

# **NORTHERN TERRITORY OF AUSTRALIA**

## **ASSEMBLY MEMBERS AND STATUTORY OFFICERS (REMUNERATION AND OTHER ENTITLEMENTS) ACT**

As in force at 1 October 2009

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# NORTHERN TERRITORY OF AUSTRALIA

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This reprint shows the Act as in force at 1 October 2009. Any amendments that commence after that date are not included.

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## ASSEMBLY MEMBERS AND STATUTORY OFFICERS (REMUNERATION AND OTHER ENTITLEMENTS) ACT

**An Act to provide for the remuneration and other entitlements of Assembly members and statutory officers, and for related purposes**

### Part 1 Introduction

#### 1 Short title

This Act may be cited as the *Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act*.

#### 2 Definitions

In this Act:

***administrative guidelines*** means the administrative guidelines made under section 13.

***Assembly*** means the Legislative Assembly.

***Assembly member*** means a member of the Assembly.

***basic salary***, for an Assembly member, has the meaning in section 3.

***chairperson***, of a statutory body, means the presiding officer of that body (whether called the chairperson or not).

***class***, for statutory bodies, means a class of statutory bodies specified in the classification determination.

***classification determination*** means the determination made under section 9 that is in force.

***classification structure*** has the meaning in section 8(2).

**entitlement** includes a salary, an allowance and any other remuneration or benefit (including, for example, a reimbursement of expenses incurred, and the provision of goods, services, facilities and any other assistance).

**member**, of a statutory body, means a member of that body (whether called a member or not), and includes the chairperson of that body.

**responsible Minister**, for a statutory body, means the Minister administering the law that establishes the body.

**statutory body** means a body (whether incorporated or not) established by a law of the Territory for a public purpose.

**statutory officer** means:

- (a) a Magistrate appointed under section 4(3) of the *Magistrates Act*; or
- (b) a member of a statutory body; or
- (c) a person holding or occupying an office established by a law of the Territory.

**Tribunal** means the Remuneration Tribunal established by section 17(1).

## **Part 2                      Entitlements of Assembly members**

### **3                      Basic salary of Assembly members to be tied to annual rate of increases in pay of NTPS employees**

- (1) An Assembly member is entitled to be paid a basic salary worked out under this section.
- (2) On and after 1 October 2009 until the date an entitlement takes effect under subsection (3), the basic salary is the amount worked out by increasing the pre-existing salary by 2.5%.
- (3) On and after the date an increase in the pay of NTPS employees takes effect under a prescribed agreement in 2010 until the date the first increase takes effect under subsection (4), the basic salary is:
  - (a) the amount worked out by increasing the pre-existing salary by the annual rate for 2010; or

- (b) if the amount worked out under paragraph (a) is more than the reduced MHR salary at the time the amount is worked out – the amount worked out by decreasing the amount worked out under paragraph (a) to the reduced MHR salary at that time.

*Note for paragraph (a)*

*If the 2010 annual rate is 2.5%, the amount of the basic salary worked out under paragraph (a) would be the same amount worked out under subsection (2).*

- (4) On and after the date an increase in the pay of NTPS employees takes effect under a prescribed agreement in an agreement year until the date an increase in the pay of NTPS employees takes effect under a prescribed agreement in the immediately following agreement year, the basic salary is:
  - (a) the amount worked out by increasing the existing basic salary by the annual rate for the agreement year; or
  - (b) if the amount worked out under paragraph (a) is more than the reduced MHR salary at the time the amount is worked out – the amount worked out by decreasing the amount worked out under paragraph (a) to the reduced MHR salary.
- (5) In this section:

**agreement year** means 2011 or a year that is after 2011.

**annual rate** means the rate of increase that takes effect in relation to the pay of NTPS employees during a year, as stated in a prescribed agreement.

**basic salary** means the salary of an Assembly member, but does not include any additional salary for the member, including, for example, additional salary as a Minister.

**existing basic salary**, for working out an entitlement under this section, means the basic salary to which an Assembly member is entitled under this section immediately before the date the increase, that is being worked out, is to take effect.

**NTPS employees** means public sector employees, including administrative officers, to whom a prescribed agreement applies.

**pre-existing basic salary** means the basic salary to which an Assembly member is entitled under this Act on 30 September 2009.

**prescribed agreement** means an enterprise agreement under the *Fair Work Act 2009* (Cth), that is prescribed by regulation.

**reduced MHR salary** means the annual rate of salary for a member of the House of Representative (not including any additional salary for the member, including, for example, additional salary as Minister) as reduced by \$3 000.

#### **4 Tribunal's powers**

- (1) The Tribunal must, on the Administrator's request, inquire into, or inquire into and determine, an entitlement (other than the basic salary) of an Assembly member for:
  - (a) performing the functions of an Assembly member; or
  - (b) performing a function for the Assembly; or
  - (c) holding or occupying any of the following offices:
    - (i) the Speaker of the Assembly;
    - (ii) the Leader of the Opposition;
    - (iii) any other office in the Assembly;
    - (iv) a Minister;
    - (v) a member of the Executive Council.
- (1A) In addition, the Tribunal must, on the Administrator's request, inquire into, or inquire into and determine, an entitlement for a former Assembly member who retires involuntarily as prescribed by regulation.
- (1B) Without limiting subsection (1), the Tribunal may, under the request, inquire into, or inquire into and determine, an additional salary of office and other entitlements, including, for example, the following:
  - (a) an entitlement for establishing or maintaining offices for an Assembly member, including:
    - (i) the provision of staff and equipment for the offices; and
    - (ii) the payment or reimbursement of amounts to cover expenses incurred in relation to the offices;
  - (b) an entitlement for official travel undertaken by:
    - (i) an Assembly member; and
    - (ii) a person who, under a determination, may accompany an Assembly member for the travel;

- (c) the provision of a motor vehicle to an Assembly member;
  - (d) an entitlement relating to child care services required because of the performance of official functions by an Assembly member.
- (1C) However, the Tribunal does not have power to inquire into, or inquire into and determine, an entitlement for a matter prescribed by regulation.
- (2) The request may relate to:
- (a) an inquiry for a specified time; or
  - (b) inquiries for specified intervals.
- (3) The Tribunal must prepare a report for each inquiry conducted under subsection (1).
- (4) The report:
- (a) if the Tribunal is requested to inquire into and determine an entitlement – must include a determination of the entitlement; or
  - (b) otherwise – may include recommendations on the entitlement to which the inquiry relates.
- (5) The Tribunal must give the Administrator and the Minister a copy of the report as soon as practicable after the report is made.
- (6) The Minister must table a copy of the report in the Assembly within 6 sitting days after receiving it.

## **5 Minister's power**

- (1) The Minister may determine an entitlement (other than the basic salary) of an Assembly member referred to in section 4(1) if no determination for that entitlement has been made under that section.
- (2) The determination ceases to have effect when a determination under section 4 for that entitlement takes effect.
- (3) The Minister must table a copy of each determination under subsection (1) in the Assembly within 6 sitting days after making the determination.

## **Part 3                      Entitlements of statutory officers**

### **Division 1                Magistrates**

#### **6                      Application**

This Division applies to Magistrates appointed under section 4(3) of the *Magistrates Act*.

#### **7                      Entitlements**

- (1) Subject to section 6(2) of the *Magistrates Act*, the Tribunal must, at least once a year, inquire into and determine the entitlements of Magistrates.

*Note for subsection (1):*

*Section 6(2) of the Magistrates Act provides that the salary, allowances and other benefits to which a Magistrate is entitled under a determination under this section must not be altered to the Magistrate's detriment during the Magistrate's term of office.*

- (2) The Tribunal must prepare a report for each inquiry conducted under subsection (1).
- (3) The report must include a determination of the entitlements.
- (4) The Tribunal must give the Minister a copy of the report as soon as practicable after the report is made.
- (5) The Minister must table a copy of the report in the Assembly within 6 sitting days after receiving it.

### **Division 2                Members of statutory bodies**

#### **8                      Tribunal's power**

- (1) The Tribunal must, on the Administrator's request, inquire into and make recommendations on any of the following matters as specified in the request:
  - (a) the classification structure for statutory bodies;
  - (b) a matter relating to the entitlements of members of statutory bodies.
- (2) The classification structure for statutory bodies is a set of provisions that specify the following without specifying any individual statutory body:
  - (a) classes of statutory bodies;

- (b) the entitlements of members of statutory bodies for any of the classes.
- (3) A request under subsection (1) may relate to:
  - (a) an inquiry for a specified time; or
  - (b) inquiries at specified intervals.
- (4) The Tribunal must prepare a report for each inquiry conducted under subsection (1).
- (5) The report must include any recommendations made by the Tribunal on the matter specified in the request for the inquiry.
- (6) The Tribunal must give the Administrator and Minister a copy of the report as soon as practicable after the report is made.
- (7) Without limiting subsection (1)(b), the Administrator may specify any of the following inquiries for subsection (1)(b):
  - (a) an inquiry into the level of entitlements of members of statutory bodies;
  - (b) an inquiry into the legislative framework for the entitlements of members of statutory bodies.

## **9 Administrator's power**

- (1) The Administrator may determine the classification structure for statutory bodies (whether or not as a result of an inquiry under section 8).
- (2) In providing for an entitlement in relation to a class of statutory bodies, the determination may:
  - (a) specify the amount of the entitlement; or
  - (b) specify a range of amounts from which the amount of the entitlement for a particular statutory body must be decided by a responsible Minister under section 10(1)(b).
- (3) The determination may apply, adopt or incorporate the whole or part of a document as in force or existing at a particular time or from time to time.
- (4) The determination does not have effect in relation to a statutory body until a decision under section 10(1) for that body takes effect.

## **10                      Responsible Minister's power**

- (1) The responsible Minister for a statutory body must, in accordance with the classification determination, decide:
  - (a) the class of statutory bodies to which the body belongs; and
  - (b) if the determination provides for the responsible Minister to decide the amount of an entitlement as referred to in section 9(2)(b) – the amount of the entitlement.
- (2) The responsible Minister must do so having regard to:
  - (a) the administrative guidelines; and
  - (b) any recommendations made by the Minister administering this Act.
- (3) The responsible Minister must notify the Minister administering this Act of each decision under subsection (1) as soon as practicable after the decision is made.
- (4) This section has effect subject to the law establishing the statutory body.

## **11                      Special power of Administrator**

- (1) The Administrator may determine the entitlements of a member of a statutory body.
- (2) To the extent to which the determination is inconsistent with any of the following provisions, the determination has effect and that provision does not have effect:
  - (a) a provision in the classification determination;
  - (b) a provision in a decision for members of the statutory body under section 10(1);
  - (c) a provision in the administrative guidelines.
- (3) The determination may apply, adopt or incorporate the whole or part of a document as in force or existing at a particular time or from time to time.
- (4) This section has effect subject to the law establishing the statutory body.

## **12                      Publication**

- (1) The Minister must, in a manner that the Minister considers appropriate, publish a document that incorporates so much of the following as is in force:
  - (a) the classification determination;
  - (b) each decision under section 10(1);
  - (c) each determination under section 11(1);
  - (d) each provision in force under section 29.
- (2) The Minister must update the document as soon as practicable after a determination or decision referred to in subsection (1)(a), (b) or (c) is made, amended or revoked.
- (3) Without limiting subsection (1), the Minister may publish the document in an electronic form.

## **13                      Administrative guidelines**

- (1) The Minister may make administrative guidelines for this Division.
- (2) Without limiting subsection (1), the guidelines may provide for the matters that should be taken into account in making a decision under section 10(1).

## **Division 3                      Other statutory officers**

### **14                      Application**

This Division:

- (a) applies to a statutory officer whose entitlements are not provided under Division 1 or 2; and
- (b) has effect subject to the law establishing the office held or occupied by the officer.

### **15                      Entitlements**

- (1) The Tribunal must, on the Administrator's request, inquire into and make recommendations on an entitlement of a statutory officer to whom this Division applies as specified in the request.
- (2) The request may relate to:
  - (a) an inquiry for a specified time; or

- (b) inquiries for specified intervals.
- (3) Without limiting subsection (1), an inquiry covered by that subsection may be:
  - (a) an inquiry into the level of the entitlement; or
  - (b) an inquiry into the legislative framework for the entitlement.
- (4) The Tribunal must prepare a report for each inquiry conducted under subsection (1).
- (5) The report must include any recommendations made by the Tribunal on the matter specified in the request for the inquiry.
- (6) The Tribunal must give the Administrator and Minister a copy of the report as soon as practicable after the report is made.
- (7) The Minister must table a copy of the report in the Assembly within 6 sitting days after receiving it.

## **16 Administrator's power**

- (1) If no provision is made under a law of the Territory for an entitlement of a statutory officer to whom this Division applies, the Administrator may determine that entitlement.
- (2) The determination ceases to have effect when a provision for that entitlement takes effect under another law of the Territory.
- (3) The determination may apply, adopt or incorporate the whole or part of a document as in force or existing at a particular time or from time to time.

## **Part 4 Administration**

### **17 Establishment of Tribunal**

- (1) The Remuneration Tribunal is established.
- (2) The Tribunal may be constituted by one member, or 2 or 3 members, appointed by the Administrator.
- (3) A member holds office for a period of 5 years and is eligible for re-appointment.
- (4) A member may resign the office by writing given to the Administrator.

- (5) The Administrator may remove a member from office:
  - (a) for incompetence or misbehaviour; or
  - (b) for mental or physical incapacity to carry out the member's duties satisfactorily.
- (6) The office of a member becomes vacant if the member:
  - (a) dies; or
  - (b) completes a term of office and is not re-appointed; or
  - (c) resigns the office; or
  - (d) is removed from office under subsection (5); or
  - (e) is convicted in the Territory of an offence punishable by imprisonment for 12 months or more or is convicted elsewhere of an offence that, if committed in the Territory, would be an offence so punishable; or
  - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an assignment of the member's remuneration for their benefit.
- (7) The Administrator may appoint a person to act as a member during a period or all periods when:
  - (a) the member's office becomes vacant; or
  - (b) the member is absent from duty or from the Territory; or
  - (c) the member is unable to perform the member's duties.

## **18 Chairperson of Tribunal**

- (1) The Administrator must appoint a member of the Tribunal to be the chairperson of the Tribunal if the Tribunal has more than one member.
- (2) The chairperson must preside at all meetings of the Tribunal.
- (3) The chairperson holds office for the period specified in the appointment.
- (4) The chairperson may resign the office by writing given to the Administrator.

- (5) The Administrator may appoint a member of the tribunal to act as the chairperson during a period or all periods when:
- (a) the chairperson's office becomes vacant; or
  - (b) the chairperson is absent from duty or from the Territory; or
  - (c) the chairperson is unable to perform the chairperson's duties.

**19 Tribunal's power to inquire or determine**

In inquiring into or determining a matter under this Act, the Tribunal may also inquire into or determine (as the case may be) another matter that relates to the matter.

**20 Determinations by Tribunal**

A determination by the Tribunal under this Act may apply, adopt or incorporate the whole or part of a document as in force or existing at a particular time or from time to time.

**21 Tabling and disallowance of determinations**

- (1) This section applies to a determination by the Tribunal under this Act.
- (2) The Minister must give a copy of the determination to each person whose entitlements are affected by the determination:
  - (a) within 14 days after the Minister receives a copy of the determination under this Act; and
  - (b) before the Minister tables a copy of the determination in the Assembly under this Act.
- (3) The Assembly may pass a resolution (the **disallowance resolution**) disallowing all or part of the determination within 10 sitting days after a copy of the determination is tabled in the Assembly under this Act.
- (4) Except as provided by subsection (5) or (6), the determination has no effect before the end of those sitting days.
- (5) If no disallowance resolution for the determination is passed within those days, the determination has effect as specified in the determination (including having effect from a date before the end of those days).

- (6) If a disallowance resolution for the determination is passed within those days:
- (a) so much of the determination as is disallowed does not have any effect; and
  - (b) so much of the determination as is not disallowed has effect as specified in the determination (including having effect from a date before the end of those days).
- (7) To avoid doubt, the Assembly's power to disallow a part of a determination includes a power to specify the extent to which a provision of the determination is disallowed.

*Example for subsection (7):*

*If a provision of a determination revokes the whole of another determination, the Assembly may specify that the provision is disallowed to the extent to which it revokes a part of that other determination.*

## **22 Conduct of inquiry**

- (1) The Tribunal is not required to conduct an inquiry in a formal manner.
- (2) In conducting an inquiry, the Tribunal:
- (a) is not bound by the rules of evidence; and
  - (b) may inform itself in any manner it considers appropriate; and
  - (c) may receive any written or oral submissions.

## **23 Assistance**

The Minister may appoint a public sector employee to assist the Tribunal in performing its functions.

## **24 Regulations**

The Administrator may make regulations under this Act.

# **Part 5 Repeals and transitional matters for Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act 2006**

## **25 Repeal of Acts**

The Acts specified in Schedule 1 are repealed.

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## 26 Definitions

In this Part:

**commencement** means the commencement of the *Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act 2006*.

**existing Tribunal** means the Remuneration Tribunal existing under the *Remuneration Tribunal Act* immediately before the commencement.

**new Tribunal** means the Remuneration Tribunal established by section 17(1).

## 27 Remuneration Tribunal

- (1) A person who is a member of the existing Tribunal immediately before the commencement is taken to have been appointed as a member of the new Tribunal under section 17(2).
- (2) However, section 17(3) does not apply to that member.

## 28 Determinations under Remuneration Tribunal Act

- (1) A determination made by the existing Tribunal and in force under the *Remuneration Tribunal Act* immediately before the commencement continues in force.
- (2) The determination may be amended or revoked by the new Tribunal as if:
  - (a) for a determination applying to an Assembly member – it had been made under section 4(1) of this Act; or
  - (b) for a determination applying to a Magistrate – it had been made under section 7(1) of this Act.

## 29 Determinations under Remuneration (Statutory Bodies) Act

A provision in a determination in force under the *Remuneration (Statutory Bodies) Act* immediately before the commencement that provides for an entitlement of a member of a statutory body continues to be in force until the commencement of a provision for an entitlement of that member under sections 9 and 10 of this Act.

**Part 6 Transitional matters for Assembly Members  
and Statutory Officers (Remuneration and  
Other Entitlements) Amendment Act 2009**

**30 Administrative arrangements continue**

(1) An existing administrative arrangement for an entitlement of an Assembly member continues to have effect until a determination under section 4 for the entitlement takes effect.

(2) In this section:

***existing administrative arrangement***, for an entitlement of an Assembly member, means the administrative arrangement relating to the entitlement:

- (a) made by the Chief Minister, and tabled in the Legislative Assembly, on 21 February 2007; or
- (b) made by the Chief Minister, and tabled in the Legislative Assembly, on 29 November 2007.

## **Schedule 1 Repealed Acts**

section 25

|   |                    |
|---|--------------------|
| <i>Remuneration (Statutory Bodies) Act 1979</i> | Act No. 9 of 1980  |
| <i>Remuneration Tribunal Act 1981</i>           | Act No. 28 of 1981 |
| <i>Remuneration Tribunal Amendment Act 1985</i> | Act No. 15 of 1985 |
| <i>Remuneration Tribunal Amendment Act 1991</i> | Act No. 29 of 1991 |
| <i>Remuneration Tribunal Amendment Act 2004</i> | Act No. 51 of 2004 |

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## ENDNOTES

**1****KEY**

Key to abbreviations

amd = amended  
 app = appendix  
 bl = by-law  
 ch = Chapter  
 cl = clause  
 div = Division  
 exp = expires/expired  
 f = forms  
 Gaz = Gazette  
 hdg = heading  
 ins = inserted  
 lt = long title  
 nc = not commenced

od = order  
 om = omitted  
 pt = Part  
 r = regulation/rule  
 rem = remainder  
 renum = renumbered  
 rep = repealed  
 s = section  
 sch = Schedule  
 sdiv = Subdivision  
 SL = Subordinate Legislation  
 sub = substituted

**2****LIST OF LEGISLATION**

***Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act 2006 (Act No. 7, 2006)***

|             |               |
|-------------|---------------|
| Assent date | 26 April 2006 |
| Commenced   | 26 April 2006 |

***Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Amendment Act 2009 (Act No. 27, 2009)***

|             |   |
|-------------|---|
| Assent date | 1 September 2009                                    |
| Commenced   | 30 September 2009 (Gaz G39, 30 September 2009, p 5) |

***Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Amendment Act (No. 2) 2009 (Act No. 28, 2009)***

|             |                      |
|-------------|----------------------|
| Assent date | 11 November 2009     |
| Commenced   | 1 October 2009 (s 2) |

**3****LIST OF AMENDMENTS**

|          |                       |
|----------|-----------------------|
| s 2      | amd No. 27, 2009, s 4 |
| s 3      | sub No. 28, 2009, s 4 |
| s 4      | amd No. 27, 2009, s 5 |
| s 24     | sub No. 27, 2009, s 6 |
| pt 6 hdg | exp No. 7, 2006, s 31 |
|          | ins No. 27, 2009, s 7 |
| s 30     | exp No. 7, 2006, s 31 |
|          | ins No. 27, 2009, s 7 |
| s 31     | exp No. 7, 2006, s 31 |
| sch 2    | exp No. 7, 2006, s 31 |