be provided with an additional expense allowance of \$2,326 a year commencing on 1 July 2017:

- (i) Aboriginal Land Commissioner;
- (ii) Chairman of the Australian Electoral Commission;
- (iii) Chief Judge of the Supreme Court of Norfolk Island; and
- (iv) other offices as specified in Table 1.

2.3 Remuneration of part-time office: Notwithstanding any other provision of this Determination, a person who holds office on a part-time basis, other than a member of the National Native Title Tribunal or the Administrative Appeals Tribunal (AAT):

- (i) may not be paid more than the base salary of the equivalent full-time office (if any) in respect of any financial year; and
- (ii) is deemed to hold a full-time office in that year for the purposes of entitlements, other than separation benefits and salary packaging, if paid an amount equal to the base salary of the equivalent full-time office in any given financial year.

2.3.1 Remuneration of Part-Time NNTT Members: Notwithstanding any other provision of this Determination, a person who holds office as a member of the National Native Title Tribunal on a part-time basis:

- (i) may not be paid more than the amount calculated as the Total Remuneration of the equivalent full-time office less 15.4 per cent of the full-time office's Base Salary, in respect of any financial year; and
- (ii) is deemed to hold a full-time office in that year for the purposes of entitlements, other than separation benefits and salary packaging, if paid an amount equal to the amount calculated under 2.3.1 (i) in any given financial year.

2.4 Use of specified rates for part-time office: The appropriate authority may elect to pay a person who holds office on a part-time basis a proportion of the base salary of the equivalent full-time office specified in Table 2A (if any), in accordance with the hours worked, subject to a cap of 12 hours pay in any one day. Otherwise, the office holder shall be paid the daily fee specified in Table 2A. The proportion of base salary of the equivalent full-time office (hourly rate) will be ascertained by applying the following formula:

$$\frac{\text{Base Salary}}{313} \times \frac{6}{36.75} = \text{Hourly Rate.}$$

2.5 Payment of daily fees: A person who holds a part-time office specified in Table 2A is entitled to be paid the daily fee specified in Table 2A (unless paid under clause 2.4 or 2.6). A person who is eligible to receive a daily fee may not be paid more than one daily fee in respect of any one calendar day.

2.5.1 Where a day includes a formal meeting of the authority and official business (including reasonable preparation time and reasonable travel time other than travel between the person's home and principal place of work) and is of:

- (i) three or more hours duration – the full daily fee is payable;
- (ii) two or more (but less than three) hours duration – three-fifths of the daily fee is payable;
- (iii) less than two hours duration – two-fifths of the daily fee is payable.

2.5.2 On another day or days, where official business is of at least five hours duration in aggregate – a daily fee is payable.

2.5.3 The appropriate authority must certify the nature and duration of work undertaken prior to any payment of fees to a person who holds office on a part-time basis.

2.5.4 Payment of daily fees to Part-Time AAT Members: The provisions of this clause apply, (and clauses 2.5.1-2.5.3 do not apply) in relation to a person who holds office as a member of the AAT on a part-time basis, other than those members to whom clause 2.6 applies.

- (i) A daily fee is payable once such a person has undertaken official business of seven hours duration in aggregate, regardless of the day or days on which that work is done.
- (ii) The nature, reasonableness and duration of official business shall be reviewed prior to payment of fees, according to governance arrangements established by the President of the AAT.
- (iii) Official business may include a hearing, preparation for a hearing, reading submissions, decision writing and travel time other than for travel between the person's home and principal place of work.

2.5.5 Australian Competition Tribunal: Clause 2.5.2 does not apply to Members of the Australian Competition Tribunal who are paid by way of daily fees. Such Members are entitled to payment for the period for which they undertake official business of the Tribunal on non-sitting days on the following basis:

- (i) where an office holder is engaged on "business of the authority", a full daily fee is paid where the member is engaged for at least 5 hours. A Member is not paid any higher fee for more than 5 hours and any extra time cannot be carried over;

- (ii) where an office holder is engaged on "business of the authority" for less than 5 hours on a day, subject to (i) above that period may be aggregated with other periods of less than 5 hours on other days. For each multiple of 5 aggregated hours a daily fee is payable.

2.6 Payment of annual fees to AAT members: AAT members identified in clause 2.6.1 or 2.6.2 will, for the period that the provisions of clause 2.6.1 or 2.6.2 apply to them, be paid an annual fee in accordance with Table 2B. Neither clause 2.4 nor 2.5 applies to a member for the period that clause 2.6 applies. The annual fee payable to a member, as specified in the cell of Table 2B relevant to the member's office and work pattern, is payable on a periodic basis throughout each year and covers all activities undertaken by the member in performing the duties of their office. Part years are paid on a proportionate basis.

2.6.1 A person who holds office as a member of the AAT on a part-time basis and who is subject to a direction under section 18A of the *Administrative Appeals Tribunal Act 1975* by the President of the AAT to work a specified number of days each week for a continuous period of 12 months or more; or

2.6.2 A person who holds office as a member of the AAT on a part-time basis and who is subject to a direction under section 18A of the *Administrative Appeals Tribunal Act 1975* by the President of the AAT to work a specified number of days each week for a period of less than 12 months if that period ends on the day that the person's appointment as a part-time member expires.

2.7 Leave: A person who holds an office other than that of a Judge shall be entitled to the following types and amounts of leave of absence:

- (i) any unused leave credits accrued previously, including under Determination 2012/11 – *Recreation Leave for Full-Time Holders of Relevant Offices*;
- (ii) if a full-time office holder:
 - (a) the public holidays observed by the Australian Public Service in the location in which the office is based;
 - (b) paid recreation leave of four weeks per year of service, accruing on a pro rata basis;
- (iii) other paid and unpaid leave, including sick and carers' leave, at the discretion of the Commonwealth.

2.7.1 A person who holds an office other than that of a Judge:

- (i) may elect to take recreation leave on a half-pay basis and/or to cash out up to one week's recreation leave per financial year; and
- (ii) shall be paid the balance of their recreation leave on leaving office calculated using the office holder's base salary, or, in the case of office holders included in Part 5 of this Determination, in accordance with clause 5.8.

2.8 Separation benefits: The separation benefits of an office holder other than a Judge are to be determined in accordance with the following sub-clauses.

2.8.1 There is no entitlement to separation benefits under Clause 2.8.3 where:

- (i) the person served the full term of appointment;
- (ii) the person was appointed on a part-time basis and is paid in accordance with clause 2.4, 2.5 or 2.6;
- (iii) the appointment was terminated prematurely for reasons of misbehaviour or unsatisfactory performance; or
- (iv) the appointment was terminated prematurely on account of mental or physical incapacity; or

- (v) the person resigns or retires; or
- (vi) the person's appointment was terminated prematurely because the person became bankrupt, applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounded with his or her creditors, or made an assignment of his or her remuneration for the benefit of his or her creditors.

2.8.2 Subject to Clause 2.8.1, where a person's appointment to a public office is terminated prematurely, the Commonwealth may elect to offer suitable alternative employment (including in a Commonwealth company or authority).

2.8.2.1 For the purposes of Clause 2.8.2 an offer of suitable alternative employment is taken to have been made to the person if the person is on leave without pay or some other form of authorised absence from APS employment and is able to resume that employment following the termination of their appointment.

2.8.3 Where the Commonwealth does not offer alternative employment under Clause 2.8.2, the Commonwealth will pay the office holder one-third of one month's base salary, or Reference Salary in the case of an office holder remunerated under Part 5, per month of service remaining, in lieu of obligations such as provision of notice or payment instead of notice or redundancy pay and subject to:

- (i) a minimum payment of four month's base salary or Reference Salary; and
- (ii) a maximum payment of one year's base salary or Reference Salary.

2.8.4 Under Clause 2.8.3, the Commonwealth may calculate service remaining by excluding any period of Commonwealth service in alternative employment to be performed during the remaining term of the appointment where the alternative employment commenced immediately after the termination. The Commonwealth may require an office holder to sign a release in return for the payment.

2.8.5 For the purposes of calculating a separation benefit under Clause 2.8.3 in respect of a part-time office holder:

- (i) the reference in Clause 2.8.3 to base salary shall be understood as a reference only to the applicable annual base salary, or Reference Salary in the case of an office holder remunerated under Part 5, and not to include daily fees;
- (ii) the applicable annual base salary, or Reference Salary in the case of an office holder remunerated under Part 5, shall be notionally converted to a monthly figure by dividing it by 12; and
- (iii) no account shall be taken of any period of potential future service in respect of which the office holder has already been, or is to be, paid the applicable base salary or Reference Salary in the case of an office holder remunerated under Part 5.

2.8A Recreation leave for Judges of the Federal Circuit Court: Subject to Clause 2.9, the recreation leave entitlements of a Judge of the Federal Circuit Court are to be determined in accordance with the following sub-clauses.

2.8A.1 The Judge shall:

- (i) for the year in which the Judge was appointed—be entitled to paid recreation leave, accruing at the time of the Judge's appointment, of the number of weeks calculated in accordance with the following formula:

$$\frac{\left(\begin{array}{l} \text{number of days in the year of appointment} \\ \text{for which the Judge will be appointed} \end{array} \right)}{\left(\text{number of days in the year of appointment} \right)} \times 6 \text{ weeks}$$

- (ii) for each other year-be entitled to six weeks of paid recreation leave accruing on 1 January of that year; and
- (iii) be paid on leaving office as though the Judge were then to take the balance of the recreation leave to which they were entitled.

2.8A.2 Recreation leave must be taken in the year in which it accrued: The Judge is entitled to the recreation referred to in paragraphs 2.8A.1(i) and (ii) only in the year in which the leave accrued.

2.9 Transitional provisions for recreation leave for Judges of the Federal Circuit Court appointed before 1 January 2018: Subject to Clause 2.9A, Judges of the Federal Circuit Court who were appointed before 1 January 2018 shall:

- (i) be entitled to paid recreation leave of four weeks per year of service accruing on 1 January each year;
- (ii) be paid on leaving office as though they were then to take the balance of their recreation leave;
- (iii) be eligible to cash out part of their recreation leave credits providing they:
 - (a) have accrued in excess of four weeks' recreation leave;
 - (b) take an amount of leave equal to or greater than that cashed out; and
 - (c) cash out a maximum of two weeks' recreation leave in any year;
- (iv) be eligible to elect to purchase one, two, three or four weeks' additional leave per year. Judges of the Federal Circuit Court will have an amount deducted from their annual salary, dependent on the amount of leave purchased and their salary, which will be reflected in their regular salary payments. Purchased leave counts as service for all purposes.

2.9A Election by Judges of the Federal Circuit Court appointed before 1 January 2018 to be covered by new arrangements: The following sub-clauses apply to a Judge of the Federal Circuit Court who was appointed before 1 January 2018:

2.9A.1 Election to be covered by new recreation leave arrangements: At any time, the Judge may elect to be covered by the recreation leave arrangements set out in Clause 2.8A instead of the arrangements set out in Clause 2.9.

2.9A.2 The election takes effect on the 1 January following the election.

2.9A.3 After the election takes effect, Clause 2.8A applies to the Judge.

2.9A.4 The Judge retains the balance of his or her recreation leave that had accrued immediately before the election took effect, but, subject to sub-clause 2.9A.8, is entitled to this balance only in accordance with paragraph 2.8A.1(iii).

2.9A.5 Revocation of election: At any time, the Judge may revoke the election under sub-clause 2.9A.1.

2.9A.6 The revocation takes effect on the 1 January following the revocation.

2.9A.7 After the revocation takes effect, Clause 2.9 applies to the Judge.

2.9A.8 The Judge retains the balance of his or her recreation leave mentioned in sub-clause 2.9A.4, and is entitled to this balance in accordance with Clause 2.9.

2.9A.9 No further election: The Judge may make only one election in accordance with sub-clause 2.9A.1.

2.10 Salary packaging: A full-time office holder, including a Judge of the Federal Circuit Court, but otherwise excluding Judges, may elect to take benefits in lieu of base salary but must take at least 50 per cent of their base salary as salary except where policies and procedures on salary packaging of the administering agency provide otherwise.

2.10.1 A part-time office holder, other than a Judge, may elect to take benefits in lieu of her or his part-time office fee or a combination of part-time office fee and benefits, where this is in accordance with agency policies and procedures on salary packaging.

2.10.2 Any election to salary package in accordance with this section must be consistent with relevant taxation laws and rulings or guidelines applicable to salary packaging schemes issued by the Australian Taxation Office.

2.10.3 Any election to salary package in accordance with this section must not result in cost to the Commonwealth (including in relation to any fringe benefits taxation) additional to the cost which would be incurred if benefits able to be taken as salary were taken as salary.

Table 1 RATES OF REMUNERATION – JUDICIAL OFFICES

Commencing on 1 July 2017

Column 1	Column 2	Column 3	Column 4	Column 5
Authority	Office	Full-Time Office Base Salary	Part-Time Office Daily Fee	Travel Tier
High Court of Australia	Chief Justice	\$584,520	-	1
	Justice	\$530,440	-	1
Federal Court of Australia	Chief Justice	\$494,980	-	1
	Judge	\$449,840	-	1
Family Court of Australia	Chief Justice	\$494,980	-	1
	Deputy Chief Justice	\$463,130	-	1
	Judge (including Judges assigned to the appeal division, Judge administrators and senior Judges)	\$449,840	-	1
Federal Circuit Court of Australia	Chief Judge	\$449,840	-	1
	Judge	\$379,630	-	1
Copyright Tribunal	President ⁽¹⁾	\$449,840	-	1
	Deputy President (Judicial)	-	-	1
Australian Competition Tribunal	President ⁽¹⁾	\$449,840	-	1
Australian Law Reform Commission	President (Judicial)	\$449,840	-	1
Administrative Appeals Tribunal	President ⁽¹⁾	\$449,840	-	1
National Native Title Tribunal	President (Judicial)	\$449,840	-	1
Defence Force Discipline Appeal Tribunal	President	-	-	-

⁽¹⁾ An expense of office allowance of \$2,326 a year is payable to a sitting Judge who also holds this office on a part-time basis.

Table 2A Full-Time Salary and Part-Time Daily Fees – Non-Judicial Offices

Commencing on 1 July 2017

Column 1	Column 2	Column 3	Column 4	Column 5
Authority	Office	Full-Time Office Base Salary	Part-Time Office Daily Fee	Travel Tier
Federal Court of Australia	Assessor (Part-time)	-	\$983	1
Copyright Tribunal	Deputy President (non-Judicial) ⁽¹⁾	-	\$1,059	1
	Member ⁽¹⁾	-	\$1,059	1
Australian Competition Tribunal	Member ⁽²⁾	-	\$983	1
Australian Law Reform Commission	Member (Part-time)	-	\$983	1
Administrative Appeals Tribunal	Deputy President ^{(4) (5)}	<i>(see table 3)</i>	\$1,873	1
	Senior member (level 1) ^{(4) (5)}	<i>(see table 3)</i>	\$1,561	2
	Senior member (level 2) ^{(4) (5)}	<i>(see table 3)</i>	\$1,328	2
	Member (level 1) ^{(4) (5)}	<i>(see table 3)</i>	\$1,041	2
	Member (level 2) ^{(4) (5)}	<i>(see table 3)</i>	\$911	2
	Member (level 3) ^{(4) (5)}	<i>(see table 3)</i>	\$781	2
National Native Title Tribunal	Deputy President ⁽¹⁾	<i>(see table 3)</i>	\$1,393	1
	Member ⁽¹⁾	<i>(see table 3)</i>	\$1,022	1
Defence Force Discipline Appeal Tribunal	Member	-	\$841	1
Australian Security Intelligence Organisation	Prescribed Authority	-	\$1,484	1

(1) For part-time office holders a minimum annual payment of ten times the daily fee applies, whether the office holder receives a fee based on daily rates or on hourly rates (under 2.4).

(2) For part-time office holders an additional annual payment of \$23,520 a year applies.

(3) For part-time office holders an additional annual payment of \$23,520 a year applies.

(4) In addition to fees specified a part-time member shall be paid a cancellation fee equivalent to 50 per cent of one day's fee where all of a day's work is cancelled with fewer than 5 working days' notice (this includes the circumstance where a hearing does not proceed on a day on which a member has attended).

(5) For part-time office holders a minimum annual payment of five times the daily fee applies, whether the office holder receives a fee based on daily rates or hourly rates (under 2.4), subject to certification by the President that work was not available.

Table 2B

ANNUAL FEES – PART-TIME NON – JUDICIAL OFFICES

Commencing on 1 July 2017

Column 1	Column 2	Column 3	Column 4	Column 5
Office in Administrative Appeals Tribunal	1 day per week	2 days per week	3 days per week	4 days per week
Deputy President	\$81,140	\$162,280	\$243,420	\$324,560
Senior member (level 1)	\$64,050	\$128,100	\$192,150	\$256,200
Senior member (level 2)	\$53,910	\$107,820	\$161,730	\$215,640
Member (level 1)	\$40,760	\$81,520	\$122,280	\$163,040
Member (level 2)	\$36,230	\$72,460	\$108,690	\$144,920
Member (level 3)	\$31,700	\$63,400	\$95,100	\$126,800

PART 3 – OFFICIAL TRAVEL AND RELATED MATTERS

- 3.1** The provisions of Determination 2016/07 – *Official Travel by Office Holders*, (or any Determination that supersedes Determination 2016/07), apply to offices covered by this Determination, subject to any exclusions or limitations in this Determination. In establishing entitlements, the Travel Tier identified in this Determination for an office will apply under Determination 2016/07 (or any Determination that supersedes Determination 2016/07).
- 3.2** Justices of the High Court of Australia (including the Chief Justice) who do not establish their place of residence in Canberra shall be paid \$34,160 a year in lieu of the travelling allowance that would otherwise be payable.
- 3.3** **Military Justice System:** The employer may approve housing, relocation and medical assistance in accordance with agency policy and practices for the offices of Chief Judge Advocate and the Registrar of Military Justice.
- 3.4** **President, Fair Work Commission:** The President has the same travel entitlements when travelling within Australia as the Chief Justice of the Federal Court.

PART 4 – COMMONWEALTH PROVIDED VEHICLES AND REIMBURSEMENT OF PRIVATE VEHICLE RUNNING COSTS FOR JUDGES

- 4.1** **Definitions:** For the purposes of this part of the Determination, the following definitions apply:
- 4.1.1** **'Judge'** refers to a Judge other than a Federal Circuit Court Judge, unless the contrary intention appears;
- 4.1.2** **'Fleet Vehicle Selection (FVS) Policy'**, means Commonwealth Department of Finance policy on selection of passenger vehicles for the Australian Government Fleet;
- 4.1.3** **'Commonwealth car-with-driver service'** means the arrangements for the use of a Commonwealth car-with-driver established from time to time by the Attorney-General with the Chief Justice of the High Court of Australia, the Chief Justice of the Federal Court of Australia and the Chief Justice of the Family Court of Australia for Judges of those Courts;
- 4.1.4** **'principal registry'** means –
- (i) in the case of the High Court of Australia, the Registry of the Court;
 - (ii) in the case of the Federal Court of Australia, the Principal Registry;
 - (iii) in the case of the Family Court of Australia, the Principal Registry;

- 4.1.5** 'private vehicle running costs' does not include expenditure relating to the acquisition, leasing or hire of any vehicle;
- 4.1.6** 'luxury car' means a car the value of which exceeds the luxury car tax threshold (for non-fuel-efficient cars) mentioned in subsection 25-1(3A) of the *A New Tax System (Luxury Car Tax) Act 1999*.
- 4.3** **Arrangements for the Chief Justice of the High Court:** In addition to a Commonwealth car-with-driver service, the Chief Justice of the High Court of Australia is allowed annually:
- (i) a private plated vehicle, that is generally made available by the Commonwealth for the purpose, and is not a luxury car, leased in accordance with the FVS Policy; or
 - (ii) reimbursement of private vehicle running costs incurred by the Chief Justice up to \$10,850.
- 4.4** **Access to private plated vehicles or reimbursement of private vehicle running costs for Judges:** A Judge, other than the Chief Justice of the High Court of Australia, who has elected for the time being to forgo the entitlement, either in the Judge's city of residence or in the city in which the principal registry of the Court is situated, to a regular Commonwealth car-with-driver service, is allowed annually in that city and as the alternatives to that service:
- (i) a private plated vehicle, that is generally made available by the Commonwealth for the purpose, and is not a luxury car, leased in accordance with the FVS Policy; or
 - (ii) reimbursement of private vehicle running costs incurred by the Judge up to \$10,850.
- 4.5** **Access to private plated vehicles or reimbursement of private vehicle running costs for Judges of the Federal Circuit Court:** A Federal Circuit Court Judge is allowed annually:
- (i) a private plated vehicle, that is generally made available by the Commonwealth for the purpose, and is not a luxury car, leased in accordance with the FVS Policy; or
 - (ii) reimbursement of private vehicle running costs incurred by the Federal Circuit Court Judge up to \$10,850.
- 4.6** **No cashing out:** The value of the entitlement allowed under clauses 4.3, 4.4 or 4.5 may not be taken as cash, except to the extent that reimbursement is claimed for expenditure in accordance with paragraphs 4.3(ii), 4.4(ii) or 4.5(ii).
- 4.7** **Election to vary allowance:** During a year, the Chief Justice of the High Court of Australia, a Judge or a Federal Circuit Court Judge may elect to vary his or her election under clause 4.3, 4.4 or 4.5 to, or from, a private plated vehicle provided by the Commonwealth from, or to, obtaining reimbursement of private vehicle running costs, provided that no additional administrative or other expenses are incurred by the Commonwealth as a result of the election to so vary this allowance.

PART 5 – PROVISIONS FOR OFFICES ON TOTAL REMUNERATION

5.1 Coverage and definitions: The provisions in this part of the Determination apply only to the offices listed in Table 3. For the purposes of this part of the Determination, the following definitions apply.

5.1.1 'Authority' means the court, tribunal or other body to which the Office Holder is attached.

5.1.2 'Base Salary' means the amount specified in column 3 of Table 3 of this Determination.

5.1.3 'Benefits' means all non-monetary benefits provided at the Commonwealth's expense to or on behalf of an Office Holder as a personal benefit including a vehicle (where provided), the value attributed by the Remuneration Tribunal to the Commonwealth's superannuation contributions or Superannuation Support (refer clause 5.5) and any other benefits received by way of remuneration packaging (refer clause 5.4).

5.1.4 'Employer's Superannuation Contribution' means:

- in respect of a member of a Commonwealth defined benefit scheme (including the Commonwealth Superannuation Scheme or the Public Sector Superannuation Scheme), the value attributed to the Employer's Superannuation Contribution in accordance with sub-clauses 5.5.1, 5.5.2, 5.5.4 or 5.5.5; or
- in respect of a member of the Public Sector Superannuation Accumulation Plan, 15.4% of ordinary time earnings (OTE) for the office holder; or
- in respect of a member of any other fund, the minimum level of employer superannuation contribution that would reduce to zero the charge percentage for that office holder under section 23 of the *Superannuation Guarantee (Administration) Act 1992*.

Contributions made on a salary sacrifice basis do not form part of the Employer's Superannuation Contribution; these are covered by clause 5.4 (Remuneration packaging).

5.1.5 'Office Holder' means a person appointed to an office listed in Table 3 of this Determination.

5.1.6 'Reference Salary' means the Office Holder's Total Remuneration, less the amount of the Employer's Superannuation Contribution for the office holder.

5.1.7 'Total Remuneration' is the amount shown in Columns 4 of Table 3 representing the value, calculated at the total cost to the Commonwealth (including Fringe Benefits Tax where applicable), of:

- salary (including Base Salary), allowances or lump sum payments;
- benefits; and
- the Employer's Superannuation Contribution

but does not include:

- the value of Business Support referred to in clause 5.7;
- reimbursement of expenses incurred on geographic relocation following appointment as an Office Holder, in accordance with the authority's policies and practices where approved by the appropriate authority;
- travelling allowances and expenditure referred to in Part 3;
- any payment in lieu of recreation leave; and
- any separation benefits in accordance with clauses 2.8 – 2.8.6.

- 5.2 Total Remuneration should not be supplemented:** The intention of this Determination is that the Total Remuneration amount payable to an office holder under Table 3 represents an exhaustive statement of the office holder's remuneration and significantly-related benefits, to the extent that the Tribunal is empowered to determine them. In other words, the intention is that the Total Remuneration amount to which an office holder is entitled under this part should not be supplemented by any other authority where that may be inconsistent with this Determination.
- 5.3** An office holder listed in Table 3 is eligible to receive the annual amount of Total Remuneration set out in Table 3 for the relevant office.
- 5.4 Remuneration packaging:** Subject to this part, an Office Holder may elect to receive the benefit of Total Remuneration as salary or a combination of salary and Benefits, in accordance with the authority's policies and procedures on salary packaging. The Office Holder must take at least 50 per cent of Total Remuneration as salary except where agency policies and procedures on salary packaging allow otherwise. Any election must be consistent with relevant taxation laws and rulings or guidelines applicable to salary packaging schemes issued by the Australian Taxation Office (ATO).
- 5.5 Superannuation Salary**
- 5.5.1** For an Office Holder who is a member of the Commonwealth Superannuation Scheme:
- (a) the Officer Holder's annual rate of salary for the purposes of the scheme is the Officer Holder's Base Salary; and
 - (b) the value attributed to the Employer's Superannuation Contribution is taken to be 15.4% of the Office Holder's Base Salary.
- 5.5.2** For an Office Holder who is a member of the Public Sector Superannuation Scheme:
- (a) the Office Holder's basic salary for the purposes of the scheme is the Office Holder's Base Salary; and
 - (b) the amount of the Officer Holder's recognised allowances for the purposes of the scheme is zero; and
 - (c) the value attributed to the Employer's Superannuation Contribution is taken to be 15.4% of the Officer Holder's Base Salary.
- 5.5.3** For an Office Holder who is a member of the Public Sector Superannuation Accumulation Plan, the Office Holder's superannuation salary for the purposes of the scheme is the Office Holder's ordinary time earnings (OTE).
- 5.5.4** For an Office Holder who is a member of the Defence Force Retirement and Death Benefits Scheme:
- (a) the Office Holder's annual rate of salary for the purposes of the scheme is the Office Holder's Base Salary; and
 - (b) the value attributed to the Employer's Superannuation Contribution is taken to be 15.4% of the Office Holder's Base Salary.
- 5.5.5** For an Office Holder who is a member of the Military Superannuation and Benefits Scheme:
- (a) the Office Holder's annual rate of salary for the purposes of the scheme is the Office Holder's Base Salary; and
 - (b) the value attributed to the Employer's Superannuation Contribution is taken to be 15.4% of the Office Holder's Base Salary.

- 5.5.6** For an Office Holder who is a member of any other superannuation fund, the Employer's Superannuation Contribution is to be made at the rate elected by the Office Holder, which must not be less than a rate that would, under section 23 of the *Superannuation Guarantee (Administration) Act 1992*, reduce the charge percentage in relation to that Office Holder to zero.
- 5.6** **Vehicles:** Where an Office Holder accepts an offer of an authority owned or leased vehicle for private use, the office holder's Total Remuneration will be reduced by the actual cost of the vehicle to the authority plus parking and fringe benefits taxation, less a reasonable amount (if any) reflecting business usage patterns. Where an Office Holder has access to an authority owned or leased vehicle for private use, the Office Holder will be considered to have accepted an offer of a vehicle for the purposes of this provision.
- 5.6.1** Any business usage amount is to be assessed on log book records for a 12 week representative period. Where the annual business kilometres are less than 5,000 it will be based on the 'cents per kilometre' method. Where business kilometres are 5,000 kilometres or more, the percentage of business use to total kilometres travelled per annum will be applied to the total cost of the vehicle.
- 5.6.2** Where an Office Holder accepts an offer of a car park at Commonwealth expense, the actual cost (including fringe benefits tax) of the car park to the agency will be a Benefit for Total Remuneration purposes.
- 5.7** **Business Support:** Where an Office Holder is provided with communications, information technology and other office facilities necessary for the efficient conduct of his or her office, incidental private use of those facilities by the Office Holder does not necessitate the value of the facilities being included in Total Remuneration.
- 5.8** **Payments on Separation:** The rate of payment to an office holder whose remuneration is determined in accordance with this Part in respect of
- payment in lieu of Recreation Leave as specified in clause 2.7 (ii); and
 - loss of office benefits as specified in clause 2.8.3
- shall be the office holder's Reference Salary.

Table 3 RATES OF REMUNERATION – OFFICES ON TOTAL REMUNERATION**Commences on 1 July 2017**

Column 1	Column 2	Column 3	Column 4	Column 5
Authority	Office	Base Salary	Total Remuneration	Travel Tier
High Court of Australia <i>Effective 3 April 2017, refer Det 2017/18</i>	Chief Executive and Principal Registrar	\$335,610	\$479,430	1
Federal Court of Australia	Chief Executive Officer	\$335,610	\$479,430	1
	Assessor (Full-time)	\$197,480	\$270,520	2
Family Court of Australia <i>Effective 1 January 2018, refer Det 2018/03</i>	Chief Executive Officer	\$272,210	\$372,890	1
Federal Circuit Court of Australia	Chief Executive Officer	\$272,210	\$372,890	1
Australian Law Reform Commission	President (non-judicial)	\$325,360	\$445,690	1
	Commissioner (non-judicial)	\$197,290	\$270,250	2
Administrative Appeals Tribunal	Deputy President (non-judicial) (1)	\$334,090	\$477,270	1
	Senior member (level 1)	\$275,000	\$376,710	2
	Senior member (level 2)	\$231,500	\$317,110	2
	Member (level 1)	\$175,000	\$239,720	2
	Member (level 2)	\$155,550	\$213,080	2
	Member (level 3)	\$136,110	\$186,450	2
	Registrar	\$291,650	\$399,520	1
National Native Title Tribunal	President (non-judicial)	\$319,880	\$441,390	1
	Deputy President	\$301,360	\$401,000	1
	Member	\$224,780	\$307,910	1
	Registrar	\$212,470	\$291,050	2
Military Justice System	Chief Judge Advocate	\$305,290	\$418,200	2
	Registrar of Military Justice	\$228,080	\$265,200	2

- (1) A Deputy President of the AAT,
- i) to whom the transitional provisions of Item 4 of Schedule 9 to the *Tribunals Amalgamation Act 2015* apply on 1 July 2015, and
 - ii) who has an existing superannuation salary higher than the Base Salary set out in this Table, and
 - iii) who is a member of a Commonwealth defined benefits superannuation scheme,
- will maintain the higher Base Salary of 73% of Total Remuneration for the remainder of the member's current appointment as Deputy President and for the duration of all future appointments to that office, and the higher rate will be applied in calculating the attributed value of employer contributions in Clause 5.5 of this determination.

PART 6 – TRANSITIONAL ARRANGEMENTS FOR AAT MEMBERS COVERED BY SCHEDULE 9 OF THE TRIBUNALS AMALGAMATION ACT 2015 (the Amending Act)

6.1 AAT members (with a term of appointment commencing prior to 1 July 2015): The provisions of Remuneration Tribunal Determination 2015/05 – *Judicial and Related Offices – Remuneration and Allowances* will continue to apply to members of the AAT who are subject to Item 4 of Schedule 9 to the Amending Act (i.e. for the remaining balance of the AAT member’s term of appointment that commenced before 1 July 2015), with the following exceptions:

6.1.1 Clause 2.5.4 (ii) of this determination will apply in lieu of clause 2.5.4 (ii) of Determination 2015/05; and

6.1.2 Remuneration as set out in Table 4 applies in lieu of the remuneration included in Tables 2A, 2B and 3 of Determination 2015/05:

Table 4 Full-Time Salary and Part-Time Daily Fees – Transitional AAT Offices

Commences on 1 July 2017

Full-Time Office	Base Salary	Total Remuneration	Travel Tier	
Deputy President	\$348,410	\$477,270	1	
Senior Member	\$275,000	\$376,710	1	
Member	\$231,360	\$317,110	1	
Part-Time Office – Annual Fees	1 day per week	2 days per week	3 days per week	4 days per week
Deputy President	\$81,140	\$162,280	\$243,420	\$324,560
Senior Member	\$64,050	\$128,100	\$192,150	\$256,200
Member	\$53,910	\$107,820	\$161,730	\$215,640
Part-Time Office – Daily Fees	Daily fee		Travel Tier	
Deputy President ^{(1) (2)}	\$1,609		1	
Senior Member ^{(1) (2)}	\$1,273		1	
Member ^{(1) (2)}	\$1,069		1	
<p>(1) For part-time office holders a minimum annual payment of ten times the daily fee applies, whether the office holder receives a fee based on daily rates or on hourly rates (under 2.4).</p> <p>(2) In addition to fees specified a part-time member shall be paid a cancellation fee equivalent to 50 per cent of one day’s fee where all of a day’s work is cancelled with fewer than 5 working days’ notice (this includes the circumstance where a hearing does not proceed on a day on which a member has attended).</p>				

6.2 Former Migration Review Tribunal and Refugee Review Tribunal (MRT/RRT) members: The provisions of Remuneration Tribunal Determinations 2017/11 – *Remuneration and Allowances for Holders of Full-Time Public Office* (as amended) and 2017/10 – *Remuneration and Allowances for Holders of Part-Time Public Office* (as

amended) will continue to apply to former members of the MRT/RRT, who are now members of the AAT subject to Item 5 of Schedule 9 to the Amending Act (i.e. for the remaining balance of the former MRT/RRT member's term of appointment that commenced before 1 July 2015), with the following exceptions:

6.2.1 Clause 2.5.4 (ii) of this determination will apply in lieu of equivalent arrangements under Determination 2017/10.

6.3 Former Social Security Appeals Tribunal (SSAT) members: The provisions of Remuneration Tribunal Determinations *2017/11 – Remuneration and Allowances for Holders of Full-Time Public Office* (as amended) and *2017/10 – Remuneration and Allowances for Holders of Part-Time Public Office* (as amended) will continue to apply to former members of the SSAT, who are now members of the AAT subject to Item 5 of Schedule 9 to the Amending Act (i.e. for the remaining balance of the former SSAT member's term of appointment that commenced before 1 July 2015), with the following exceptions:

6.3.1 Clause 2.5.4 (ii) of this determination will apply in lieu of clause B3.6 (b) of Determination 2017/10.

Notes to Remuneration Tribunal Determination 2017/09 Judicial and Related Offices – Remuneration and Allowances

This determination as shown in this compilation is amended as indicated in the tables below. Under the *Legislation Act 2003*, which came into force on 1 January 2005, it is a requirement for all non-exempt legislative instruments to be registered on the Federal Register of Legislation.

Table of Instruments

Title	Date of FRLI registration	Date of commencement	Application, saving or transitional provisions
Determination 2017/09 – Judicial and Related Offices – Remuneration and Allowances	29/06/2017 F2017L00815	1/07/2017	-
Determination 2017/14 – Remuneration and Allowances for Holders of Public Office and Judicial and Related Offices	1/08/2017 F2017L00978	CI 3.1, 3.2 – 2/08/2017	-
Determination 2017/17 – Remuneration and Allowances for Holders of Public Office and Judicial and Related Offices	30/08/2017 F2017L01108	CI 3.2 – 27/08/2017 CI 3.1, 3.3 – 31/08/2017	
Determination 2017/18 – Remuneration and Allowances for Holders of Public Office and Judicial and Related Offices	04/10/2017 F2017L01321	CI 3.2 – 3/04/2017	
Determination 2017/21 – Remuneration and Allowances for Holders of Public Office and Judicial and Related Offices	12/12/2017 F2017L01611	CI 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.7, 3.8, 3.9, 3.10 – 13/12/2017	
Determination 2017/22 – Remuneration and Allowances for Judicial and Related Offices	14/12/2017 F2017L01615	CI (i), (ii), 1.1, 1.2, 1.3, 1.4 – 15.12.2017	
Determination 2018/03 - Remuneration and Allowances for Holders of Public Office and Judicial and Related Offices	18/04/2018 F2018L00491	CI 3.2 – 1/01/2018 CI 3.4, 3.5 – 19.04.2018	

Notes to Remuneration Tribunal Determination 2017/09: Judicial and Related - Remuneration and Allowances

Table of Amendments

ad = added or inserted am = amended LIA = *Legislative Instruments Act 2003* rep = repealed rs = repealed and substituted

Provision affected	How affected
Part 2	
Clause 2.8A	ad 2017/22
Subclauses 2.8A.1, 2.8A.2	ad 2017/22
Clause 2.9	am 2017/22
Clause 2.9A	ad 2017/22
Subclauses 2.9A.1, 2.9A.2, 2.9A.3, 2.9A.4, 2.9A.5, 2.9A.6, 2.9A.7, 2.9A.8, 2.9A.9	ad 2017/22
Part 3	
Clause 3.2	am 2017/17
Table 3	am 2017/18, am 2018/03, rep 2018/03
Part 4	
Subclause 4.1.5	rs 2017/21
Subclause 4.1.6	ad 2017/21
Clause 4.2	rep 2017/21
Subclauses 4.2.1, 4.2.2	rep 2017/21
Clauses 4.3, (i)	rs 2017/21
Clause 4.4	am 2017/21
Clause 4.4.(i)	rs 2017/21
Clause 4.5	am 2017/21
Clause 4.5 (i)	rs 2017/21
Clause 4.7	am 2017/21