

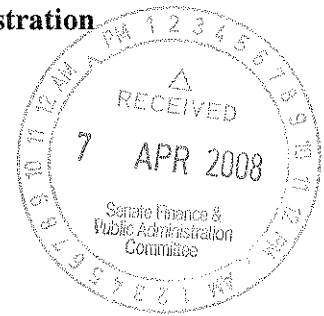
Standing Committee on Finance and Public Administration

ANSWER TO QUESTION ON NOTICE

Finance and Deregulation Portfolio

Department of Finance and Deregulation

Additional Estimates Hearing – February 2008



Question: F71

Outcome 3, Output 3.1

Topic: Members of Parliament Staff - Determinations under the *Members of Parliament (Staff) Act 1984*

Hansard Page: F&PA 107

Senator Ronaldson asked:

On that basis, under what MOP(S) or certified agreement classifications have the following positions been filled: advisers, senior advisers, special advisers, principle advisers and chiefs of staff?...

Ms Clarke—The Prime Minister has signed a determination under the MOP(S) Act which sets out the terms and conditions, including the salary rates of all the senior staff, both government and non-government. That determination has been advised to all office holders affected by that.

Senator RONALDSON—Is that determination available?

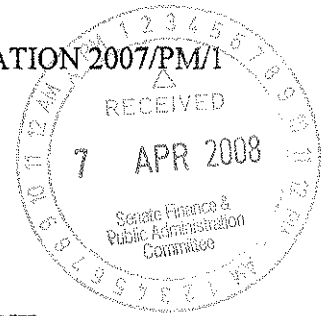
Answer:

The terms and conditions of employment, including the classifications of positions, for staff employed under the *Members of Parliament (Staff) Act 1984* (MOP(S) Act) are provided in the *Commonwealth Members of Parliament Staff Collective Agreement 2006 – 2009* (CA) for electorate staff and personal staff employed at the level of Adviser and below; or Determination 2007/PM/1 – Terms and Conditions of Employment for Employees Above the Level of Adviser, made by the Prime Minister on 9 December 2007, pursuant to section 14(3) of the MOP(S) Act.

A copy of Determination 2007/PM/1 is attached.

F71 Atch. A

DETERMINATION 2007/PM/1



Members of Parliament (Staff) Act 1984

TERMS AND CONDITIONS OF EMPLOYMENT

FOR EMPLOYEES ABOVE THE LEVEL OF ADVISER

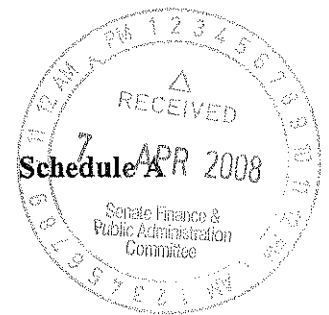
I, Kevin Rudd, Prime Minister, determine under subsection 14(3) of the *Members of Parliament (Staff) Act 1984* (the Act) that, with effect from the date of this Determination:

- 1) the terms and conditions of employment of employees under Part III of the Act at classifications above the level of Adviser, are varied as set out in Schedule A;
- 2) the salaries and classifications of employees under Part III of the Act at classifications above the level of Adviser are as shown at Schedule B.

Dated this 21st day of December 2007

A handwritten signature in black ink, appearing to be 'Kevin Rudd', written over a horizontal line.

Kevin Rudd
Prime Minister



**TERMS AND CONDITIONS OF EMPLOYMENT
FOR EMPLOYEES ABOVE THE LEVEL OF ADVISER**

DUTIES AND OBLIGATIONS

- 1) Employees are to perform the duties assigned to them diligently and carefully and are to comply with the lawful instructions of the employing Office Holder.

HOURS OF WORK

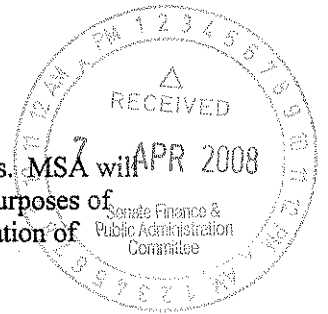
- 2) The standard full-time hours, including for the purposes of leave accruals and deductions, deductions for unauthorised absences and calculating part-time hours, will be 37.5 hours per week worked over the averaging period of 12 months.
- 3) Due to the operational requirements of the workplace, an Employee will be required to work such reasonable additional hours as are necessary to achieve the best possible match between the needs of the employing Office Holder and the Employee.
- 4) An Employee may work on a part-time basis (that is, less than full-time hours) with the written agreement of the employing Office Holder. Where work on a part-time basis has been approved, the Employee may vary their part-time hours or return to full-time employment at any time with the written agreement of the employing Office Holder.
- 5) In respect of any period where the employing Office Holder has agreed that an Employee may work part-time, the Employee will receive any applicable payment for salary, allowances in the nature of salary, leave and severance pay on a pro rata basis, based on the agreed part-time hours per week when compared to full-time hours.
- 6) Home-based work may be approved by the Special Minister of State (SMOS) in accordance with the Guidelines.

SALARY

- 7) Unless otherwise determined under the MOP(S) Act by the Prime Minister or the SMOS, the commencing salary for an Employee at a classification, within the relevant salary band in the tables at Schedule B, will be:
 - a) for a Government Employee: as approved by the Prime Minister; or
 - b) for a non-Government Employee: as set by the employing Office Holder.
- 8) Salary packaging, in accordance with the Guidelines, is available to all Employees with an employment agreement for a minimum period of three months, upon receipt from the Employee of a written election, which is separate to the employment agreement.
- 9) Unless expressly provided for in this Determination, an Employee's remuneration is in satisfaction of all hours worked by the Employee and the Employee's entitlements (including without limitation minimum wages, overtime, allowances and penalties) under any relevant industrial instrument or any applicable laws.

MINISTERIAL STAFF ALLOWANCE (MSA)

- 10) In recognition of the long and irregular hours required in addition to the ordinary hours of duty and other special features of employment, MSA of \$17,719 per annum is payable.



- 11) Employees may elect to have MSA included as salary for superannuation purposes. MSA will be paid fortnightly with salary. MSA is included in the definition of pay for the purposes of calculating severance payments and other payments made in lieu of leave on cessation of employment.
- 12) MSA is payable during full pay and half pay leave periods, but is not payable during periods of leave without pay

SUPERANNUATION

- 13) This determination does not affect current superannuation arrangements. However, new arrangements may be established in the future providing Employees with greater choice and control over their superannuation savings. Where new arrangements are established, they will not operate to reduce any benefits that already apply to Employees.

PRIVATE PLATED VEHICLE

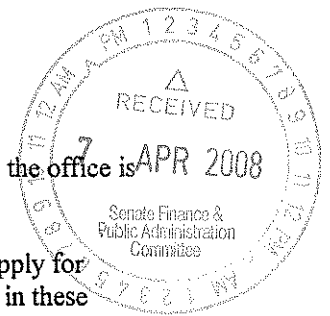
- 14) Employees with the classifications of Principal Adviser, Chief of Staff and Senior Adviser are entitled to be provided with a private-plated vehicle for private and business use in accordance with the Guidelines.
- 15) Employees may choose to receive cash in lieu of the entitlement to a private-plated vehicle of \$18,540 per annum in accordance with the Guidelines.

LEAVE APPLICATIONS

- 16) An Employee must submit a leave application to the employing Office Holder for any absence on leave.

ANNUAL LEAVE

- 17) Annual Leave provisions will be as follows:
 - a) 150 hours (which equates to 20 working days) full pay per year for personal recreation. Employees will take an appropriate amount of leave each year as agreed with the employing Office Holder;
 - b) Annual leave accrues daily, with accrued entitlements able to be taken at any time, with the approval of the employing Office Holder;
 - c) Annual leave is able to be taken at either full or half pay;
 - d) Employees may elect to take payment in lieu of up to 1/26th of the nominal hours worked in a 12 month period (this may equate to up to 10 working days (75 hours) for a full-time Employee) of annual leave per year in each year;
 - i. such an election may only be made once per calendar year;
 - ii. and only after an Employee has taken at least two weeks leave in the previous twelve months.
 - e) Where an Employee's annual leave credits total 80 days or more as at 31 January and/or 31 July of any year, the employing Office Holder may direct the Employee to take a period of annual leave of up to one quarter (1/4) of the amount of annual leave credited to the Employee; and
 - f) All unused annual leave credits will be paid out on cessation of employment.



- 18) The employing Office Holder may direct an Employee to take annual leave when the office is closed at Christmas or another holiday period.
- 19) If an Employee becomes ill during a period of annual leave, the Employee may apply for personal leave and re-crediting of annual leave. To be eligible for personal leave in these circumstances, the Employee must provide satisfactory medical evidence and be unfit for duty for one day or longer.

Personal Leave

20. Personal Leave provisions will be as follows

- a) 112.5 hours (15 working days) full pay per year for sick leave or carer's responsibilities;
- b) Personal leave will be credited annually, in advance, and any credit not used will be cumulative and available from date of commencement and each subsequent anniversary;
- c) Any arrangements for provision of medical certificates will be determined by the employing Office Holder in advance;
- d) Personal leave can be taken at either full or half pay;
- e) There will be no cap on the amount of personal leave that can be taken for carer's purposes; and
- f) Unused personal leave will not be paid out on termination of employment.

Compensation Leave

21) Compassionate leave will be as follows:

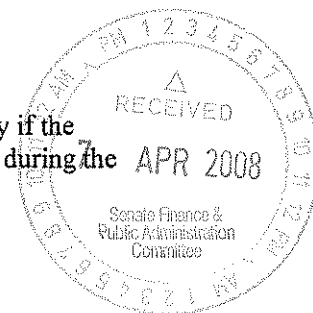
- a) Employees will be entitled to a period of 2 days (15 hours) of paid compassionate leave for each occasion a member of the Employee's immediate family or a member of the Employee's household:
 - i. contracts or develops a personal illness that poses a serious threat to his or her life; or
 - ii. sustains a personal injury that poses a serious threat to his or her life.
- b) Employees will be entitled to a period of 3 days (22.5 hours) of paid compassionate leave for each occasion a member of the Employee's immediate family, member of the Employee's household or friend dies.

Unpaid Carer's Leave

22) Unpaid carer's leave will be as follows:

- a) Employees will be entitled to a period of up to 2 days (15 hours) unpaid carer's leave for each occasion when a member of the Employee's immediate family, or a member of the Employee's household, requires care or support during such a period because of:
 - i. a personal illness, or injury, of the member; or
 - ii. an unexpected emergency affecting the member.

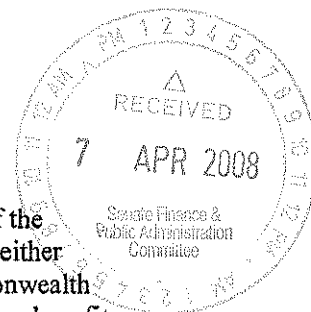
- b) Employees will be entitled to unpaid carer's leave for a particular period only if the Employee cannot take an amount of any of the following types of paid leave during the period:
- i. paid personal/carer's leave;
 - ii. any other authorised leave of the same type as personal/carer's leave.
- c) A period of unpaid carer's leave will not count as service for any purpose.



Miscellaneous Leave

23) Miscellaneous Leave provisions will be as follows:

- a) Full pay non-accruing miscellaneous leave may be granted, subject to approval by the employing Office Holder and consistent with any guidelines as issued by Ministerial and Parliamentary Services (M&PS), for absences including those associated with:
 - i. Jury Service;
 - ii. Defence Force Service;
 - iii. State Emergency Services;
 - iv. Participation in major international sporting events;
 - v. Approved course of study;
 - vi. War Service Sick Leave;
 - vii. Political Exchange Leave; and
 - viii. Other special purposes.
- b) Maternity Leave
 - i. Maternity Leave is available in accordance with the provisions of the *Maternity Leave (Commonwealth Employees) Act 1973*, and any maternity leave may be taken on a half pay basis. Any unpaid absence beyond the mandatory 12 weeks will not count as service for any purpose. Maternity leave shall not be taken to have broken continuity of service.
- c) Leave Without Pay
 - i. Employees may access leave without pay, including parental and ceremonial leave. Other than as specified in guidelines as issued by M&PS, leave without pay will not count as service for any purpose.
- d) Public Holidays
 - i. When in their home base, Employees are entitled to public holidays as provided for the Australian Public Service for that locality; and
 - ii. Whilst not in their home base, Employees are entitled to public holidays as provided for the Australian Public Service in the locality in which they are travelling.



PRIOR SERVICE

- 24) An Employee who ceases employment by reason of subsection 16(1), (2) or (3) of the *Members of Parliament (Staff) Act 1984* (MOP(S) Act) and is re-employed under either Part III or Part IV of the MOP(S) Act within six months and repays to the Commonwealth monies received by way of payment in lieu of annual leave and by way of severance benefits, is entitled to have the immediately preceding period of employment under Part III and any previous periods in relation to which continuity of employment provisions have applied counted as service for all purposes.
- 25) An Employee who resigns to contest a Federal, State or Territory election, is unsuccessful and is subsequently reappointed, may choose to repay any monies received in lieu of leave and have their previous service regarded as continuous for all purposes. Under these arrangements, the break in service will be regarded as leave without pay to count as service for annual, personal and long service leave. It should be noted that there is no automatic provision for reappointment if an Employee is unsuccessful in gaining a seat at an election.
- 26) An Employee who has previously been employed by government organisations may be eligible to have that employment recognised for personal leave and long service leave purposes, in accordance with the Guidelines.
- 27) An Employee who is a permanent officer of the Australian Public Service is entitled to have all their leave credits recognised on appointment under the MOP(S) Act.

TRAVELLING ALLOWANCE

- 28) Travel and Travelling Allowance (TA) are subject to the Guidelines.
- 29) If an Employee is directed to travel on official business and is required to be away from his or her nominated home base overnight the Employee will be paid the relevant flat rate of TA incorporating accommodation, meals and incidental expenses. TA will not be paid for travel where there is no overnight stay.
- a) The Employee's home base is the office where the Employee spends most time on duty, as nominated by the Employee and agreed by the employing Office Holder.
- 30) For travel to Canberra if it is not the Employee's home base:
- a) a flat TA rate (\$194 from 3 September 2007) will be paid per overnight stay in Canberra to cover accommodation, meals and incidental expenses;
- b) 'Canberra' includes locations within a 30 kilometre radius from Parliament House; and
- c) the rate of TA for Canberra will be the TA rate applicable for travel to Canberra for Senators and Members and will vary at the time of any variation to that rate.
- 31) For travel outside of Canberra:
- a) TA rates are those set by the SMOS applicable to senior Ministerial and Office Holders' staff in accordance with rates determined by an independent organisation from time to time, based on current market data;
- b) where an Employee is accommodated in private, non-commercial accommodation such as the home of a family member or friend, a rate of one third of the full (commercial) TA rate set by the SMOS is payable, rounded upwards to the nearest dollar;



- c) where an Employee stays in commercial accommodation, a receipt for the commercial accommodation must be produced or the Employee must certify that a receipt for the commercial accommodation will be produced if required, or the non-commercial TA rate will be paid.
- 32) If an Employee resides in one location away from his or her home base for a period of 35 days or longer, a review rate of TA will be payable in accordance with the Guidelines.
- 33) Employees are required to acquit any amount of TA paid in advance of travel within 14 days of the last date of travel. Future TA payments will not be made if acquittals are outstanding beyond 28 days. Any overpayment of TA arising from changes to travel arrangements, or for other reasons, represents a debt to the Commonwealth and is subject to the normal debt recovery arrangements.
- 34) Where the Commonwealth meets the cost of an Employee's accommodation and meals during travel on official business, the TA rate payable during the period in which these costs are met will be the incidentals component determined by an independent organisation from time to time, based on current market data.
- 35) Travel claims must be made within 60 days of the travel having been completed.
- 36) Overseas travel entitlements and conditions apply in accordance with the Guidelines.
- 37) If an Employee's home base is other than Canberra, the Employee is limited to a maximum TA payment for 120 overnight stays in Canberra each financial year when travelling on official business.
- 38) If an Employee's home base is neither Canberra nor the home base of the employing Office Holder, the Employee is limited to a maximum TA payment for 120 overnight stays in Canberra and the home base of the employing Office Holder combined each financial year when travelling on official business.
- a) For the purpose of this clause the employing Office Holder's home base is the principal place of residence as nominated to the SMOS.

FREQUENT FLYER POINTS

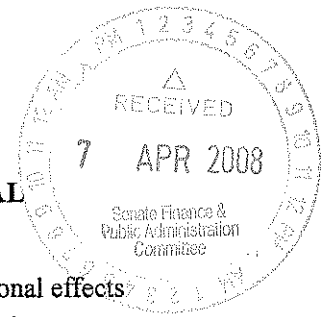
- 39) Frequent flyer points accrued by an Employee as a result of travel undertaken at Commonwealth expense may only be used by the Employee for work related travel as follows:
- a) to pay for work related flights (subject to the restrictions on travel set out in the employment framework); and
- b) to pay for airline lounge membership or renewal.

OTHER ALLOWANCES

- 40) Allowances not specifically included in this Determination or in the Guidelines are not payable.

DISCRETIONARY PAYMENTS

- 41) The SMOS has the discretion to approve additional payments in any case where an Employee would otherwise be financially disadvantaged in the performance of his or her work. The SMOS has the final decision on such matters and no review of the SMOS' decision is available.



REIMBURSEMENT FOR LOSS OR DAMAGE TO CLOTHING OR PERSONAL EFFECTS

- 42) Employees may be entitled to be reimbursed for loss or damage to clothing or personal effects arising out of or in the course of the Employee's employment in accordance with the Guidelines.

RELOCATION EXPENSES

- 43) Employees may be eligible to receive certain reasonable relocation expenses in accordance with the Guidelines.

STUDY ASSISTANCE

- 44) Studies Assistance may be granted for courses of study which are relevant to an Employees work in accordance with the Guidelines.

MOTOR VEHICLE ALLOWANCE

- 45) Employees may be entitled to MVA, in accordance with the Guidelines, if an Employee is authorised in advance to use a privately owned vehicle or a self-drive hire vehicle, at his or her own expense, for the purpose of official business.

OCCUPATIONAL HEALTH AND SAFETY

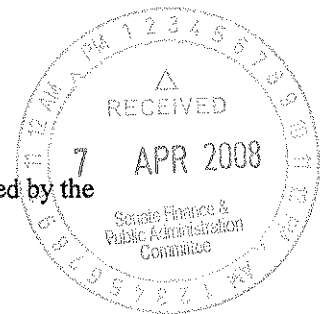
- 46) Employees are able to access assessments of work practices and equipment in the workplace in accordance with the Guidelines.
- 47) Employees are able to receive eye-sight testing and annual flu vaccinations in accordance with the Guidelines.

EMPLOYEE ASSISTANCE PROGRAM

- 48) Employees and their families have access to an Employee Assistance Program for personal or work-related issues, in accordance with the Guidelines.

SEVERANCE BENEFITS

- 49) If an Employee's employment is terminated under Part III of the MOP(S) Act other than through resignation, severance benefits (inclusive of salary and MSA) are payable in accordance with the rates specified in clause 51, provided that the Employee:
- a) is not an officer or Employee of the Australian Public Service, the Public Service of a State or Territory, or any other public sector agency from which the Employee is on leave without pay;
 - b) is not terminated for an offence which in the view of the Prime Minister or his delegate would have led to the dismissal of an officer from the Australian Public Service;
 - c) is not engaged for fixed periods to fill a vacancy caused by an Employee being on leave or to fill a substantive vacancy pending a permanent appointment; or
 - d) is not re-employed under the MOP(S) Act immediately following the termination of employment.



50) The severance benefits payable to an Employee will be the gross benefit provided by the following table:

<u>Length of Continuous Service</u>	<u>Gross Benefit</u>
Less than 1 year	2 weeks' pay
1 year or more but less than 2 years	6 weeks' pay
2 years or more but less than 3 years	8 weeks' pay
3 years or more but less than 4 years	10 weeks' pay
4 years or more but less than 5 years	11 weeks' pay
5 years or more but less than 7 years	12 weeks' pay
7 years or more	12 weeks' pay plus 2 weeks' pay for every completed year in excess of 6 years up to a maximum of 48 weeks' pay.

ADDITIONAL SEVERANCE BENEFITS

51) Severance benefits payable under clauses 50-51 will be increased by 30 per cent if an Employee's MOP(S) Act employment terminates as a result of the employing Office Holder ceasing to hold Office (i.e. under subsections 16(1) or 16(2) of the MOP(S) Act) and if the benefits are not treated as payments in respect of a *bona fide* redundancy for the purpose of section 27F of the *Income Tax Assessment Act 1936*.

CAREER TRANSITION PAYMENT

52) If an Employee's employment is terminated as a result of the employing Office Holder ceasing to hold Office under either subsection 16(1) or (2) of the MOP(S) Act, up to \$500 is payable for career transition counselling or training providing the following conditions are met:

- a) the course of counselling and/or training must be approved by M&PS;
- b) counselling and/or training must be approved within three months of termination; and
- c) costs for undertaking counselling and/or training may be paid by M&PS to the service provider or will be borne by the Employee and be reimbursed by M&PS upon the production of receipts.

53) If, on termination, an Employee is eligible to return to a public sector agency from which the Employee is on leave without pay, the Employee is not eligible for the career transition payment. Similarly, if, immediately following termination of employment the Employee is re-employed under the MOP(S) Act, the Employee is not eligible for the career transition payment.

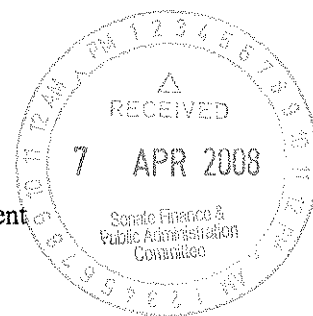
RELATIONSHIP WITH OTHER DETERMINATIONS AND GUIDELINES

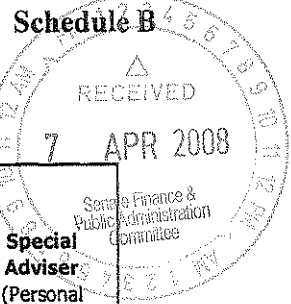
54) The terms and conditions of this Determination will be implemented subject to any other determination under the MOP(S) Act that specifically alters the operation of this Determination and will not be subject to any determination under the MOP(S) Act that does not specifically alter the operation of this Determination.

55) The terms and conditions of this Determination will be implemented subject to the Guidelines. This Determination will prevail in the case of any inconsistency between it and the Guidelines.

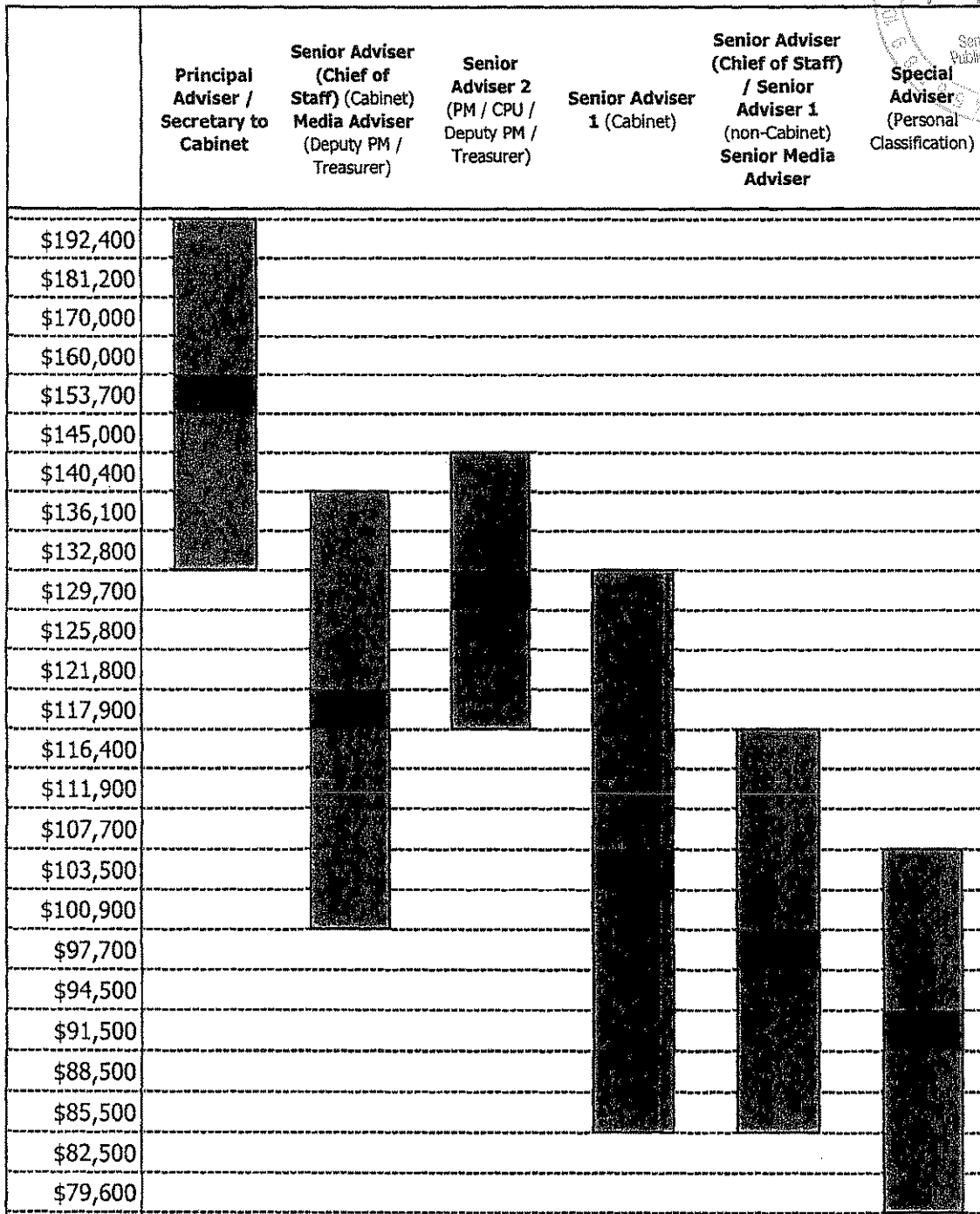
DEFINITIONS AND INTERPRETATION

- 56) 'Department' means the Department of Finance and Deregulation, or any subsequent Department that has portfolio responsibility for administering the MOP(S) Act.
- 57) 'Employee' or 'Employees' means the Employees covered by this Determination.
- 58) 'Employment framework' means the MOP(S) Act and determinations made under that Act, other relevant statutes and laws, the Guidelines, the employment agreement and the arrangements approved and conditions determined by the Prime Minister and/or his delegate.
- 59) 'Guidelines' means the Guidelines to the Determination of terms and conditions of employment for Employees above the level of Adviser employed under the MOP(S) Act, as issued by the Department and includes consolidations, amendments or replacements of them.
- 60) 'MOP(S) Act' means the *Members of Parliament (Staff) Act 1984*.
- 61) 'Office Holder' has the same meaning as in section 3 of the MOP(S) Act.
- 62) 'SMOS' means the Special Minister of State.
- 63) A reference to a statute or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them.





Ministerial Senior Staff Salaries

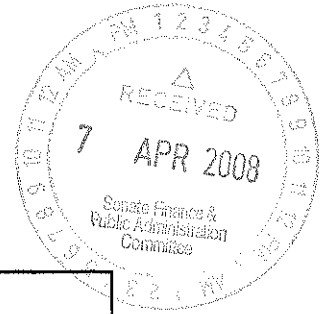


1. Ministerial Staff Allowance (MSA) of \$17,719 per annum (as at 1 December 2006) is payable in addition to salary. MSA is by way of compensation for long and irregular hours and other special features of the positions.

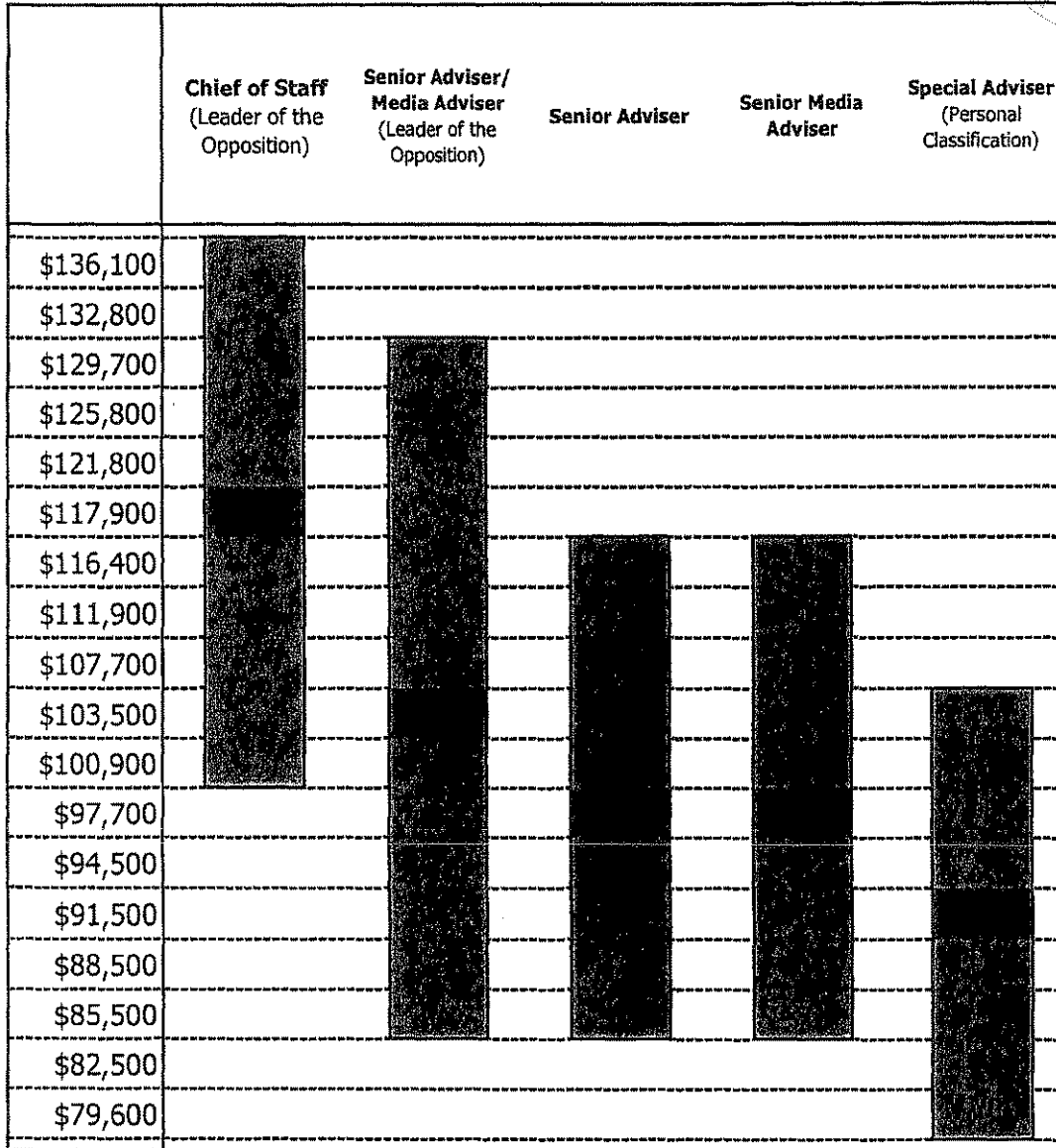
2. Principal Advisers and Senior Advisers are entitled to a private-plated vehicle or cash-in-lieu of \$18,540 per annum (as at 1 January 2005).

3. The Special Adviser classification is available through a personal classification subject to the demonstration of particular skills and responsibilities, the approval of the Prime Minister and the availability of funds.

10 December 2007

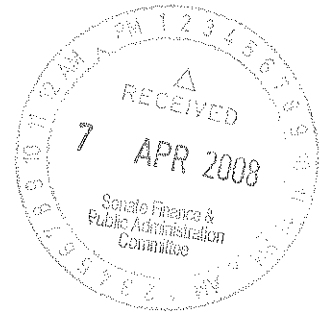


Opposition Senior Staff Salaries



1. Ministerial Staff Allowance (MSA) of \$17,719 per annum (as at 1 December 2006) is payable in addition to salary. MSA is by way of compensation for long and irregular hours and other special features of the positions.
2. Senior Advisers are entitled to a private-plated vehicle or cash-in-lieu of \$18,540 (as at 1 January 2005).
3. The Special Adviser classification is available through a personal classification subject to the demonstration of particular skills and responsibilities, the approval of the Prime Minister and the availability of funds.

10 December 2007



Minority Party Senior Staff Salaries

	Senior Adviser	Special Adviser (Personal Classification)
\$116,400		
\$111,900		
\$107,700		
\$103,500		
\$100,900		
\$97,700		
\$94,500		
\$91,500		
\$88,500		
\$85,500		
\$82,500		
\$79,600		

1. Ministerial Staff Allowance (MSA) of \$17,719 per annum (as at 1 December 2006) is payable in addition to salary. MSA is by way of compensation for long and irregular hours and other special features of the positions.
2. Senior Advisers are entitled to a private plated vehicle or cash-in-lieu of \$18,540 (as at 1 January 2005).
3. The Special Adviser classification is available through a personal classification subject to the demonstration of particular skills and responsibilities, the approval of the Prime Minister and the availability of funds.

10 December 2007



Presiding Officers' Senior Staff Salaries

	Senior Adviser	Special Adviser (Personal Classification)
\$116,400		
\$111,900		
\$107,700		
\$103,500		
\$100,900		
\$97,700		
\$94,500		
\$91,500		
\$88,500		
\$85,500		
\$82,500		
\$79,600		

1. Ministerial Staff Allowance (MSA) of \$17,719 per annum (as at 1 December 2006) is payable in addition to salary. MSA is by way of compensation for long and irregular hours and other special features of the positions.
2. Senior Advisers are entitled to a private-plated vehicle or cash-in-lieu of \$18,540 (as at 1 January 2005).
3. The Special Adviser classification is available through a personal classification subject to the demonstration of particular skills and responsibilities, the approval of the Prime Minister and the availability of funds.

10 December 2007