

Administrative Appeals Tribunal

Deputy President Information Package

The Tribunal is an independent body established under the *Administrative Appeals Tribunal Act 1975* (the Act) that reviews a broad range of administrative decisions made by Australian Government Ministers, officers, authorities and tribunals. The Tribunal performs a vital function in the Australian Government's administrative review system, providing a mechanism of review that is fair, just, economical, informal and quick.

The President, with the assistance of the Registrar, is responsible for the management of the Tribunal and its resources. The Tribunal consists of the President, other presidential members (who may be Judges or Deputy Presidents), Senior Members and Members. Information on the role and activities of Deputy Presidents is provided below.

Available Positions

The Government is currently seeking applications for part-time Deputy Presidents with taxation expertise (two in NSW and one in Victoria).

Expression of interest

The closing date for applications is **4 August 2011**.

All applications must include:

- an expression of interest (no more than 1,300 words will be considered) which must address the selection criteria detailed on page 2
- a private interests declaration, and
- an up-to-date curriculum vitae (no longer than two pages)

An online application, which will allow you to provide these details, can be accessed through the link at www.ag.gov.au/aatemployment.

If you are unable to lodge your application online, application forms can be obtained by calling 02 6141 3350 or emailing aat.appointments@ag.gov.au. If you choose this option, please send your completed application form to one of the following:

E-mail: aat.appointments@ag.gov.au
or
Mail: AAT Appointments
 Access to Justice Division
 Attorney-General's Department
 3-5 National Circuit
 BARTON ACT 2600

Please note that we do not require copies of qualifications or certificates at this stage.

Statutory Qualifications

Subsection 7(1AA) of the Act provides that, to be eligible for appointment as a Deputy President of the Tribunal, a person **must** be enrolled as a legal practitioner of the High Court or of the Supreme Court of a State or Territory and have been so enrolled for not less than five years.

Selection Criteria

Persons applying for a position of Deputy President at the Administrative Appeals Tribunal must have the following personal and professional qualities **at the highest level**:

1. demonstrated expertise in relation to taxation law
2. the capacity and demonstrated ability to fulfil a leadership and management role
3. the ability to manage cases and conduct the most complex merits review hearings fairly and efficiently, including with other members
4. conceptual and analytical skills, including the capacity to identify relevant issues, to determine facts, to interpret and apply legislation and to assess competing and very complex arguments and evidence
5. decision-making skills in areas which may include the most contentious issues of law and policy
6. the ability to deliver clear, concise and cogent oral and written reasons for decisions in a timely manner
7. organisational skills, including the ability to meet deadlines, and the ability to work effectively under pressure
8. excellent communication and interpersonal skills
9. integrity, impartiality, tact and courtesy
10. the capacity to inspire respect and confidence, and
11. a commitment to professional development.

Terms and conditions

Deputy Presidents are appointed by the Governor-General. The Act provides that a Deputy President may be appointed for up to seven years on a full-time or part-time basis. The term and basis of appointment will be determined by the Australian Government. Deputy Presidents are eligible for re-appointment.

Remuneration is determined by the Remuneration Tribunal. Current remuneration is as follows:

Part-time: sitting fee of \$1,465 per day (minimum annual payment of \$14,650)

A travel entitlement for overnight stays on official business is also payable.

Full remuneration details are at:

<http://www.remtribunal.gov.au/judicialRelatedOffices/default.asp?menu=Sec3&switch=on>

Part-time Deputy Presidents are not asked to set aside fixed and regular times for the hearing of cases. They are asked to provide the Tribunal with a diary showing days on which they will be available for hearings.

Removal from office

A Deputy President can be removed from office by the Governor-General on an address by Parliament praying for the removal of the member on the ground of proved misbehaviour or incapacity.

A Deputy President who becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit will be removed from office.

POSITION DESCRIPTION

ROLES AND ACTIVITIES OF DEPUTY PRESIDENTS

Deputy Presidents of the Administrative Appeals Tribunal have a range of functions under the *Administrative Appeals Tribunal Act 1975* (the Act), including:

- managing, hearing and determining proceedings before the Tribunal, alone or as the presiding member of multi-member panels
- giving clear, concise and cogent oral and written reasons for decisions, and
- conducting, as required, alternative dispute resolution (ADR) processes.

Deputy Presidents may also be nominated to undertake additional functions such as the issuing of warrants under the *Telecommunications (Interception and Access) Act 1979*.

Merits Review

The Act provides that, in carrying out its functions, the Tribunal:

- must pursue the objective of providing a mechanism of review that is fair, just, economical, informal and quick
- should conduct proceedings with as little formality and technicality, and with as much expedition, as the requirements of the Act and a proper consideration of the matters before the Tribunal permit, and
- is not bound by the rules of evidence and can inform itself in any manner it considers appropriate.

The Tribunal has jurisdiction to review decisions made under more than 400 separate Acts and legislative instruments. Decisions in the areas of social security, taxation, veterans' affairs and workers' compensation constitute the bulk of the Tribunal's workload. The Tribunal also reviews decisions in areas such as bankruptcy, civil aviation, citizenship, corporations law, customs, freedom of information, immigration, industry assistance, passports and security assessments made by ASIO.

The Tribunal reviews decisions “on the merits”. This means that the Tribunal considers afresh the facts, law and policy relating to a decision.

The Tribunal can have regard to the evidence that was before the primary decision-maker and any additional evidence that the parties put before it, either in documentary form or orally at hearings. The Tribunal can also call for further evidence if it thinks this is necessary.

The Tribunal must determine what is the correct or preferable decision in all the circumstances and will affirm, vary or set aside the decision under review.

The Tribunal must give reasons for its decision, either orally or in writing. Where a decision is given orally, a party may request written reasons. Written reasons for a decision must include the Tribunal's findings on material questions of fact and a reference to the evidence or other material on which those findings were based.

A party to a proceeding before the Tribunal may appeal to the Federal Court from any decision of the Tribunal in that proceeding but only on a question of law.

Parties are not required to be legally represented in proceedings before the Tribunal but can be represented if they wish.

The Tribunal is organised into a number of divisions:

- General Administrative Division
- Security Appeals Division
- Taxation Appeals Division
- Veterans' Appeals Division

Deputy Presidents can exercise powers in any of the Tribunal's divisions.

Case Management

The Tribunal has a case management process that aims to deal with applications in a flexible and timely manner. It is designed to promote:

- the orderly and controlled passage of matters from lodgement to resolution
- the achievement of case management targets
- the equitable treatment of parties
- the effective use and allocation of Tribunal resources, and
- the maintenance and enhancement of public confidence in the Tribunal.

On receipt of an application in relation to which the Tribunal has jurisdiction, the Tribunal notifies the decision-maker that the application has been made. Within 28 days of receiving notice of an application, the decision-maker must provide to the Tribunal and to the applicant a statement of reasons for the decision and all documents that are relevant to the review.

One or more conferences, conducted by a Conference Registrar or a Tribunal member, are held with the parties to discuss the issues in dispute, identify any further material that parties may wish to obtain and explore whether the matter can be settled. Conferences also provide an opportunity to discuss the future conduct of the application and, in particular, whether another form of ADR may assist in resolving the matter. The other forms of ADR available in the Tribunal are conciliation, mediation, case appraisal and neutral evaluation.

The Tribunal assists the parties to attempt to reach an agreed resolution, while ensuring that appropriate steps are taken to prepare for hearing those matters that do not settle. Parties are expected to play an active role in identifying legal and factual issues early in the pre-hearing process. This encourages early resolution of disputes or, where that is not possible, a clear framework within which the parties can prepare for hearing.

Where an agreed resolution cannot be reached, the Tribunal conducts a hearing and makes a formal decision. For the purposes of the hearing, the Tribunal may be constituted by one, two or three members.

Additional Functions

In addition to carrying out their functions under the Act, members of the Tribunal may exercise powers under a number of other Acts.

All Deputy Presidents and full-time Senior members, and any part-time Senior Member or Member who has been enrolled as a legal practitioner for at least five years, may be nominated to undertake the following functions:

- issue telecommunications interception warrants and stored communications warrants under the *Telecommunications (Interception and Access) Act 1979*
- issue warrants and exercise related powers under the *Surveillance Devices Act 2004*, and
- vary controlled operation authorities under the *Crimes Act 1914*.

The President and all Deputy Presidents, and any Senior Member who has been enrolled as a legal practitioner for at least five years, may be nominated to make orders allowing information given to the Inspector of Transport Security to be disclosed to another government agency under the *Inspector of Transport Security Act 2006*.

The President and all Deputy Presidents may be appointed as issuing authorities in relation to the making of continued preventative detention orders under the *Criminal Code Act 1995*.

All members of the Tribunal are authorised to exercise a range of powers under the *Education Services for Overseas Students Act 2000* and the *Migration Act 1958* relating to the monitoring of compliance with student visa conditions.

All presidential members of the Tribunal, and any Senior Member or Member who has been enrolled as a legal practitioner for at least five years, may be appointed as an approved examiner under the *Proceeds of Crime Act 2002*. Approved examiners are authorised to issue examination notices at the request of the Commonwealth Director of Public Prosecutions and oversee compulsory examinations in connection with confiscation proceedings.

Corporate Business

The President has established a number of committees comprising Tribunal members and senior staff to provide advice and assistance in specific areas relating to the management of the Tribunal and its resources. Members may participate in committee work.

Further information about the Tribunal may be obtained from the Tribunal's website at www.aat.gov.au.