



NORTHERN TERRITORY OF AUSTRALIA
REMUNERATION TRIBUNAL

REPORT AND RECOMMENDATION
NO. 1 OF 2009

ENTITLEMENTS OF
MEMBERS OF STATUTORY BODIES

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INTRODUCTION

1. The Remuneration Tribunal is established under section 17(1) of the *Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act 2006*. Section 8(1) of the Act enables the Northern Territory Administrator to request the Tribunal to enquire into and make recommendations on matters as specified in the request. Section 8(1)(b) of the Act specifies that a request can be "a matter relating to the entitlements of members of statutory bodies". A statutory body is defined by the Act as "a body (whether incorporated or not) established by a law of the Territory for a public purpose".
2. On 4 March 2009, the Administrator issued a formal notice requesting the Tribunal to enquire into and make recommendations on the level of sitting fees and other entitlements of members of statutory bodies.
3. The Tribunal has undertaken the Inquiry and this report and recommendation completes the review.

BACKGROUND

4. The Remuneration Tribunal's *Report and Recommendation No. 2 of 2004 - Statutory Bodies* (subsequently referred to in this report as "the Tribunal's 2004 Report") in paragraphs 8–22, gives the background to previous remuneration of members of Northern Territory Government statutory bodies. That report and recommendation rationalised the categories of statutory bodies into like groups and recommended remuneration be increased up to a level commensurate with payments to members of similar statutory bodies in the other jurisdiction.
5. Following Government's endorsement of the recommendations in the Tribunal's 2004 Report on Statutory Bodies, action was taken by the Northern Territory Administrator to make a new determination of remuneration, allowances and expenses for members of statutory bodies under section 4 of the *Remuneration (Statutory Bodies) Act*. The determination was dated 10 August 2005 and set out a range of conditions applying to member

remuneration including definitions, eligibility, and conditions for the payment of remuneration, allowances and expenses. The determination also included two schedules: one containing an alphabetical listing of statutory bodies whose members were remunerated and a reference to the classification of each statutory body, and a further schedule which listed those same bodies by classification category and showing the applicable remuneration rate for each category.

6. On 26 April 2006, the *Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act* (the AMSO Act) came into operation and replaced the *Remuneration (Statutory Bodies) Act* (and also the *Remuneration Tribunal Act*). While the 2005 Administrator's determination continued to have effect, a fresh determination was required under the AMSO Act for the purpose of classifying statutory bodies and determining their remuneration level after that point on time (whether they were new bodies, previously unclassified bodies or bodies whose classification needed to be changed). This new determination was made on 24 October 2007.
7. The new approach for classifying statutory bodies under the AMSO Act requires the Administrator to determine a framework of classification categories and commensurate remuneration rates, and Ministers may then proceed to classify statutory bodies within that framework. Like the earlier determination, the 2007 determination sets out conditions for board member entitlements including definitions, eligibility to receive remuneration, and conditions for the payment of remuneration, allowances and expenses. However, under the new Act, the classification of bodies is published by the Minister responsible for the Act (currently the Chief Minister) rather than by Administrator's determination. For this reason, the schedule attached to the 2007 determination does not list statutory bodies by name.

CONDUCT OF THE REVIEW

8. In April 2009, the Tribunal wrote to the Chief Executives of all Government Agencies responsible for statutory bodies, and to the Chairpersons of all relevant statutory bodies to advise them of the review. Advertisements calling for submissions were published in major Northern Territory newspapers, also in April 2009. The Tribunal received 46 responses to its call for submissions.

DECLARATION OF INTEREST

9. The Tribunal member, Mr John Flynn, notes he has a conflict of interest in respect of this Inquiry in that he is the member of three statutory bodies whose member remuneration is under consideration. To address this conflict of interest, the recommended increase in member remuneration of the three bodies has been peer reviewed by the Commissioner for Public Employment. The Commissioner formed the view that, given the Tribunal's report only contains recommendations for Government's consideration rather than any actual determination of fees, it was not necessary for the Tribunal member to withdraw from the Inquiry.

REMUNERATION

10. It can be fairly said that potential members of statutory bodies are not necessarily attracted or drawn to serve by the remuneration paid and the membership is generally considered to be a public service rather than a lucrative payment for service. It is also noted that a person's professional or community status can be enhanced by appointment to a Government Board. These matters are canvassed at some length in the Tribunal's 2004 Report.
11. It is normally not difficult, with some exceptions, to find appropriate people to fill statutory board vacancies. There have been some difficulties filling positions that are specifically designated for medical practitioners, legal practitioners and other professionals as the remuneration paid is quite inconsistent with what they would be paid if they were carrying out their normal occupation. The Tribunal has considered recommending specific payments

for such professionals appointed to boards in various classification categories. However, the difficulty is that a single classification category can include a number of boards which individually require a member of a particular profession and it would be too complex to prescribe a separate fee level for each type of professional represented on each board in the applicable categories. It is felt that, as was indicated in the Tribunal's 2004 Report, where there is difficulty recruiting such members, the Administrator on the advice of the Executive Council and the recommending Minister should make personal determinations.

12. The level of sitting fees recommended in the Tribunal's 2004 Report was adopted by the Government and was considered appropriate and reasonable at the time. Most statutory bodies are quite distinctive and cannot be compared with commercial boards in the private sector. Specific comparison with fees paid to members of statutory bodies in other jurisdictions is generally problematic as the responsibilities even of similar statutory bodies are not identical. Further, reviews in the States and Territories are not necessarily made on a regular basis so fees may be several years out of date and not particularly useful for the purposes of comparison.
13. The present economic conditions in Australia have persuaded the Tribunal to take a conservative approach to any increase. Under the circumstances, the approach taken in South Australia in basing the increase on CPI increases over the relevant period would seem appropriate.
14. On this basis, it is recommended that an increase of **16.25%** be applied to the remuneration rates recommended by the Tribunal in 2004. This is the percentage increase in the Consumer Price Index (all groups) from December 2003 to December 2008. The recommended increases for each of the classification categories for statutory bodies are set out in **Schedule 1** to this report.
15. The remuneration of the members of the Territory Insurance Office Board is determined by the Minister under the *Territory Insurance Office Act* and

therefore is outside the AMSO Act classification framework but is commensurate with Class A1 Level 1. It is recommended that the remuneration for those members be increased to the level as recommended for Class A1 Level 1 in the AMSO Act classification framework which is an increase of 16.25%. It is further recommended that the additional annual fee payable to TIO Board members for work flowing from committee membership should be increased by the same proportion, that is, from \$6,000 to \$6,975.

16. Similarly, the remuneration of the members of the Power and Water Corporation Board is set by the responsible Minister and the members are paid at the same rate as the TIO Board members. It is also recommended their rate of remuneration be increased to the level as recommended for Class A1 Level 1 in the AMSO Act classification framework. Also as per TIO Board members, it is recommended the additional fee payable to Power and Water Corporation Board members for committee work be increased from \$6,000 to \$6,975 per annum.
17. Where a member of any statutory body within the AMSO Act framework is the subject of an individual remuneration determination made by the Administrator, the recommended increase in fees has been adjusted to reflect the percentage increase in the Consumer Price Index from the date of the determination to December 2008. The recommended increases for these members are set out in the **Schedule 2** to this report. No recommendation is made in respect of those classification decisions made under section 11(1) of the AMSO Act since December 2008 given the recency of those decisions.
18. The Tribunal is aware there are likely to be other individual remuneration determinations made under the previous legislation, the Remuneration (Statutory Bodies) Act. As it is difficult to determine how many of these older determinations are still current, the Tribunal has not considered them. Responsible agencies may, however, wish to check their records and assess whether updated determinations are required.

OTHER ENTITLEMENTS

19. One submission was received in respect of entitlements other than remuneration rates. This submission drew attention to clause 3 in the 2007 Determination of Classification Structure for Statutory Bodies, which lists those categories of person who are not entitled to receive remuneration for their board membership. This includes "an officer or employee of the Public Service of the Commonwealth or of a State or another Territory" (clause 3(g)). This exclusion is based on the understanding that public servants (Commonwealth and otherwise) continue to receive their public service salary while undertaking board duties, whether these be boards established by their own or another government. The Tribunal has been advised that Commonwealth public servants do not necessarily continue to receive their normal salary for time spent as members of Northern Territory Government boards, effectively meaning they are unpaid for this time. Accordingly, it is recommended that this exclusion be re-worded to read:

(g) an officer or employee of the Public Service of the Commonwealth or of a State or another Territory unless that member is not remunerated by the Commonwealth, State or Territory while sitting as a member.

OTHER MATTERS

20. A number of submissions on behalf of members of statutory bodies argued that the classification of the body was inappropriate and that given their responsibilities that statutory body should be reclassified to a higher class which would attract higher remuneration level for members. The request to the Remuneration Tribunal by the Administrator does not enable the Tribunal to enquire into or make recommendations into the classification of statutory bodies as such. Under the AMSO Act, the Administrator would not be entitled to make such a request. The arguments for reclassification are in most cases cogent. While the Tribunal cannot make a formal recommendation, even in general terms, about this matter, it is suggested that the appropriate Minister in each case take advice from those boards in respect of their reclassification requests, and also seek the advice of the relevant government agency and from the Department of the Chief Minister.

21. Those boards which made submissions for reclassification were:

- Agents Licensing Fidelity Fund
- Agents Licensing Board
- Mental Health Review Tribunal
- Health Professional Review Tribunal
- Northern Territory Grants Commission
- Building Appeals Board
- Desert Knowledge Australia
- Aboriginal Health Workers Board of the Northern Territory
- Chiropractors and Osteopaths Board of the Northern Territory
- Dental Board of the Northern Territory
- Medical Board of the Northern Territory
- Nursing and Midwifery Board of the Northern Territory
- Occupational Therapists of the Northern Territory
- Optometrists Board of the Northern Territory
- Pharmacy Board of the Northern Territory
- Physiotherapists Board of the Northern Territory
- Psychologists Board of the Northern Territory, and
- Radiographers Board of the Northern Territory.

22. The NT Police Supplementary Benefit Scheme Board has not been classified in the past as all of its members have historically been public servants, and were not entitled to remuneration. For this reason, the classification exercise would have had no purpose. However, one of the members of this Board is now no longer a public servant and may be entitled to payment for their services. It may be appropriate for the Minister to consider classifying this body under section 10 of the AMSO Act.

23. In respect of the Disciplinary Appeal Board and the Inability Appeal Board constituted under the *Police Administration Act*, it has been submitted that the remuneration of the legal member of those bodies should be increased. These bodies have not been formally classified because the remuneration of their members is determined by the Minister rather than under the AMSO Act

framework. The Tribunal suggests it would be appropriate for the Minister for Police, Fire and Emergency Services to consider the submission made to the Tribunal by the Police Commissioner in respect of this matter.

24. The Tribunal notes that the following bodies have not previously been included in the Statutory Bodies Classification structure, possibly because under the earlier legislation they may not have qualified as a "statutory body":

- Coastal Line Fishery Management Advisory Committee
- Mud Crab Fishery management Advisory Committee
- Spanish Mackerel Fishery Management Advisory Committee
- Timor Reef Fishery Management Advisory Committee, and
- Offshore Net and Line Fishery Management Advisory Committee.

25. The Tribunal suggests that these bodies be considered for classification and commensurate member remuneration.

PERIOD FOR FUTURE REVIEWS

26. The Tribunal is of the view that the five year period since the last review of board remuneration was too long. Remuneration in almost all areas of employment or service is reviewed annually and to provide equity. The Tribunal recommends that reviews of the level of entitlements of members of statutory bodies should be conducted at maximum intervals of two years.

RECOMMENDATIONS

27. In summary, the Remuneration Tribunal makes the following recommendations in respect of the entitlements of members of Northern Territory Government statutory bodies. In making these recommendations, the Tribunal notes that any changes to entitlements under the framework established by the *Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act* are subject to the approval of the Government and determination by the Northern Territory Administrator.

RECOMMENDATION 1**General remuneration increase for statutory bodies**

It is recommended that an increase of **16.25%** be applied to the remuneration rates for classified statutory bodies recommended by the Remuneration Tribunal in 2004. The recommended increases for each classification category are set out in **Schedule 1** to this report.

RECOMMENDATION 2**TIO and Power and Water Corporation Board remuneration**

(a) It is recommended that the remuneration for the members of these boards be increased to the level as recommended for Class A1 Level 1 in the AMSO Act classification framework

(b) It is further recommended that the additional annual fee payable to TIO and Power and Water Corporation Board members for committee membership should be increased by the same proportion as the recommended general remuneration increase, which would result in an increase from \$6,000 to \$6,975.

RECOMMENDATION 3**Remuneration of those members of statutory bodies in respect of whom a special remuneration determination has been made by the Administrator**

It is recommended that the remuneration increases for those members the subject of a special remuneration determination be as set out in the **Schedule 2** to this report.

RECOMMENDATION 4**Modification of eligibility requirement for sitting fees for public servants**

It is recommended that this exclusion be re-worded to provide that the specified remuneration rate is not payable to a member of a statutory body who is an officer or employee of the Public Service of the Commonwealth or of a State or another Territory unless that member is not remunerated by the Commonwealth, State or Territory while sitting as a member.

RECOMMENDATION 5

Frequency of reviews of entitlements

It is recommended that reviews of the level of entitlements of members of statutory bodies should be conducted at maximum intervals of two years.



JOHN FLYNN
Member
Remuneration Tribunal

23 June 2009

SCHEDULE 1**RECOMMENDED NEW REMUNERATION LEVELS FOR NT GOVERNMENT
STATUTORY BODIES BY CLASSIFICATION**

Column 1 Class of Statutory Body	Column 2 Recommended Rate of Remuneration
Class A1 - Governing and Management Bodies – Senior Commercial and Assets Management	
Class A1 (Level 1)	Annual Rate Chairperson \$75,562 Deputy chairperson \$58,125 Other member \$40,687
Class A1 (Level 2)	Annual Rate Chairperson \$58,125 Other member \$40,687
Class A1 (Level 3)	Annual Rate Chairperson \$46,500 Other member \$25,575
Class A1 (Level 4)	Annual Rate Chairperson \$40,687 Other member \$11,625
Class A1 (Level 5)	Daily Rate Chairperson \$660 Other member \$495
Class A2 Governing and Management Bodies – Major Facilities/Assets Management and Commercialisation	
Class A2 (Level 1)	Daily Rate Chairperson \$372 Other member \$279
Class A2 (Level 2)	Daily Rate Chairperson \$372 Other member \$209

Class A3 Governing and Management Bodies – Local Facilities and Land Management	Daily Rate \$279 Chairperson \$209 Other member
Class B1 Quasi-Judicial Bodies – Senior Appeals/Important Government Process	Daily Rate Chairperson \$880 Other member \$660
Class B2 Quasi-Judicial Bodies – Appeals and Review/Determination of Important Rights Class B2 (Level 1) Class B2 (Level 2)	Daily Rate Chairperson \$660 Other member \$495 Chairperson \$495 Other member \$372
Class B3 Quasi-Judicial Bodies – Senior Registration and Assessment	Daily Rate Chairperson \$372 Other member \$279
Class B4 Quasi-Judicial Bodies – Registration and Practice	Daily Rate Chairperson \$279 Industry Person \$0-209 Other member \$209
Class C1 Advisory and Review of Bodies – Critical Issues	Daily Rate \$880 Chairperson \$660 Other member
Class C2 Advisory and Review Bodies – Expert High Impact	Daily Rate Chairperson \$660 Other member \$372
Class C3 Advisory and Review Bodies - Ministerial Assistant	Daily Rate Chairperson \$279 Other member \$209

SCHEDULE 2

RECOMMENDED REMUNERATION RATES FOR THOSE MEMBERS OF STATUTORY BODIES SUBJECT TO A PERSONAL REMUNERATION DETERMINATION UNDER THE ASSEMBLY MEMBERS AND STATUTORY OFFICERS (REMUNERATION AND OTHER ENTITLEMENTS) ACT

Important Note: The Tribunal is aware there are likely to be other individual remuneration determinations made under the previous legislation, the *Remuneration (Statutory Bodies) Act*. As it is difficult to determine how many of these older determinations are still current, the Tribunal has not considered them. Agencies should check their records and assess whether updated personal remuneration determinations are required.

Board Member	Recommended Rate of Remuneration
Chairperson Tourism Advisory Board	\$43,032 per annum
Chairperson Development Consent Authority	\$127,944 per annum (plus GST)
Acting Chairperson Building Practitioners Board	\$807 daily rate
Legal Member Building Practitioners Board	\$792 daily rate
Member Development Consent Authority #	\$446 daily rate
Chairperson Darwin Waterfront Corporation *	\$51,170 per annum
Chairperson AustralAsia Railway Corporation *	\$30,702 per annum

It is noted that this member required a personal determination so he could be paid sitting fees while also being a (part time) public sector employee. If the intention is to remunerate this member at the same rate as other members of the Development Consent Authority, the DCA may wish to seek a fresh determination at the Class B2 Level 1 rate of \$495 per day rather than the pro-rata rate of \$442 per day as listed above.

* Both these rates of remuneration are less than those prescribed for these Boards under their respective classifications.