



NORTHERN TERRITORY OF AUSTRALIA

REMUNERATION TRIBUNAL

REPORT

AND

RECOMMENDATION No. 2 of 2004

STATUTORY BODIES

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INTRODUCTION

1. The remuneration and allowances and expenses paid to members of statutory bodies in the Northern Territory is a matter for determination by the Administrator from time to time under section 4 of the *Remuneration (Statutory Bodies) Act*.
2. A “statutory body” is defined in that Act to mean “a body, whether incorporated or unincorporated, constituted or established by name by an Act for a public purpose, the members of which are appointed by virtue of that Act or by the Administrator or a Minister”.
3. This Tribunal is established by section 6(1) of the *Remuneration Tribunal Act*. Section 10(1) of that Act enables the Administrator to request the Tribunal to inquire into and report with recommendations on the remuneration and allowances to be paid to a person or class of persons, as well as other entitlements to be granted for their services. Tribunal reports are required to be tabled in the Legislative Assembly within 6 sitting days next following their receipt by the Administrator.
4. On 30 October 2003 the Administrator issued a formal Notice to the Tribunal, requesting the Tribunal to:
 - (a) inquire into and report on the remuneration to be paid to members of statutory bodies; and
 - (b) make further recommendations in relation to the manner in which reviews of remuneration and allowances, and other entitlements, may be undertaken from time to time.
5. When referring this request to the Tribunal the Chief Minister of the Northern Territory also requested the Tribunal to undertake a review of the four categories of statutory bodies and to recommend any changes to the number and descriptors of categories it considers appropriate.
6. Section 11 of the *Remuneration Tribunal Act* provides "Where the Tribunal carries out an inquiry the Tribunal may also inquire into and report on or determine, as the case may be, any matter that is, or is considered by it to be, related to the remuneration, allowances or entitlements the subject of the inquiry". On the basis of this section the Tribunal has also made recommendations on issues surrounding the administration of statutory bodies.
7. The Tribunal has completed the inquiry and this report and recommendation completes the review.

BACKGROUND

A. DEVELOPMENT OF THE CURRENT REMUNERATION SYSTEM.

8. Until 1988 there were effectively four categories of statutory bodies. The lowest category comprised self-regulatory bodies, where no members were paid. Then there were three levels of advisory/management bodies, subjectively ranked.
9. The last Tribunal recommendation covering member fee rates was presented on 5 May 1988.
10. In its submission to the 1988 inquiry the Government made the point "unless a statutory body is classified as self-regulatory, it is virtually impossible to avoid remunerating the members. At a time of extreme budgetary restraint this has created a financial burden for Government". It suggested (on the basis that with certain bodies membership should be its own reward and that it is not difficult to get members to serve) that another category of 'nil payment' could be formed for certain non self-regulatory bodies.
11. The Tribunal obtained a fresh reference to consider this proposal in detail. It inquired into and reported on a new categorisation of statutory bodies, broadly in line with what the Government wanted, on 15 November 1988.
12. In the meantime, on 28 October 1988, the Administrator made a Determination, using the rates as recommended in the May report, allowing non-industry members of self-regulatory statutory bodies to be paid (at the lowest of the three rates paid to the policy advisory/management bodies). Industry members are those "engaged in, associated with, or practising in, the business, profession, trade or calling of the body".
13. In the confusion of the overlap of the November 1988 recommendation and the October 1988 Determination the concept of a fifth category was either not accepted or overlooked.
14. Individual determinations for bodies were made as required, and in both 1991 and in 1994 the Administrator made consolidated determinations, all without the benefit of a report or recommendation by this Tribunal. Since then there have been numerous special determinations for individual members of both new and existing statutory bodies, none of which were reviewed by this Tribunal. As it is now 10 years since there has been a consolidated determination it has proved to be a time consuming task to match statutory bodies with current determined rates.

15. The 1998 arrangements produced three effective eligible member fee steps. The lowest step being for paid members of self-regulatory bodies, as well as for members of the bottom tier of advisory bodies. There are two higher fee steps for members of policy, management and determinative bodies with greater responsibility, the top one requiring a level of professional expertise, viz:

Group	Chairman		Member	
	<u>Day</u>	<u>Hour</u>	<u>Day</u>	<u>Hour</u>
Basic	\$125	\$25	\$90	\$18
More responsibility	\$160	\$32	\$125	\$25
Determine/implement	\$490	\$98	\$490	\$98

16. It is to be noted that the Tribunal recommended the same remuneration for both the Chairman and the members of top-category bodies. It did this on the stated basis that the Chair at that level was simply the first among professional equals, and that all members carried equal responsibility.
17. With few exceptions fees payable to members in this and later determinations have been set following a general Departmental or Ministerial assessment of the importance of the statutory body concerned to government. Also, no account was taken of whether those fees have been paid from some budget source or from the body's own separate revenues.
18. As the years went by it became more difficult to maintain this categorisation and member rates system. Economic circumstance in the Territory changed.
19. The lack of differentiation within the categories caused category splitting to take place in the 1994 Determination, just to get the desired fee levels. The driving need to introduce new sub-categories was due to the jump between the top two categories being so large.
20. The standard member fee structure and rates, persisting since 1994, is:

Group	Chair		Member	
	<u>Day</u>	<u>Hour</u>	<u>Day</u>	<u>Hour</u>
Standard				
Self regulation/Advice 1	\$190	\$40	\$135	\$30
Policy/Advice 2	\$240	\$50	\$190	\$40
Policy/Advice 3/Manage	\$490	\$98	\$490	\$98

21. The inability of the system to cope is further evidenced by the need by the Government to create even more new sub-categories since 1994, and to obtain a succession of personal Determinations covering individuals coming in as members of both existing and newly created bodies. With these added structural arrangements the sub-categories and rates are now:

Group	Chair		Member	
	<u>Day</u>	<u>Hour</u>	<u>Day</u>	<u>Hour</u>
Special				
Advice 2.1 (x1 body)	\$490	\$98	\$160	\$32
Advice 2.2 (x4 bodies)	\$490	\$98	\$190	\$40
Advice 2.3 (x2 bodies)	\$490	\$98	\$240	\$50
Personal rates (x9 bodies)	various daily/hourly and annual			

22. The Government has not endorsed any framework of descriptors for current categories.

B. CONDUCT OF THIS REVIEW

23. The heads of all government Agencies and of certain statutory bodies were made aware of the review by letter on 16 January 2004. They were provided with an issues paper and asked to provide details of contact officers for each statutory body. Advertisements calling for submissions were inserted in all major Territory newspapers.
24. Legal advice was sought on:
- (a) the scope of the inquiry, in particular whether it extends to statutory bodies:
 - (i) whose members' remuneration is not determined by the Administrator; and
 - (ii) which are constituted by a Regulation rather than an Act,
 - (iii) where they are in commercial competition, for example an insurance office, and their 'public purpose' is in doubt;
 - (iv) that are formed but only activated at the discretion of a Minister or some other authority under an Act; and

- (b) whether or not the power of the Administrator to set remuneration is exclusive.
25. The Tribunal met with the Commissioner for Public Employment and the Under-Treasurer. It also sought comparative material on the grouping of statutory bodies for remuneration of members from the Commonwealth, the States, and the Australian Capital Territory. Some of this material was, necessarily, provided on a confidential basis. The Tribunal is very appreciative of the generous response to its requests.
26. A clerical officer was made available to the Tribunal specifically to locate and verify the current status of statutory bodies, to obtain from contact officers and other sources all information pertinent to this inquiry, and to create the foundation for a new records system that will be useful for all aspects of future remuneration setting for, and administration of, statutory bodies.
27. Submissions received by the Tribunal in response to the public call are listed in Attachment A:
28. The Tribunal clarified a range of issues directly with Agencies and the Government. Those issues included:
- (a) availability to members of statutory bodies of induction, governance and ethical conduct material;
 - (b) the position of Agencies where constituent statutory bodies are operating without formal member determinations;
 - (c) the Government position on non-payment of members with industry connection;
 - (d) the method of member payment, including GST, income tax deduction, and treatment of interposed entities.

BASIC ISSUES

A. INQUIRY AMBIT AND STATUTORY BODY CHARACTERISTICS

29. Considerable effort was made to identify all statutory bodies properly falling within the ambit of this inquiry. They were located through study of previous Determinations, by scan of legislation, and by consideration of responses to requests made to all government Agencies. The list was also compared with the statutory body membership data-base kept by the Department of the Chief Minister.
30. Legislation constituting statutory bodies is far from uniform with regards the formation of statutory bodies and member fee setting. Some are provided with a corporate identity, so the need to keep accounts may imply some level of accounting discretion. Some legislation provides that the Administrator must set fees; other legislation provides that fees be set by the Minister¹. In many cases fees are not mentioned at all. The legal advice obtained by the Tribunal is that all statutory bodies (definition in paragraph 2 above) fall within the ambit of this inquiry.
31. Some bodies are created by Regulation. As the definition of a statutory body refers to it being created by "an Act", advice was sought as to coverage of such bodies. That legal advice confirmed that they are indeed statutory bodies and fall within the ambit of this inquiry.
32. Some bodies are formed with commercial objectives, and the question is whether they satisfy the "public purpose" test in the definition of a statutory body. The legal advice is that public purpose can be assumed for any statutory entity unless the legislation clearly intends it to be otherwise, for example where the legislation creates a Trust for a religious denomination.
33. The Tribunal also sought to clarify the source of authority to set member fees where the legislation covering a statutory body within the ambit of this inquiry does not provide any specific authority. The legal advice is that the Administrator is the exclusive determining authority for them.
34. Where bodies are generically constituted by an Act, but formed only at the discretion of a Minister or some other authority, for example Juvenile Justice Boards, Appeals Boards and Procurement Boards, advice is that they are not statutory bodies that are covered here.

¹ *Territory Insurance Office Act*

35. Having settled the ambit of the inquiry, the Tribunal categorised a number of bodies as not requiring further remuneration setting attention at this time². This group includes:

- (a) bodies that have no members currently appointed.
- (b) bodies having only public or judiciary employees as members;
- (c) bodies whose members are, by tradition or choice, unpaid;

B. THE VALUE OF FEES PAID

36. Given the length of time since the last Tribunal inquiry into member fee rates, it is surprising that the actual entitlement amounts were not the subject of more comment by interested parties. Quite a few submissions did deal with rates, but their concentration was on the ranking for which they presently qualify.

37. Perhaps some of the reason for this can be gained from the following table:

1988 Rates By Tribunal	1988 Rates + CPI to date	Rates applying since 1994
\$90	\$135	\$135
\$125	\$189	\$190
\$160*	\$240	\$240
\$490	\$734	\$490

* Rate added later

38. The coincidence that the first three tiers of current rates have the same value now as when they were set in 1988 is remarkable. They have been above the 1988 value for 10 years and have just regained the CPI trend line. The \$490 rate for the step occupied by some Chairmen and professionals has fallen way below its original value. This has not created comment because the members most affected are either;

- in bodies for which separate determination of annual member rates have since been set, or
- special personal rates have been determined for them, or
- persons ineligible to receive fees have been appointed to the positions.

39. CPI parity aside, the rates have certainly fallen behind when account is taken of the average weekly earnings growth differential over the same period.

² See Attachment D

C. SYSTEM DEFICIENCIES

40. The remuneration of members of statutory bodies in the States and the ACT is now determined within a publicly available framework, in most cases with reference to output related categories, so that comparisons can be made of bodies with similar responsibility across the whole of government.
41. In the States members are selected for and inducted into and monitored in their roles in such manner that expectations as to their performance are known to, and responsibility clearly understood by, every one of them.
42. There are deficiencies in the current member remuneration system for statutory bodies in the Northern Territory. They are, in comparison with States best practice:
- the obscure way bodies are now ranked;
 - the poor structure of payments;
 - the ad hoc nature of fee determination;
 - the lack of definition of member responsibility;
 - the absence of steps to ensure maximum member contribution;

(i) Ranking of bodies

43. With some exceptions the current system has, effectively but not expressly, three categories:
- (1) self-regulatory bodies;
 - (2) bodies for which determinations are made in the name of individual members; and
 - (3) all other bodies;
44. For category 2, determinations are made to secure the services of particular individuals who will not join a body at the standard rates. Category 3 contains three responsibility related standard fee grades, and also three extra grades where, although the Chairman is paid the top grade rate in each case, the members are paid one of the three lower member rates.

45. Under the current system no attempt is made to show or compare bodies according to their purpose. For example, bodies with quasi judicial determinative powers are dotted through all three categories.
46. The level of fees now set is related more to the assessed value of the body concerned to government processes, rather than to the level of responsibility and risk carried by the members or the contribution expected of them by the legislation. When the bodies are assembled for comparison into purpose-defined categories and ranked therein according to current fee levels there are many anomalies.

(ii) Fee Structure

47. Standard member fees for service in Northern Territory statutory bodies are set at a daily and an hourly rate. The hourly rate is about 20% of the daily rate. Where a meeting exceeds 4 hours duration the full daily rate is payable.
48. Whether this result is fair depends on the pattern of meetings that the body establishes. A fixed hourly fee (for meetings up to four hours long) does not fairly compensate to the flag-fall costs to the members represented by average travel time to and from the meeting, especially if the meeting itself is short. Also a fixed hourly rate may not contain allowance for adequate preparation time in some cases, leading to the need for extra time allowances being granted.
49. The current system in the Territory does not comprehend annual fees. This is not to say that there aren't any. Those that there are, are set in personal determinations that are not available to the public. This may be a deterrent to prospective membership.

(iii) Ad Hoc Additions and Amendments

50. It is ten years since an increase was applied to most members of statutory bodies. There has been no independent assessment for sixteen years of whether fees being paid are adequate or of what should be paid to the members of newly established statutory bodies.
51. As mentioned earlier, bodies created in that period have either been ranked on one of three tiers of importance (each having a fixed Chairman/Member rate), or have had a determination of fees made for them outside the regular fee structure. Sometimes the body is not ranked at all. Rather personal determinations have been made for the duration of membership.
52. Under this loose system the Agency responsible for the statutory body usually gets the approval of its Minister for the remuneration to be paid to the members concerned. Sometimes the rates are aligned to the categories generally

applying, and sometimes they are at variance with them. Sometimes the rates are unique, to attract necessary expertise. Sometimes the Cabinet Office of the Department of the Chief Minister provides categorisation advice. Almost invariably the Administrator is the determining authority, so the Minister refers his endorsement to Cabinet. The Tribunal has noted a number of cases where statutory bodies have set their own fees outside the system altogether or had someone other than the Administrator purport to set them³.

(iv) Member Responsibility

53. Members of statutory bodies perform some of the most important roles in government. Collectively their decisions can determine critical personal, business and property rights. Individually they carry varying levels of responsibility and should be paid an amount that reflects this.
54. In the Northern Territory there is no systematic means of ensuring that members of statutory bodies are inducted into the processes and responsibilities of the position to which they are appointed. Apart from occasional directives within individual Agencies, there is no generally communicated expectation that members of statutory bodies are responsible to:
- act within statutes, the common law, and accepted principles of good governance;
 - be loyal to the Crown and recognise government policy and practices;
 - act in accordance with generally expected ethical principles applying to public service;
 - exercise prudence and be economical with public resources.
55. The degree of importance of each of these fundamental responsibilities will vary with the size and complexity of the body and its activity. But no matter how small the body it is clear that all members should know that their appointment is based on them personally recognising and continuing to accept them. Members who act in ignorance may be brought to sudden realisation upon receipt of a Writ, or upon notice of an inquiry by the Ombudsman or of a complaint to the Information Commissioner, by audit findings, or even by action taken against them under the criminal law⁴, if they fail to act properly in public office.
56. Expectation as to the management of ethical obligations is covered in a public document prepared by the Northern Territory Auditor-General's Office⁵.

³ Attachment C

⁴ Sections 76 – 86 *Criminal Code Act*.

⁵ See <http://www.nt.gov.au/ago/brochures/ethics/index.htm>

Neither that document nor any other ethical standards material is required to be drawn to the attention of members of statutory bodies.

57. Public sector employees take an oath or affirmation of office upon appointment, and are covered by the principles of behaviour set out in and under the *Public Sector Employment and Management Act*. Members engaged by way of contract may also have special responsibilities built into their contract terms.
58. Members of statutory bodies are not public sector employees⁶. Consequently, in the absence of any current requirement that there be a letter notifying them of their appointment, containing their role and the expectations of them in office, countersigned by them, it is difficult to establish that they were or are aware of their responsibilities.
59. Also, members may not be aware before accepting their position that provisions of the *Work Health Act* relating to workers compensation entitlements may not cover them.
60. With the now world-wide recognition of standards of good governance, the extra responsibility of the Chairman of any board is distinguished much more clearly from that of an ordinary member than it has been in the past. The foundation of the Chairman's role is his or her relationship with the Minister. "The chairperson and the Minister must agree on the long term objectives of the Government in relation to the statutory authority. The chairperson must also help translate those objectives into a strategic plan, and have the Minister 'sign off' on that plan"⁷. Within the Board the Chairman "provides leadership to, and promotes cohesiveness, effectiveness and functioning of, a board"⁸. The responsibilities he or she has in that role include⁹:
- setting the Board agenda;
 - facilitating the flow of information and discussion;
 - conducting Board meetings and other business;
 - ensuring that the Board operates effectively;
 - liaising with and reporting to the Minister;
 - reviewing Board and organisational performance; and

⁶ Section 4(1)(a) *Public Sector Employment and Management Act*.

⁷ SA Department of Premier and Cabinet. 'Government Boards and Committees: Guidelines for Agencies and Board Directors', page 19.

⁸ Audit Office of NSW 'On Board: Guide to better practice for public sector governing and advisory boards', page 8.

⁹ 'Welcome Aboard: A Guide for Members of Queensland Government Boards, Committees and Statutory Authorities'. A fuller listing is included in AS8000-2003.

- inducting and supporting Board members

61. The differential in the fee paid to the Chairman should recognise the extent of the extra responsibility relative to an ordinary member. Fees in the Northern Territory have not been assessed since the national move to adopt good governance practices and the more recent illumination of certain ethical deficiencies in entity management. Questionable governance and ethical standards permeate organisations from the top down. The concept imbedded in the current fee structure that the Chairman of top level bodies is just a first among equals is very dated and quite inequitable for well performing Chairmen.
62. The Tribunal suspects that many members of Northern Territory Boards, including their Chairman, are unaware of at least some of these issues so setting a uniform and appropriate fee for service can not be soundly based on the assumption that every board is operating to today's expected responsibility standards.

(v) Member Contribution

63. Fees are set against an expectation that there will be full and effective member participation, however, this expectation is only implied. Following the above comment, it is obviously important that remuneration setting recognises the degree to which a member understands what he or she is, or should be, doing in diligent discharge of that role.
64. Members who know their responsibilities are more effective, and produce more efficient and effective boards, than those who don't. They are less likely to allow their opinions to be subordinated to those of knowledgeable public sector members or outspoken members. However, the contribution for which a member is paid is not just related to his or her knowledge of the responsibility attaching to the position held. It extends also from the calibre and suitability of the member, the balance of board membership, and the degree to which good governance principles and practices apply within the Board. The remuneration of a member is set in anticipation that the member receiving the fee is the right person and that he or she preforms the role of a member according to accepted standards. An informative list of those standards is contained in Australian Standard AS8000-2003.
65. In the States a 'best fit' (in both a personal and a compositional sense) is obtained through a combination of publicly stated policies and practices. There are stated policies as to community representation, set recruitment standards, registers maintained by class of candidates for membership, information packages for potential members and new appointees, sign-on requirements and guides to conduct.

66. In the Northern Territory there is no central requirement covering member recruitment practice. There is no requirement for notifying forthcoming vacancies, selection on merit, probity checking, declaration of private interests, or achieving the optimum mix of expertise, experience and strategic ability.
67. Neither is there any stated government expectation of performance of the individual members, though in some cases the parent Agency provides induction material pertinent to the task of the body. There is no general requirement as to commitment, e.g. attendance at some minimum number of meetings. There is no specified pro-forma contract of engagement.
68. The performance of the body itself is covered only by the terms of the legislation and through relatively informal interaction with the Minister. There is no requirement for bodies to adopt or follow Australian standards of good governance and best practice.
69. The shortage of Territory residents with sectoral commercial skills, financial product knowledge, and specialised expertise, makes it inevitable that some members be drawn from outside of the Northern Territory at market rates. There is no guidance as to how and when these services are to be obtained.

CONSIDERATIONS

70. The Tribunal began this inquiry by circulating an issues paper recognizing that the remuneration of the members of statutory bodies should:
- ◆ be specifically authorized within an open and explicable framework, through which the public policy importance of each statutory body is evident; and
 - ◆ be related to:
 - (a) the importance of the body, in risk, financial and/or functional terms, and
 - (b) the influence or finality of decisions taken by the members on or for the body.
 - (c) what the member brings to the body

There was general support for this approach in submissions received.

71. The community at large does not differentiate the actions of statutory bodies from the actions of government Agencies. The Government is vulnerable where there are systematic deficiencies in the administration of boards of statutory bodies, as it will be held answerable for the actions or inactions of those boards and for the actions or inactions of individual members of them. All States have moved to ensure that all board members act properly and the Tribunal recommends that the Northern Territory does this as soon as possible. Links to examples of guidance material handed to members in the States is included at Attachment E, and a ready reckoner of corporate governance elements prepared by the NSW Audit Office is at Attachment F.
72. The Northern Territory Government is aware that there have been deficiencies in the administration of statutory bodies. The activation of this inquiry, and the appointment of dedicated staff within the Cabinet Office of the Department of the Chief Minister, is expected to provide the information and resources needed to support a rapid move to best practice in this area as soon as this report and recommendations are considered..
73. Quite a number of bodies considered by the Tribunal in this review are not among those categorised for recommended fee determination. Those exclusions, and the reasons for their exclusion are listed at Attachment D.

A. GROUPING BY CLASSIFICATION

74. As stated earlier, the lack of a structure within which the relative importance and influence of bodies can be openly compared is a weakness of the Northern Territory member remuneration setting system.
75. Best practice for statutory body remuneration setting has as its basis the grouping of those bodies into classes containing levels based on the degree of functional responsibility. The States have now all moved to assemble their statutory bodies into such a format, rather than continuing to tier their global list of statutory bodies by responsibility level as occurs in the Northern Territory.
76. The frameworks applying in the States, with summaries of category descriptors, are shown in Appendix B.
77. Having regard for all factors, the most appropriate grouping of Northern Territory bodies is:
- A. Governing and Management Bodies
 - (a) Senior Commercial and Assets Management
 - (b) Major facilities/Assets Management and Commercialisation
 - (c) Local Facilities and Land Management
 - B. Quasi-Judicial Bodies
 - (a) Senior Appeals / Important Government Process
 - (b) Appeals and Review / Determination of Important Rights
 - (c) Senior Registration and Assessment
 - (d) Registration and Practice
 - C. Advisory and Review Bodies
 - (a) Critical Issues
 - (b) Expert High Impact
 - (b) Ministerial Assistant
78. The recommended allocation of bodies within these groups is at Attachment G. It should be noted that there are some statutory bodies that do not achieve a

ranking in this categorisation table. These bodies may be found in Attachment D under the following headings:

- Bodies that are inactive;
- Bodies having only Public or Judiciary employees as members;
- Bodies whose members are, by tradition or choice, unpaid.

79. Movements in and out of this list will be relatively common, and new bodies will also be constituted from time to time. When any of the existing bodies referred to in Attachment D become active with any number of non Public Sector or non Judiciary members, or when any new statutory body is constituted, it is recommended that the relevant Agency, having received the approval of its Minister, be required to settle on a categorisation of that body with the Cabinet Office. If agreement as to categorisation cannot be reached the categorisation issue should be referred to the Chief Minister for decision. This procedure is designed to relieve the pressure to secure individual determinations from the Administrator, leaving that level of executive authority free to determine only the categorisation framework and respective rate steps from time to time. In the rare cases where personal rates are required to attract or retain members, the normal procedures for obtaining a formal Determination should be followed.

B. FEES

(i) Level of Fees

QUANTUM

80. Considerations for the level of fees payable within a category include:

- the significance of decisions, i.e. are they able to be over-ridden or ignored by the Minister or appealed,
- the governmental, economic or community welfare influence of decisions,
- whether they have corporate status and an off-budget funding source,
- whether the CEO of the board carries ultimate accountability,
- the degree of risk carried by members,

- the opportunity cost of the time devoted by members,
- general economic circumstances,
- comparisons with similar bodies elsewhere.

81. They also depend on whether the member carries the added responsibility of chairing the body.
82. As stated, most States create categories, and their respective internal grades, as an all encompassing remuneration framework. The Commonwealth and NSW don't try to do this. In those jurisdictions bodies that are covered in determinations (certainly all the significant ones) have the full set of remuneration variation procedures to follow. For the lowest tier of bodies there, however, the Government determines a maximum daily member fee rate each year. The responsible Minister can set member fees for a body, without going through all the determination procedures, at any rate up to that maximum. Currently those maximum daily rates are:

		Category 1	Category 2	Category 3
Commonwealth ¹⁰	Chair	\$307	\$416	\$503
	Member	\$230	\$307	\$448
NSW ¹¹	Chair	\$332		
	Member	\$201		

83. There is professional or community status attaching to any appointment to a Government board. This can provide a significant degree of goodwill in the business of the member concerned. In fact it is not infrequent for senior professional people to accept appointments as members of special review panels on a purely voluntary basis, especially at the Commonwealth level. There is also a more general concept of civic duty attaching to board appointments, where the concept of public service permeates the members as they achieve community protection or develop community assets. The value of status, and the degree of recognised civic duty, acts as a discount on member remuneration. In some States the degree of such discount is as high as 40% of comparable private sector rates. This Tribunal has always accepted that such considerations apply when examining member fee levels¹².
84. As the current fee levels have not comprehended general wages movement in the Northern Territory for many years, the Tribunal has modelled the basic rates with a real annual wage growth increment since 1994. The fair minimum

¹⁰ Effective 1 July 2004. For meetings less than 3 hours duration only a proportion paid

¹¹ Half day rates also apply

¹² See paragraphs 10-11 above

rate re-established in this process is \$180. This is at the lower end of what is paid as the maximum for the lower rung of member fees in other jurisdictions. The Tribunal then examined comparative material for the Chairmanship differential. This varies widely from about 20% to more than 100%. Recognising the extra responsibilities of the Chairman under good governance principles the Tribunal is recommending that the common differential be 33%. Customarily the steps in member remuneration scales within classifications have it that the Chairman is one rate above the member in each body (two rates in some specialist bodies or where the Chairman has a high-level facilitation role). With five steps to be created above the minimum, application of the 33% differential results in a top Chairman rate of \$757. That too is at the lower end of comparable maximums in other jurisdictions. On material available from the States the bottom/top daily rates now applicable are:

	Chairman \$	Member \$
Commonwealth ¹³	307 / 972	230 / 863
ACT	325 / 645	270 / 595
Queensland	193 / 877	171 / 680
NSW	322 / 1170	201 / 1170
Current NT	190 / 490	135 / 490
Recommended NT	240 / 757	180 / 568

MEMBERS WITH SPECIAL QUALIFICATIONS AND POSITIONS

85. Many statutes require that members be drawn from specified groups, including from named professions. Some insist that a Deputy Chairman be appointed and that that person assume the chair in the absence of the Chairman. This Tribunal accepts the view that as:

- (a) the contribution of all board members is considered equally at any meeting, irrespective of the constituency or profession from which they are drawn; and
- (b) the responsibility for the decisions of the body is shared equally among the members,

as a general rule all members apart from the Chairman in each particular body should be paid an equal amount. Consistent with this principle it also accepts the view that any person appointed as a Deputy Chairman should receive a daily fee different from that paid to other members only when required to

¹³ Effective 1 July 2004

preside at a meeting in the absence of the Chairman. The fact that some members with specialist skills just cannot be secured in such a small jurisdiction as the Northern Territory without paying professional fees (status and civic duty notwithstanding) is appreciated. For example interstate actuarial, financial and commercial experts may only serve if paid the tendered or a negotiated rate. Experienced doctors and lawyers will sometimes refuse offers of board membership where meetings are usually protracted. In South Australia there is some flexibility built into the remuneration system whereby limited special attraction and retention allowances may be paid. For the time being there will need to be more flexibility than this, so the Tribunal agrees that personal determinations should continue to be made where necessary to avoid differential rates for people whose services cannot otherwise be secured.

86. To date the statutory bodies where differential remuneration rates have been determined for professionals have been:

Medical Board of the Northern Territory
Mental Health Review Tribunal
Northern Territory Licensing Commission

MEMBERS WITH SELF-INTEREST

87. A major issue before the Tribunal is whether or not industry members on practice regulation bodies should be paid, and whether or not there should be a category of bodies where there is sufficient member self-interest to render payment inappropriate¹⁴.
88. Members who are engaged in the industry for which the statutory body was formed, for example a psychologist or an electrician on the body that regulates admission to, or disqualification from, the livelihood for which they may be qualified, are presently disqualified from receiving fees.
89. That policy decision was taken over 20 years ago. The statutory bodies for which industry associates have not been paid are, or were¹⁵:

Aboriginal Health Workers Registration Board
Agents Licensing Board of the Northern Territory
Chiropractors and Osteopaths Registration Board
Dental Board of the Northern Territory
Electrical Workers and Contractors Licensing Board
Health Practitioners and Allied Professionals Tribunal
Legal Practitioners Admission Board of the Northern Territory
Medical Board

¹⁴ E.g. Ministerial advisory councils and the like – also see Paragraphs 10-13.

¹⁵ The health boards (except the Radiographers Registration Board) have recently been reconstituted, in some cases with different names, by the Health Practitioners Act 2004

Northern Territory Architects Board
Nursing Board of the Northern Territory
Occupational Therapists Registration Board of the Northern Territory
Optometrists Board
Pharmacy Board
Physiotherapists Registration Board of the Northern Territory
Plumbers and Drainers Licensing Board
Psychologists Registration Board of the Northern Territory
Radiographers Registration Board
Surveyors Board of the Northern Territory
Veterinary Board of the Northern Territory

90. The hourly rate currently payable to the members who are not disqualified from fees (disinterested community representatives) is \$30 (\$40 if the Chairman). The total cost to government of introducing payments to those now disqualified, at the newly recommended rates, would be of the order of \$26,500¹⁶. However, it should be noted that following the reconstitution of all the health registration boards, and consolidation of the health appeal tribunals into a single body, this year, all new health practitioner boards now have body corporate status and will receive respective fees, penalties, and fines payable under the Act and pay fees from these funds. The estimate of fee payments for newly qualified industry participants in the non-health bodies is \$16,300 at the newly recommended rates. Significantly more than that cost is drawn from the tradespersons and professionals by way of registration fees paid directly to government.
91. The Tribunal has received a number of submissions, some from government officials involved with the administration of these trades and professions related bodies and others from individual members of such bodies. All sought the removal of this fee disqualification.
92. Upholding practicing standards is a matter of public safety and protection, not just a matter of regulating a closed shop for select practitioners. Drawing upon the expertise of individual practitioners is not, therefore, simply for their own benefit or to safeguard their trade or profession. Indeed, they could be called to account if they used their position to do this because members are obliged to consider matters from the perspective of the body and its objectives, not their own interest or that of their constituency. Also, the industry members on these bodies usually have their own business and, even at the fee level now recommended, will still suffer lost earning capacity which, it can be argued, outweighs both the status gained by them and a fair contribution to public affairs. The legal principle that members are less accountable for wrong or hasty advice where that advice is gratuitous is also worth noting.

¹⁶ The Agents Licensing Board of the Northern Territory has its own funds; the legal Practitioners Admissions Board of the Northern Territory, and the Health Practitioners and Allied Professionals Tribunal, have not been paying fees.

93. The level of responsibility carried by members, paid and unpaid, in the management of the affairs of these bodies is increasing due to the growing recognition of the care and diligence required of members under corporate governance standards in recent years. They do not have the protections afforded to public servants.
94. It is of concern to the Tribunal that complete loss of income by these people, coupled with an increasing focus on member performance, produces inequity and will mean that it will become progressively harder to get suitable people to serve on these bodies. The Tribunal recommends that they be paid. The bodies concerned vary in their significance and community impact, with most of them clustered under either the Minister for Health or the Minister for Lands and Planning. Their responsibility ranking for fee purposes is best determined by the Minister concerned up to the maximum set in the determination.
95. By section 4 of the *Remuneration (Statutory Bodies) Act* the Administrator has power to determine remuneration or rates of remuneration or differential remuneration for members or classes of members. It is doubtful that the power exists there for him to nominate a Minister to make a determination on his behalf. The Tribunal recommends that the situation be made more certain by legislative amendment.
96. There are at least three means of amending legislation to achieve the required result. One is to create a situation under which all remuneration of members is set by a Minister or by Ministers using administrative powers within guidelines approved of by Cabinet. A second is to amend the *Remuneration (Statutory Bodies) Act* to allow limited delegation. The third is to collapse the *Remuneration (Statutory Bodies) Act* into the *Remuneration Tribunal Act*.
97. No other Australian jurisdiction has the equivalent of the Northern Territory *Remuneration (Statutory Bodies) Act*. The Guidelines/Ministerial model is used in some States, other jurisdictions use their respective Remuneration Tribunal mechanisms. The general model used in the Northern Territory (for the remuneration of holders of public offices not covered by the *Public Sector Employment and Management Act*) is one whereby named offices have their remuneration determined by the Administrator either under their own legislation, or the *Remuneration (Statutory Bodies) Act* or the *Remuneration Tribunal Act*. Handling this as an administrative matter for the whole of the statutory bodies sector would be a major departure and is not recommended.
98. A straightforward amendment of the *Remuneration (Statutory Bodies) Act* is a more appealing option. However, this is an unusual Act and its coexistence with the *Remuneration Tribunal Act* has always produced some confusion. As the *Remuneration Tribunal Act* is being progressively amended to make specific reference to offices such as members of Parliament and Magistrates it would be consistent with those moves to incorporate statutory bodies within its ambit. This is the recommended course.

ANNUAL FEES

99. Annual rates have been recommended in some statutory bodies having significant between session responsibilities and a stable work-flow. Those rates have been set following review of material supplied by the bodies, including details of rates now paid to individuals, and interstate comparisons. Those bodies are:

Territory Insurance Office Board.

100. The Territory Insurance Office is a Government trading business constituted by the *Territory Insurance Office Act*. The board is responsible for the affairs of the Office. All board members are appointed by the Minister. There are seven non-executive board members at present. They include members with substantial legal, commercial and insurance experience and expertise. The Office is only authorised to transact business and carry out functions as provided in the Act or as approved by or directed by the Minister. Its policies and contracts of insurance or indemnity and deposits placed with it are fully guaranteed by The Northern Territory Government. Members are not indemnified by the Northern Territory for their actions, though they do have the favour of commercial liability insurance.
101. In the financial year to June 2003 the revenues of the Office amounted to \$162M and at 30 June 2003 the assets controlled totalled \$814M. The net worth of the Office was barely \$1M.
102. The members of the board, except the Chief Executive Officer, are entitled to fees, allowances and expenses determined by the Minister from time to time. The current fees paid to the Chairman, the deputy Chairman, and members were determined in September 1999. All board members also receive a fee of \$1,300 for attending each formal meeting of a committee of which they are a member¹⁷.
103. The Office is the only government owned insurance office competing in the market-place in Australia. It is very small in comparison with its commercial competitors.
104. The Tribunal accepts that members of the board of the Office are entitled to an annual fee at the top ranking of statutory bodies in the Northern Territory. The Tribunal has compared the remuneration of its members with the remuneration of those serving in other commercial statutory bodies in the States and the ACT. The annual fee as currently determined (including that for average committee attendance) is similar to that paid to members of Landcom (competitive commercial State Owned Corporation of similar size) in New

¹⁷ Currently the audit Committee and the Investment Committee.

South Wales, but higher than that payable to the highest rung of all Government Business Enterprises in South Australia.

105. Having regard for the unique position of the Office, its bindings to the Northern Territory Government, member responsibility profile, and all other factors, the Tribunal confirms the continuing appropriateness of the fees now being paid to non-executive members of the board. Committee fees are recommended as annual sums, to better account for the need for members to keep abreast of specialist issues throughout the year, rather than as attendance fees.

Darwin Port Corporation.

106. The Darwin Port Corporation is established under the *Darwin Port Corporation Act* to promote and manage the port of Darwin, including port land and facilities, under the direction of the Minister. There are five board members, three appointed by the Minister as Directors (one of whom is a public sector employee), one appointed by the Minister as Chairman, and one (also a public sector employee) who is appointed by the Minister as the Chief Executive Officer. The Corporation is required to act in a commercial manner, but within a budget approved by the Minister. Members are indemnified by the Act for actions taken in good faith.
107. The Darwin Port Corporation is an Agency for the purposes of the *Public Sector Employment and Management Act* and the *Financial Management Act*.
108. The Corporation is engaged in significant planning and development for and of the port as efforts increase to have Darwin become a land-bridge into Asia. It is also promoting Darwin as a cruise ship destination. It employs about 50 staff. The Government has contributed assets to it as equity, with a transfer value of \$110M. The Corporation has accelerated the write-down of these assets so that the total assets of the Corporation now stand at \$57M¹⁸. During recent years the Corporation has been in no position to pay a dividend to the Government. The annual revenue of the Corporation is \$19M, 38% of which comes from the Government, mainly in recognition of community service obligations delivered by the Corporation.
109. The Corporation met ten times in 2002-2003. Remuneration for members of the Corporation Board is a matter for determination by the Administrator. There is no current general determination covering these members. Each non-public sector member has remuneration and benefits determined by a personal determination dated 12 December 2002.
110. The Corporation is an integral part of the Government's development agenda for the Northern Territory and fees have to be at such level as to attract and

¹⁸ Figures to and at the end of 2003 financial year.

retain three experienced non-public sector non-executive Directors with the skills to assist both this integration and the moves towards commercial status.

111. The Tribunal has carefully considered the ranking of the Corporation for remuneration purposes. This process included State comparisons. In South Australia the Corporation would rank at Level 3, for which the Chair/Member fees are \$31,280 / \$21,505. In NSW the Port Kembla Port Corporation is of similar size. Port Kembla members are paid more than the South Australian benchmark, but this would reflect the fact that the body is a Government Owned Corporation with more independent commercial discretion and accountability.
112. The Corporation is recommended to be included in the third tier* of annual fee paying bodies. Should the Corporation become a Government Owned Corporation then it may qualify as a second tier* body for remuneration purposes.

* Should read "second level" and "top level" respectively. This note added on 21 December 2004.

Northern Territory Tourist Commission.

113. The Northern Territory Tourist Commission is a body corporate established by the *Northern Territory Tourist Commission Act* and constituted by a Chief Executive Officer and at least 6 members appointed by the Minister, one of whom is appointed by the Minister as the Chairman. It currently has 9 members. Its function is to encourage tourism and facilitate investment in it, and to advise the Minister, who, in turn, is empowered to direct the Commission. The Commission must meet at least four times each year. The Commission met five times in 2002/2003. Members also attend the Finance and Audit Sub-Committee and the Marketing Sub-Committee.
114. The Commission is an Agency for the purposes of the *Public Sector Employment and Management Act* and the *Financial Management Act*.
115. The Commission received \$29m in revenue during 2002/2003, almost all from the Government. It has no financial net worth.
116. The remuneration of the Chairman of the Commission is set as an annual rate by a personal Determination. There are six Commissioners who are not public sector employees. Their remuneration is set at \$190 per day or \$40 per hour in the general 1994 Determination.
117. Tourism is one of the major industries in the Northern Territory. That industry has a significant impact on business prosperity generally throughout the Northern Territory. The Government funds tourism promotion and industry facilitation via the Commission. Non-executive Commissioners have extensive experience and continuing interests in commercial tourism. Their appointment is designed to add informed value to management and strategic direction.

118. The success of Commission programs and of its advice to the Minister is an ongoing responsibility of all Commissioners. It is not just the focus of attention during the periodic meetings that are held, important though they are. For this reason it is appropriate that they receive an annual fee rather than a daily (meeting related) one. This is also the practice in the States and the ACT. Year 2002-2003 comparisons are:

	NSW	Victoria	Qld	SA	WA	Tas	ACT	NT
Members	9	10	9	10	8	7	9	9
Meetings	7	9	8		11	9	8	5
Staff	182	120	533	175	163	213	51	34
Revenue	\$59m	\$44m	\$105m	\$53m	\$44m	\$61m	\$16m	\$29m
Fee Chair	20k-30k	30k-40k	30k-40k	30k-40k	30k-40k	n/a	\$22,145	Persona 1
Fee Member	10k-20k	10k-20k	10k-20k	10k-20k	10k-20k	n/a	\$8,815	\$190pd

(ii). Payment of Daily or Hourly Fees

PART-DAY FEE CALCULATION

119. Where daily rates are payable to a member, the States calculate the member entitlement for any meeting lasting less than a day in fundamentally differing ways.
120. All member fees for Northern Territory statutory bodies are determined as daily or hourly rates with the following payment conditions:

"(a) The daily rate is payable in respect of each day on which the member-

- (i) attends a meeting of the body;
- (ii) is engaged, with the prior approval of the body, on the business of the body; or
- (iii) travels to or from the member's place of living before or after such a meeting or in connection with such business, or is absent from his place of living because of such travel,

and where the total time so spent on that day exceeds 4 hours.

(b) The hourly rate is payable in respect of each day on which the member

—

- (i) attends a meeting of the body;

- (ii) is engaged, with the prior approval of the body, on the business of the body; or
- (iii) travels to or from the member's place of living, before or after such a meeting or in connection with such business, or is absent from his place of living as a result of such travel,

and where the total time so spent on that day does not exceed 4 hours."¹⁹

121. Using a notional daily fee rate of \$200, a comparison of the level of fees payable for meetings lasting from 1 to 8 hours is:

Hours	NT	Qld	NSW	Cwlth	Tas	ACT	SA	WA
1	40	100	100	80	200	80	25	133
2	80	100	100	120	200	120	100	133
3	120	100	100	200	200	200	100	133
4	160	100	100	200	200	200	100	133
5	200	200	200	200	200	200	125	133
6	200	200	200	200	200	200	150	133
7	200	200	200	200	200	200	175	133
8	200	200	200	200	200	200	200	200

122. It will be noted that some States use sessional fees (half day increments) and some use proportional systems for part-day meetings. The Northern Territory is the only jurisdiction using hourly fees. The ambition of these schemes is to fairly remunerate members by having regard for not only the hours at the meeting but also for normal travel and normal preparation. The hourly fees now applying in the Northern Territory are set at 20% of the daily fee, so where the meeting (including associated average travel time) is over 4 hours long a full day's fee is payable. Under this method, presuming say 40 minutes return travel time, there is little or no allowance for preparation for shorter meetings. Compared with the States there is insufficient 'flag-fall' preparation allowance in this method. To better recognise preparation needs the Tribunal recommends that the hourly rate be replaced by the method used by the Commonwealth²⁰ and the ACT for part day meetings, i.e. proportions of the day rate for the duration of the meeting itself. Those proportions build in the average travel and the preparation time elements. However, the proportions recommended are different from the Commonwealth ones. For Commonwealth bodies the full day fee is payable for meetings of three hours and above. In the Northern Territory the full day fee is currently payable where the meeting duration exceeds four hours, and that threshold is not

¹⁹ Condition B of the Determination of 31 August 1994.

²⁰ <http://www.remtribunal.gov.au/determinationsReports/byYear/2004dets/2004-12Consolidated.pdf>

changed. Using the proportions recommended, the new part day fees are as follows:

Hours	New NT \$
Not exceeding 1	66
2	100
3	133
4	167
5	200
6	200
7	200
8	200

EXTRA PREPARATION TIME AND OUT-OF-SESSION WORK

123. For the members of boards having some routine to their nature, for example a succession of similarly structured board papers, or issues usually presented to them at the meetings by the executive, the normal fee structure will be appropriate. The nature of some statutory bodies, however, is such that members must not only attend regular meetings but also keep themselves up to date on developments of concern to the body on a daily basis. This is particularly so where the body operates in a commercial environment or where their jurisdiction is an evolving one. In those cases there will be circulation of papers between meetings and an expectation that all members will follow breaking news and digest it in their own context. For those bodies an annual fee is appropriate. There will, however, remain occasions where daily fee paying bodies should recognise extra compensable member preparation time.
124. The level and type of responsibility carried by members of a particular daily fee paying statutory body will influence the time a member has to put into preparation for a meeting. Sometimes there will be complex and lengthy agenda papers or expert reports to be digested, and research may be needed, particularly if the member has required professional status.
125. A member's entitlement to have special extra meeting preparation time recognised is specifically circumscribed in the States, usually, as in the Northern Territory through a requirement that the Chairman, or the body itself, must certify that extra preparation time it is warranted.
126. Where extra time is frequently granted there is additional justification for that body to have an annual fee determined for its members, even though this may be only \$2,000 or so. In the Commonwealth and in NSW, for example, it is the policy that all bodies attract annual fees when they have a stable workload. In

Queensland annual fees are paid where the workload of a body is at least three days per fortnight²¹. In some other States the fees for most classifications of bodies and their grade steps are expressed in annual terms.

127. Members may sometimes have to perform out-of-session tasks for the body. For example ordinary members may be delegated to attend specialist conferences or attend meetings with agency staff, or act as an advocate for its purposes, or formally brief a stakeholder, the press or some other body. The need for out-of-session work is more likely to arise in the case of the Chairman, who has to meet with the Minister and represent the business interests of the body on occasions.
128. In the Northern Territory a fee is payable for out of session activity where the member "is engaged, with the prior approval of the body, on the business of the body".
129. Two important considerations for the issue of fees for out-of-session work are:
 - should the fee rate for any such time be the same as that for qualifying meeting time?; and,
 - how is any such time to be approved?
130. As to the determination of a differential rate, justification for a discount depends on whether or not the meeting rate contains some remuneration element that is absent where the member simply represents the body. In Queensland there is an hourly "special assignment" rate set at a 1/6th discount on the meeting rate. There are, however, other factors applying in that State because of the way fees are paid on a half-day sessional basis.
131. A differential introduces a degree of complexity in fee administration that is better avoided by setting daily category fees as a blended meeting/out-of-session rate.
132. Out-of-session paid work is usually a matter for the body, through its Chairman, to approve or endorse, and the Tribunal has recommended accordingly. Clearly accountability for this entitlement demands that the records of the body properly minute such approval or endorsement.
133. Again, the need for frequent and lengthy activity out of session is extra justification for the payment of an annual rather than a daily fee. In the States in some cases annual fees are set for the Chairman of a body, at least partly justified by out-of session demands, and daily fees are set for its members. This is also the case in the Northern Territory via some personal determinations.

²¹ The conversion from a daily fee paying body to an annual fee paying body is done using the formula: (hours/fn) x (hourly rate) x 22. 22 is used rather than 26 as no holiday pay or public holidays or sick leave is payable

TRAVEL TIME

134. The extent to which travel to and from meetings is included in fee entitlement calculations is another consideration. Its importance as an issue will vary considerably with the nature of the body, becoming very important where the body has regional representation or has to draw on scarce technical or professional expertise from elsewhere. In the Northern Territory the fee entitlement covers all of the time that the member is away from his or her residence on the business of the body.
135. As stated, jurisdictions usually include in the meeting fee levels some element to compensate for the time taken for members to travel in average urban situations to attend meetings. In the ACT and for the Commonwealth, however, allowance for reasonable travel time as a component of the eligible fee hours is a matter for the Chairman, with the restriction in the Commonwealth case that the member must be "away from the metropolitan area of the capital city or the environs of the town in which he or she lives". More commonly, any extra recognition of travel time is usually accompanied by more explicit provisions, e.g. in Queensland⁵:

"Where extensive travel occurs on the day before or after the meeting, the board may approve the payment of a special assignment fee (in addition to the meeting fee) on the following basis:

- 50% of the daily special assignment fee may be paid to members travelling between 4 and 8 hours;
- 100% of the daily special assignment fee may be paid to members who travel for more than 8 hours to or from a meeting or on board business.

No payment is to be made to board members who travel less than 4 hours to attend or return home from a meeting."

136. The Tribunal is recommending a scale of fees that contains an element for ordinary urban travel, so extra travel time should only be allowed where the Chairman certifies that other travel time is necessarily incurred, e.g. for travel from other towns or from inter-state. Payment for special extra travel time is not allowable where the member concerned is paid an annual fee.

TAX AND SUPERANNUATION ON FEES

137. Another matter for consideration in setting a level of fee is the income tax and GST implications of fee payment, and the entitlement of members to 9% surcharge under the Commonwealth's Superannuation Guarantee legislation. For example although there is a legal requirement that income tax be deducted from fees paid according to the PAYG rules, some types of members may not have tax deducted from their fee because of their low income. Also, some members may advise that they are required to remit their entire fee to another entity. It may be, where the member has an ABN or the entity receiving payment is registered under the new tax system, that the fee is for a 'taxable supply' and GST applies. In these cases the paying agency, or the Board if it has its own funds, may be entitled to an input tax credit in which case the fee should be grossed up. The Northern Territory Government's withholding tax policy covering board members is set out in Treasury Circular PAYG 04/01 dated 4 September 2002.
138. Members may be 'employees' of bodies for the purposes of the *Superannuation Guarantee (Administration) Act*. However, members earning less than \$450 per month in fees, who are over 70 years of age, or who earn less than 50% of the tax free threshold in a continuous 12 month period, may not be entitled to the superannuation surcharge. Most other individuals (not entities through which the fees may have to be paid) are entitled to the surcharge and criminal penalties may apply where they are not paid or properly reported to the ATO.

SALARY PACKAGING

139. In making comparisons it is also necessary to recognise that some States allow for salary packaging of fees paid to members of Boards and Committees. For example in NSW packaging in accordance with certain guidelines may be available for up to 50% of remuneration²². This is a matter of whole of government policy. Superficially, at least, it seems that members should be treated similarly to contract officers in this regard.

(iii) Disclosure of Fees

140. Consideration of the disclosure of fees payable and paid involves the issue of tension between open and accountable government on the one hand and personal privacy on the other. Remuneration levels and benefits payable are, when determined by this Tribunal, tabled in the House of Assembly. When they are determined by the Administrator they are not disclosed. Consequently, fees and benefits paid to individual members of statutory bodies in the Northern Territory following determinations by the Administrator under

²² NSW Premier's Department Circular 2002-61.

the *Remuneration (Statutory Bodies) Act* are not made public. There are varying degrees of disclosure in other parts of Australia. In the Commonwealth, and ACT rates for all bodies not on the minimum rate are accessible through the internet link in the respective Remuneration Tribunal site. Queensland category rates are also accessible there. In South Australia detailed board information has to be tabled in Parliament each year.

141. It is recommended that the all encompassing categorization framework determined as a result of the Tribunal recommendations, including the applicable rates, should be publicly available.
142. Following the introduction of the fee levels now recommended, the need for personal determinations should be minimized. Where they are made they are evidence of a commercial arrangement, arrangements which, by their nature are usually confidential. Where they already exist it is recommended that they survive to their expiry and then be carefully re-examined with the aim of moving the fee back to the published classified rate.

(iv) Future reviews of fee levels

143. Reviews are undertaken in different ways in the States, viz.:
 - In the Commonwealth and in the ACT the power to determine the remuneration and other benefits for members of statutory bodies is vested by legislation in the respective Remuneration Tribunals. Determinations are subject to non-disallowance by the Parliament.
 - In NSW individual reviews are conducted by the Statutory and other Offices Remuneration Tribunal at the Premier's invitation.
 - In Victoria Ministers are responsible for allocating bodies within established categories. Reviews may involve the Department of Premier and Cabinet.
 - In Queensland reviews are conducted by Departments within established categories, subject to agreement with the Department of Industrial Relations.
 - In South Australia reviews are conducted by the Commissioner for Public Employment within a Cabinet approved category structure.
 - In Western Australia reviews are conducted by the Department of Premier and Cabinet within set categories.
 - In Tasmania reviews are conducted and determined by the Department

of Premier and Cabinet.

144. In some States there are automatic inflation adjustments to fees, or adjustments to fee values in the classifications. In Western Australia these value adjustments have to be applied for by individual statutory bodies. In NSW a review is done every time there are vacancies to be filled on a body. In Queensland²³ "a review must be done when:
- half or more of the members of a board are appointed or reappointed; or
 - a chair is replaced or reappointed; or when there is a significant change in the circumstances of the board e.g. a change in the functions of the board."
145. In the Commonwealth there is a regular annual cycle of fee review as well as mid-term inclusions of new bodies.
146. As noted²⁴, in some States Ministers may set rates for members of bodies below the categorization cut-off.
147. It is common in the States that all fees set, whether they be for category brackets or for unclassified bodies, to be maximum fees.
148. Having considered all of the issues and comparative material, the view of this Tribunal is that the Tribunal should not be routinely involved with the level of periodic general value adjustments of fees, or with the positioning of new or reactivated bodies within the category structure. Rather, this is a matter for Government just as it is with general public sector position creation and wage increases.
149. The Tribunal should only become involved where the Government wishes to have an independent view on fee levels for a significant statutory body, or where there is a comprehensive review of the Determination. Such comprehensive reviews should be requested at least once each 5 years.
150. The Tribunal recommends that the remuneration set for members in bodies in Registration and Practice bodies be regarded as a maximum, giving the respective Minister the power to set lower rates if the circumstances indicated that. However, this probably cannot be implemented because of the current wording of the Act, requiring the Administrator to determine all rates. It is recommended that the Act be amended to allow this level of flexibility. When the Act is amended, Cabinet should require that the Minister concerned advise the Chief Minister of the rates payable, to enable Cabinet Office records to be kept current.

²³ Department of Industrial Relations "Remuneration of Part-time Chairs and Members of Government Boards, Committees and Statutory Authorities".

²⁴ See paragraph 82

C. MEMBER INDEMNITY AND INSURANCE

151. Consideration of the degree of personal risk assumed by a member is an important element of remuneration setting. Such risk can be reduced where indemnities are given to provide protection against personal accident and from personal liability. In the Northern Territory such indemnity can only be given where the Treasurer agrees that this protection is to the benefit of the Northern Territory²⁵. Liability under criminal law cannot be removed.
152. There are no general indemnities applying to members of statutory bodies, rather members of individual bodies may have the favour of a limited one. The Act constituting almost every statutory body contains protection of board members from civil and criminal action for things that they do in good faith as a board member.
153. There is no general policy about Agency funds being used to buy broader indemnity insurance for board members. Those statutory bodies that are bodies corporate may use their own funds to take out indemnity insurance to cover claims of loss or damage made against members even where negligence is proven. The Tribunal acknowledges that such policies are common in commercial bodies, but, in respect of the mainstream of bodies considered in this review, remuneration rates have been set as though they have not been taken.
154. As members of statutory bodies are not public sector employees they may not be covered by government workers compensation arrangements. Some members are exposed to much more risk of injury than others, particularly those who have to travel extensively in their role, sometimes to remote parts of the Northern Territory. The Tribunal recommends that the government should arrange coverage in some appropriate form for members.

²⁵ Section 34 *Financial Management Act*.

RECOMMENDATIONS

155. The following recommendations are made:

ADMINISTRATION

A1. that the Department of the Chief Minister be formally responsible for developing and maintaining procedures that will ensure the sound administration of statutory bodies in the Northern Territory, and in particular to:

- (1) facilitate the appointment of members to statutory bodies by:
 - (a) publicising the existence of, accepting nominations to, and maintaining, for access by Agencies²⁶, a register of potential members;
 - (b) making available leaflets describing the Government's policy on opportunity for membership of statutory bodies and Ministerial advisory bodies by women, ethnic groups and disabled persons,
- (2) prepare and distribute such material as will encourage all members to be aware of their responsibilities in office, of administrative matters of interest or concern to them, and of the expectation of the Government in their performance of their role,
- (3) keep Accountable Officers and statutory bodies aware of approved procedures surrounding the performance of statutory bodies, and of the remuneration and benefits payable to their members, by gaining the approval of the Chief Minister for Circulars which establish Government requirements as to:
 - (a) member recruitment, appointment and induction;
 - (b) remuneration and benefit setting and administration;
 - (c) ethical standards;
 - (d) governance standards;
 - (e) efficiency and effectiveness expectations;
 - (f) reporting member appointments and terminations;
 - (g) reporting meetings and remuneration information;

²⁶ Subject to the requirements of the *Information Act*.

- (h) re-classification procedures,
- (4) develop and maintain a comprehensive statutory bodies information database, to include:
 - (a) a current listing of all statutory bodies;
 - (b) a current register of members and their term of office;
 - (c) a current listing of all determinations of remuneration and benefits;
 - (d) annual returns of meetings and member payments;
- (5) be the contact point for the public in respect of centralised administrative practice and information regarding statutory bodies, including statutory body categorisation and member rates;
- (6) report on developments in the administration of statutory bodies in the annual report of the Department;

and that the capacity of the Department be expanded to enable this to occur;

A2 that all new members of statutory bodies be required to sign letters of appointment acknowledging that they understand the risk profile of the position, that they are aware of what is required of them in their position, and that they agree to abide by stipulated conditions covering such matters as confidentiality and ethics whether included in the legislation or not.

REMUNERATION CATEGORIES AND LEVELS

- B.** that the Administrator determine:
- (1) a classification structure for statutory bodies, comprising categories and sub-categories having compartments for bodies with equal member remuneration, as well as the member remuneration ranking to apply in each compartment, as shown in Attachment G; and
 - (2) the rate of annual and/or daily remuneration, and the rate of Committee membership supplement (if any), to apply to each member remuneration rank, as shown in Attachment H, provided that industry participants appointed to the Agents Licensing Board and Registration and Practice Boards remain unpaid until the legislation is amended as recommended in D(2)(c) below; and
 - (3) that the allocation of statutory bodies to the classification structure be as shown in Attachment I (except for the Territory Insurance Office where the recommendation is to the Minister in the constituting Act).

PAYMENT CONDITIONS

- C** that the Administrator should determine the following payment conditions:
- (a) that a member entitled to remuneration at a daily rate who is not the Chairman but who presides as Chairman throughout a formal meeting is entitled to receive the same daily rate as the Chairman for eligible time spent on business of the body on that day;
 - (b) if the remuneration rate of any existing member is reduced by the new Determination then the previous rate of remuneration shall be paid to him or her until, with the later revision of rates, that situation no longer applies or his or her current term expires;
 - (c) for the purposes of these conditions, unless the sense otherwise requires:
 - (i) a reference to a 'body' is a reference to a statutory body in the Determination, and reference to a 'member' is a reference to a member of a body;

- (ii) a reference to 'business of the body' means any business of the body conducted by a member of the body with the approval of the body, other than attendance at a formal meeting;
 - (iii) the daily fee for a formal meeting includes a component to cover normal preparation time, but, where the chairperson of the body considers the period of preparation time involved is so unusual as to warrant recognition, that period may be included as business of the body; and
 - (iv) "travelling time" means only time that a member necessarily spends away from the environs of the city or the town in which he or she lives.
- (d) a member shall be paid the daily fee entitlement in respect of such period, exceeding four hours, on any one day on which he or she attends a formal meeting of the body, and is engaged on business of the body, subject to the following conditions:
- (i) eligibility for each payment shall be certified by the member chairing the meeting. In so certifying that chairman may have regard to reasonable travelling time for any member in accordance with C(1)(c)(iv) above, and to unusual preparation time in accordance with C(1)(c)(iii); and
 - (ii) the maximum payment in respect of any one day shall be the appropriate daily fee.
- (e) a member entitled to a daily fee may be paid in respect of formal meetings and business of the body on the day of a formal meeting aggregating four hours or less according to the following proportions:
- (i) for one hour or less, an amount equal to one-third of a daily fee;
 - (ii) for more than one hour and not more than two hours, an amount equal to one half of a daily fee;
 - (iii) for more than two hours and not more than three hours, an amount equal to two thirds of a daily fee;
 - (iv) for more than three hours and not more than four hours, an amount equal to five sixths of a daily fee;
 - (v) eligibility for each payment shall be certified by the member chairing the meeting and in so certifying that Chairman may have regard to reasonable travelling time for any member in

accordance with C(1)(c)(iv) above, and to unusual preparation time in accordance with C(1)(c)(iii).

- (vi) the maximum payment in respect of any one day shall be the appropriate daily fee;
- (f) a member entitled to a daily fee may also be paid a fee in respect of aggregates of periods of business of the body undertaken on behalf of the body on days other than days when a formal meeting is held, subject to the following conditions:
 - (i) individual periods of business must be for a minimum of one hour;
 - (ii) the hourly rate of fee shall be one-fifth of the daily fee;
 - (iii) eligibility for each payment shall be certified by the chairperson and in so certifying the Chairman may have regard to reasonable travelling time in accordance with C(1)(c)(iv), and to unusual preparation time in accordance with C(1)(c)(iii);
 - (iv) the maximum payment in respect of any one day shall be the appropriate daily fee;
- (g) a member who is entitled to receive remuneration at an annual rate shall not receive any payment for time spent on travel or meeting preparation;

LEGISLATIVE BASIS AND REVIEW PROCEDURES

- D.**
- (1) that the *Remuneration (Statutory Bodies) Act* be repealed, with the following savings:
 - (a) pre-existing Determinations are to survive until they expire or are replaced;
 - (b) references to the Act in other legislation are deemed to be references to the *Remuneration Tribunal Act*.
 - (2) That there be contemporaneous amendment of the *Remuneration Tribunal Act* to:
 - (a) import the definitions used in the repealed Act;

- (b) enable the Administrator to determine, from time to time:
 - (i) a classification structure for statutory bodies, comprising categories and sub-categories having compartments for bodies with equal member remuneration; and
 - (ii) the member remuneration ranking to apply in each compartment;
 - (iii) the level of annual and/or daily remuneration to apply to each member remuneration rank.
- (c) enable Ministers to determine the allocation of statutory bodies to classification compartments, subject to the procedures and the conditions in (3);
- (3) that the responsible Agency be required to assess or review the categorisation to be applied to:
 - (a) any newly constituted or activated body; or
 - (b) any body when there is a change of Chairmanship; or
 - (c) any body where more than half of the members change, or
 - (d) any body previously comprising all members ineligible for fees and un-categorised to which any members eligible for fees are appointed; or
 - (e) any body having a significant change in its name, powers, functions or membership; or
 - (f) any body where required by the Minister,

and, in any of these cases, that:

- (g) the responsible Agency be required to consult with the Department of the Chief Minister to obtain agreement on the classification, or re-classification to be approved by the Minister concerned. In the absence of agreement the classification issue is to be submitted by that Minister to the Chief Minister for decision.

DISCLOSURE AND SURVIVAL OF FEES

- E.** (1) that statutory body classifications, including applicable member remuneration rates should be available to the public;
- (2) that any current personal remuneration and benefits Determinations survive until their termination;
- (3) that new personal determinations be made only where, on the advice of the respective Minister, the special qualification or special expertise of the member concerned cannot be obtained through normal recruitment processes at the respective category rate.

ACCIDENT COVER

- F.** that, if there is currently no cover, personal accident insurance for members should be obtained, or the cost of approved cover reimbursed, at the least where members are required to undertake significant travel in their role.

Dated this twenty ninth day of June Two thousand and four.

A handwritten signature in black ink, appearing to be 'O. Alder', written on a light-colored background.

O. Alder
Member of the
Northern Territory Remuneration Tribunal

SUBMISSIONS RECEIVED			
No.	Submitted by ..	Date of Submission	Relevant Statutory Body(ies)
1	Dr Bill Wilson Chairman Place Names Committee	2 February 2004	Place Names Committee of the Northern Territory
2	Mr John Brears (Member of both Boards)	11 February 2004	Building Appeals Board Building Practitioners Board
3	Ms Jill Huck Ms Beth Walker	14 February 2004	Mental Health Review Tribunal
4	Mr Gary Neilsen Board Member	17 February 2004	Building Practitioners Board Plumbers and Drainers Licensing Board
5	Mr Vincent Luppino SM Magistrates' Chambers	19 February 2004	Mental Health Review Tribunal
6	Ms Jill Huck Mr Craig Spencer Ms Annette Smith (on behalf of the Licensing Commission and the Racing Commission)	20 February 2004	Northern Territory Licensing Commission Northern Territory Racing Commission
7	Ms Sue Bradley Community Panel Member (when appointed)	20 February 2004	Guardianship Panels Juvenile Justice Board of Management

Attachment A

8	Ms Carolyn Wilson Director Health Professions Licensing Authority	3 March 2004	Aboriginal Health Workers Registration Board of the NT Chiropractors and Osteopaths Registration Board Dental Board of the Northern Territory Health Practitioners and Allied Professionals Tribunal Medical Board Medical Practitioners' Appeals Tribunal Nursing Board of the Northern Territory Occupational Therapists Registration Board of the NT Optometrists Board Pharmacy Board Physiotherapists Registration Board of the NT Professional Review Tribunal Psychologists Registration Board of the NT Radiographers Registration Board
9	Ms Judith Dikstein	4 March 2004	Health and Community Services Complaints Review Committee
10	Ms Mandy Ryan A/Manager Secretariat NT Tourist Commission	5 March 2004	Northern Territory Tourist Commission Board
11	Ms Sarah Kerin, Parks & Wildlife Commission	17 March 2004	Nitmiluk (Katherine Gorge) National Park Board
12	Ms Penny deSouza Licensing Officer	24 March 2004	Electrical Workers and Contractors Licensing Board Northern Territory Plumbers and Drainers Licensing Board
13	Managing Magistrate of the Work Health Court	Undated and unsigned	Mental Health Review Tribunal

STATE AND TERRITORY CATEGORISATION OF BODIES

NSW

1. State Owned Corporations
2. Governing enterprise – Subject to specific means of Ministerial direction.
3. Advisory Boards – Minister can control both the Board and the CEO.
4. Quasi Judicial – Perform Regulatory functions.
5. Advisory Councils/Committees – Having no executive or policy responsibility.

Victoria

1. State Business Corporations and Companies, and commercial statutory authorities.
2. Significant Industry and Key advisory Boards, Quasi Judicial tribunals, Boards of Inquiry, Significant Boards of Management.
3. Management Boards and Advisory Committees.

Queensland

1. Determinative/adjudicative, or influential power over whole of Government policy.
2. Legally based or constituted for dispute resolution, investigation or review.
3. Diverse, large, complex business activities.
4. Regulation or review over aspects of Government policy, moderate business, substantial regulation power over particular industry.
5. Regulation power particular industry, non-legal dispute resolution, business with several small operations, registration, management of large complex operations, influential research operations.
6. Single business operation, regulation over single operation, management of moderate range of activities, specific policy or particular industry review, influential policy advice.
7. Management of a small operation, general advisory activity.
8. No fee deemed appropriate.

There are two grades in each category, one for focussed impact the other for more general impact on a significant proportion of the community or the state. Fees slightly lower than meeting fees are determined in every case for special assignments by members.

South Australia

1. Commercial High Autonomy – five steps based on size and turnover.
2. Expert advice on important issues, profession registration and complaint settlement, regulating critical community standards, management of operation with high economic importance, quasi judicial in important and sensitive matters of freedom, rights or State

Attachment B

budget, resource management critical to State prosperity, advice of fundamental import to the State.

3. Lower policy advice than 2, medium service or commercial operation management, regulation of protective activities lower than 2, monitoring Agencies and prescriptive legislation, significant trusts management, quasi judicial at lower level than 2, licensing essential services or commodity providers, registering professional or commercial practice and complaints resolution, standards setting and registration health professionals other than Doctors.
4. Manage small operations, examine for certificates to practice occupations, policy or operations advice re industry practices, provision of welfare services, small trusts management, conduct trade examinations, advise Agency heads, standing committees of class 2 or 3 boards, routine administration.

Western Australia

1. Trading
2. Governing
3. Policy/Review/Specialist
4. Regulatory/Registration/Appeal
5. Trustees
6. Advisory

Tasmania

1. Commercial/Trading – Full competition.)
2. Commercial/Trading – Part competition) Each with four turnover steps.
3. Commercial/Trading – Monopoly)
4. Governing – four Grades
5. Policy, Review Specialist – four Grades
6. Special Regulatory – legally challengeable in critical policy area.
7. Regulatory – four Grades.
8. Community Advisory – no fees

ACT

1. Governing bodies with significant commerce/industry operations and/or high impact on the development/promotion of the Territory. Two levels - turnover, budget or operating surplus over or under \$10 million.
2. Advice on key strategic issues and/or operating significant government programs (2 levels).
3. Quasi judicial, Inquiries and Management (2 levels).
4. Management Boards and Advisory Committees. Three levels – expert, regulatory and licensing, and advisory.

Attachment C

STATUTORY BODIES WHICH PAY MEMBERS WITHOUT A DETERMINATION		
No.	Statutory Body	Comments
1	Aboriginal Areas Protection Authority	Have increased their rates without seeking amended Determination.
2	Animal Welfare Advisory Committee	Agency paying members without a Determination.
3	Barranyi (North Island) Local Management Committee	As part of the Parks and Wildlife Service, they use the Parks and Wildlife Commission of the NT Determination.
4	Batchelor Institute of Indigenous Tertiary Education	Members have decided their own rates.
5	Conservation Land Corporation	Rates set by the Agency Chief Executive Officer.
6	Djukbinj Board	The Board decided to use the Parks & Wildlife Determination.
7	Ministerial Advisory Board for Employment and Training	Body pays fees in accordance with current classification but without a Determination
8	Northern Territory Remuneration Tribunal	Member has been engaged under a Contract

STATUTORY BODIES NOT CONSIDERED FOR REMUNERATION SETTING

Bodies that are inactive		
No.	Statutory Body	Comment
1	Licensed Surveyors Appeal Tribunal	Body has never been formed
2	NT Waterwatch Steering Committee	Committee has not met since 2000 and most members are not in the NT
3	Pastoral Land Appeal Tribunal	Tribunal has not been established as no appeals have been lodged
4	Publications and Films Review Board of the NT	This Board has never convened
5	Soil Conservation Advisory Council	The advisory council has not convened for 12 years
Bodies having only public or judiciary employees as members		
No.	Statutory Body	Comment
1	AustralAsia Railway Corporation	The body no longer has non-public sector Directors.
2	Child Protection Teams	
3	Distribution Committee	
4	Land and Valuation Review Tribunal	All members are Judges
5	Lands and Mining Tribunal	Only member is a Magistrate
6	Legislative Assembly Members' Superannuation Trust	
7	Northern Territory Counter Disaster Council	
8	Public Sector Consultative Council	

Attachment D

Bodies whose members are, by tradition or choice, unpaid		
No.	Statutory Body	Comment
1	Approved Procedures and Quality Assurance Committee	No determination sought for 2 private sector members
2	Charles Darwin University	Council members provide their services on a voluntary basis
3	Community Benefit Committee	No determination sought for 5 Community representatives
4	Jabiru Town Development Authority	
5	Legal Practitioners Admissions Board of the Northern Territory	Although a Determination exists, fees are not claimed
6	Legal Practitioners' Fidelity Fund Committee	
7	Legal Practitioners' Trust Committee	
8	Menzies School of Health Research	Board Members provide their services on a voluntary basis
9	Mining Board of the Northern Territory	Board Members provide their services on a voluntary basis
10	Nominal Insurer	SB has existed for over 20 years with no sitting fees set
11	Northern Territory Counter Disaster Council	
12	Northern Territory Legal Aid Commission Review Committee	
13	Public Trustee Investment Board	This has never been a fee paying Board.
14	Regional Counter Disaster Planning Committees	
15	Tnorala Local Management Committee	
16	Tow Truck Operators Code of Practice Administering Authority	No determination sought

Internet links to Member Guidelines in the States

NSW

On Board and Public Sector Governance – Audit Office of NSW

<http://www.audit.nsw.gov.au/guides-bp/OnBoard-April98.PDF>

<http://www.audit.nsw.gov.au/guides-bp/corpgov99/gov-chklist1.htm>

Guidelines Appointments and Remuneration

http://www.premiers.nsw.gov.au/our_library/boards/guidelines2003.htm

Guides for Boards

<http://www.premiers.nsw.gov.au/TrainingAndResources/Publications/publicationslist.htm#Boards>

The First Four Steps – Independent Commission Against Corruption

http://www.icac.nsw.gov.au/files/html/pub2_41cp.htm

Conflicts of Interest

http://www.ombo.nsw.gov.au/publications/Publist_pdfs/fact%20sheets/pre-requisites.pdf

http://www.ombo.nsw.gov.au/publications/Publist_pdfs/fact%20sheets/PSA_FS3_Conflict.pdf

Queensland

Remuneration Information Booklet (D.I.R.)

<http://www.psier.qld.gov.au/policies/docs/remunbook.pdf>

Rates October 2003

<http://www.psier.qld.gov.au/circular/docs/03/circ4-03att.pdf>

Member Info Book "Welcome Aboard"

<http://www2.premiers.qld.gov.au/governingqld/pdf/welcome.pdf>

Register of Statutory Bodies

<http://statauth.premiers.qld.gov.au/stat/>

Attachment E

Western Australia

'Getting on Board'

<http://www.dpc.wa.gov.au/psmd/pubs/exec/boards/contents.html>

South Australia

PC014 - Non Payment of Board/Committee Fees to or for Government Employees or Officers of the Crown

<http://www.premcab.sa.gov.au/pdf/circulars/NPayment.pdf>

PC016 – Remuneration for Government Appointed Part-time Boards and Committees and Women on Government Boards and Committees

<http://www.premcab.sa.gov.au/pdf/circulars/Remuneration.pdf>

Government Boards and Committees Guidelines For Agencies and Board Directors

<http://www.premcab.sa.gov.au/pdf/boards&committees.pdf>



Public Sector Corporate Governance

Ready Reckoner

(based upon "on board: guide to better practice for public sector governing and advisory boards")

<p>1. The role of the board</p>	<p>A board provides effective leadership, advice, and independence in decision making to an organisation. Legislation should clarify whether a board is governing or advisory. If it doesn't, a board should seek clarification with its Minister/s.</p> <p>A governing board:</p> <ul style="list-style-type: none"> • sets strategic direction • liaises with stakeholders • ensures compliance with statutory requirements • manages risk • monitors organisational performance.
<p>2. The role of the Chair</p>	<p>The Chair provides leadership and promotes cohesiveness/effectiveness of the board. Some of the key roles performed by an effective Chair include:</p> <ul style="list-style-type: none"> • assisting the board to develop good relationships with the Minister(s), with the CEO and with other key stakeholders and interested parties • assisting individual members, and the board as a whole, to understand their role, responsibilities and accountability • helping members understand their risks and liabilities as individual members and as a board • rigorously assessing the performance of members on a regular basis • ensure the performance of the board is assessed and reported.
<p>3. The role of the CEO</p>	<p>The CEO is responsible for:</p> <ul style="list-style-type: none"> • supporting the board in its governance or advisory role

Attachment F

	<ul style="list-style-type: none"> • providing leadership to the organisation • managing the organisation's day-to-day operations • creating an ethical working environment.
<p>4. Board committees</p>	<p>All boards should establish an audit committee. Governing boards are likely to benefit from establishing a governance committee. Other committees may be of value if significant issues require confidential input at board level (eg. environmental, legal or technical matters). Such committees may not need to be permanent.</p> <p>Board committees:</p> <ul style="list-style-type: none"> • distribute the workload • enable detailed consideration to be given to important matters • offer advice on sensitive matters. <p>A committee is effective when it has:</p> <ul style="list-style-type: none"> • an appropriate number of members • a majority of non-executive members • a clear charter • procedures for reporting to the board.
<p>5. Appointments</p>	<p>Ideally, and where permitted by legislation, the Chair and the CEO both should be appointed by the board.</p> <p>Appointment of new members needs to take into account:</p> <ul style="list-style-type: none"> • the current and future needs of the board • the current skill mix of the board • the extent to which the board's membership should reflect the demography and views of the general community.
<p>6. Induction and training</p>	<p>Induction and training programs should cover:</p> <ul style="list-style-type: none"> • information about the public sector • the impact of the agency's legislation on the role of the board • information about the organisation • board procedures • care, skill and diligence obligations • the kind of environment in which the board operates (e.g. government

Attachment F

	policies, business context etc.).
7. Board meetings	<p>A board meeting is effective if:</p> <ul style="list-style-type: none"> • the agenda is carefully prepared • papers are circulated well in advance of the meeting • it is conducted in a way that allows frank and open discussion • it defines the parameters for the way in which the board conducts business • it records decisions, discussion and dissent • it ensure minutes are accurate • it has rules about access to information • it allows for seeking independent and external professional advice at the organisation's expense.
8. Standards	<p>A board should have:</p> <ul style="list-style-type: none"> • a code of conduct • a register of related party transactions • a register of pecuniary interests • a mechanism to allow for disclosure of actual & perceived conflicts of interest.
9. Risk management and liability	<p>Board members need to understand their risks and liabilities and need to exercise care, skill and diligence. Boards need to have risk management strategies including appropriate internal controls.</p>
10. Reporting and evaluation	<p>Boards should report their corporate governance practices and achievements in an Annual Report. The Australian Stock Exchange Listing Rule 3C(3)(j) provides for its members an indicative list of corporate governance practices on which they might report. These include:</p> <ul style="list-style-type: none"> • the non-executive composition of the board • the nomination and selection processes • terms and conditions related to the appointment of non-executive members • access to information • risk management strategies • ethics. <p>A board should evaluate:</p>

Attachment F

	<ul style="list-style-type: none">• its performance• the workload of the board and the number of positions it needs (legislative provisions here may need to be reviewed)• the contribution of individual members against pre-determined criteria. <p>The relevant Minister should also evaluate the performance of the board and have a "performance agreement" with it.</p>
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STATUTORY BODIES CATEGORIES AND RANKINGS

Category A: Governing and Management Bodies

Tier 1: Senior Commercial and Assets Management

Annual Rate: Level 1: Chairman F, Deputy Chairman E, Member C
 Level 2: Chairman E, Member C
 Level 3: Chairman D, Member B
 Level 4: Chairman C, Member A

Daily rate: Chairman E Member D

Tier 2: Major Facilities/Assets Management and Commercialisation

Daily Rate: Level 1: Chairman C Member B
 Level 2: Chairman C Member A

Tier 3: Local Facilities and Land Management

Daily Rate: Chairman B Member A

Category B: Quasi-Judicial Bodies

Tier 1: Senior Appeals / Important Governmental Process

Daily Rate: Chairman F Member E

Tier 2: Appeals and Review / Determining Important Rights

Daily Rate: Level 1: Chairman E Member D
 Level 2: Chairman D Member C

Tier 3: Senior Registration and Assessment

Daily Rate: Chairman C Member B

Tier 4: Registration and Practice

Daily Rate: Chairman B Member A

Category C: Advisory and Review Bodies

Tier 1: Critical Issues

Daily Rate: Chairman F Member E

Tier 2: Expert High Impact

Daily Rate: Chairman E Member C

Tier 3: Ministerial Assistant

Daily Rate: Chairman B Member A

RATES OF MEMBER REMUNERATION ATTACHING TO EACH GRADE

Daily rates

Rate A	\$180
Rate B	\$240
Rate C	\$320
Rate D	\$426
Rate E	\$568
Rate F	\$757

Annual rates

Rate A	\$10,000
Rate B	\$22,000
Rate C	\$35,000
Rate D	\$40,000
Rate E	\$50,000
Rate F	\$65,000

where an annual rate is payable each member (including the Chairman) shall be paid an additional annual sum for committee work, if appointed to committee membership, as follows:

Body concerned	Additional sum
Annual Rate Level 1	\$6,000
Annual Rate Level 2	\$4,000
Annual Rate Level 3	\$3,000
Annual Rate Level 4	\$2,000

DISTRIBUTION OF STATUTORY BODIES TO CATEGORIES

Category A: GOVERNING AND MANAGEMENT BODIES

Tier 1: Senior Commercial and Assets Management

Annual Level 1	Territory Insurance Office Board
Annual Level 2	Darwin Port Corporation Board
Annual Level 3	Northern Territory Tourist Commission Board
Daily	Conservation Land Corporation Land Development Corporation Advisory Board Northern Territory Land Corporation Parks and Wildlife Commission of the Northern Territory Board Pastoral Land Board

Tier 2: Major Facilities/Assets Management and Commercialisation

Daily Level 1	Desert Knowledge Australia Board and Interim Board Superannuation Investment Board
Daily Level 2	Aboriginal Areas Protection Authority Alice Springs Hospital Management Board Batchelor Institute of Indigenous Tertiary Education Cobourg Peninsula Aboriginal Land, Sanctuary and Marine Park Board Museums and Art Galleries Board Nitmiluk (Katherine Gorge) National Park Board Royal Darwin Hospital Management Board Strehlow Centre Board

Tier 3: Local Facilities and Land Management

Daily	Barranyi (North Island) Local Management Committee Djukbinj Board Gove District Hospital Management Board Katherine Hospital Management Board Regional Bushfire Committees Tennant Creek Hospital Management Board
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Category B: QUASI-JUDICIAL BODIES

Tier 1: Senior appeals / Important Government Process

Daily	Legal Practitioners' Complaints Committee Northern Territory Remuneration Tribunal Augmented Redistribution Committee
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Tier 2: Appeals and Review / Determination of Important Rights

Daily Level 1	Community Living Areas Tribunal Building Appeals Board Development Consent Authority Mental Health Review Tribunal Northern Territory Licensing Commission Parole Board of the Northern Territory Racing Appeals Tribunal Racing Commission
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Daily Level 2	Firearms Appeal Tribunal Health Professional Review Tribunal Police Arbitral Tribunal Prison Officers Arbitral Tribunal Superannuation Review Board
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Tier 3: Senior Registration and Assessment

Daily	Agents Licensing Board of the Northern Territory and Agents Licensing Fidelity Guarantee Fund Building Practitioners Board Northern Territory Legal Aid Commission Valuation Board of Review Panel
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Tier 4: Registration and Practice

Daily	Aboriginal Health Workers Board of the Northern Territory Chiropractors and Osteopaths Board of the Northern Territory Dental Board of the Northern Territory Electrical Workers and Contractors Licensing Board Medical Board of the Northern Territory Northern Territory Architects Board Nursing and Midwifery Board of the Northern Territory Occupational Therapists Board of the Northern Territory Optometrists Board of the Northern Territory Pharmacy Board of the Northern Territory Physiotherapists Board of the Northern Territory Plumbers and Drainers Licensing Board Psychologists Board of the Northern Territory Radiographers Registration Board Review Committee (Swimming Pool Safety Act) Surveyors Board of the Northern Territory Veterinary Board of the Northern Territory
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Category C: ADVISORY & REVIEW BODIES

Tier 1: Critical Issues

Daily

Tier 2: Expert High Impact

Daily

Building Advisory Committee
Crime Victims Advisory Committee
Guardianship Panels
Health and Community Services Complaints Review Committee
Scheme Monitoring Committee

Tier 3: Ministerial Assistant

Daily

Animal Welfare Advisory Committee
Bushfires Council
Commercial Passenger Vehicle Board
Consumer Affairs Council
Drillers' Qualifications Advisory Committee
Education Advisory Council
Heritage Advisory Council
Ministerial Advisory Board for Employment and Training
Northern Territory Board of Studies
Northern Territory Grants Commission
Place Names Committee of the Northern Territory
Road Safety Council of the Northern Territory
Work Health Advisory Council