

TASMANIAN GOVERNMENT BOARD FEE POLICY

as at August 2021

Background

The Tasmanian Government uses a framework developed previously by consultants, Mercer Cullen Egan Dell (MCED) to determine appropriate maximum levels of fees for board members. Noting that the framework applying to category A1 (fully competitive, critical to Government) Trading Enterprises is the base category that is referenced to the market and used for setting all other fee levels. Fees for the base category are currently set using a notional 20 per cent discount against private sector market fee levels.

The framework provides a set of steps for classifying boards and incorporates a scale of maximum fees for board members. Using the framework as a base, boards are classified into one of two groups: Commercial/Trading or Non-Commercial/Non-Trading boards.

Fees for Trading Enterprises are determined on the basis of:

- Level of marketplace competition (from monopoly to fully competitive);
- Size (based on turnover or asset base); and
- Scope of impact (from local impact to critical statewide).

Fees for Non-Trading Entities are based on:

- Nature of board accountability (Governing, Policy, Regulatory etc); and
- Scope of impact.

There is a group of Community Advisory Boards which do not generally attract fees, though members may be reimbursed for out-of-pocket expenses incurred in attending meetings.

Further detail on board categorisation is provided in Attachment A.

Sizing Statements

A sizing statement indicating the category and recommended fee for each Board is prepared by the Department of Premier and Cabinet (DPAC). The sizing statement lists the actual fee and the recommended maximum for that particular board, noting that many boards pay below the maximum. As Cabinet may approve fees, sizing statements are ultimately only a guide and there is some flexibility as to the actual fee paid, depending on the circumstances of each board or board appointment.

Fees Policy

Within this framework, it has been agreed that:

- Fees may be applied on an annual or daily basis, depending on the board classification.
- Relevant portfolio departments are responsible to their Ministers for advising on appropriate actual levels of fees and liaising with the boards which they administer.
- Any variance from the maximum recommended fee is to be approved by the relevant Portfolio Minister. In determining the level of the fee to be paid, agencies should consider the current fee, the fee recommended in the sizing statement, the board's responsibilities and the agency's capacity to pay.
- Current policy, as approved by Cabinet, is for an increase in board fees to be available in line with percentage increases in the salaries as for the Tasmanian State Service Award.
- Before any increase in fees, including those in line with the new remuneration framework or sizing statements, is applied to actual board fees, the relevant agency or Government business must seek the approval of its Minister(s) to apply that increase.
- Instruments of appointments for board members, especially those requiring Executive Council approval, should include the phrase 'and will be subject to any increase determined by the Government from time to time' or similar after specifying the current fee. This will allow increased fees to be payable once the relevant Minister(s) have approved the increase.
- Superannuation may need to be paid to board members consistent with the requirements of the *Superannuation Guarantee (Administration) Act 1992 (Cth)*. Board members have the capacity to sacrifice fees for superannuation, but do not have the capacity to sacrifice board fees for other benefits, such as vehicles.
- To enable boards to attract members with particular skills or expertise, particularly from interstate, the Portfolio Minister has the capacity to recommend to Cabinet at the time of appointment, that the 20 per cent discount currently applied to fees be removed for specific individuals.
- Members of Government Business Enterprise (GBE) and State-owned Company (SoC) board committees may be recompensed for their additional time commitment, as jointly determined by the Treasurer and the Stakeholder/Portfolio Minister. These fees in total should not exceed 15 per cent of the total board fees payable to board members.
- Any contracts with non-Executive directors for work unrelated to their normal board role should be entered into in an open and transparent manner, consistent with the spirit of the Department of Treasury and Finance's Procurement Principles.

Tasmanian Government Board Fee Policy

- Where directors are required to undertake work that is related to their board duties but beyond the normal workload of a board director, the Portfolio Minister has the discretion to provide additional remuneration for this work. Generally, this would require exceptional time commitments over and above that expected of a board member. In addition, it may include significant travel commitments, or require members to undertake substantial research and analysis related to a major new business or investment decision. For monitoring purposes, agencies and authorities should report the details of any such arrangements to DPAC.
- In some circumstances where the Chair of the Board works on a regular basis each week, it may be more appropriate for that person to be paid as a part-time employee at an appropriate rate. Any such arrangement should be confirmed in the sizing statement and during the Cabinet approval process.

The current Maximum Fee Framework is provided at Attachment B.

Payment for Crown Servants on Boards

No fees are to be paid where a board membership is an accountability of the Crown Servant's role.

Similarly, where the legislation establishing a board provides that the holder of a particular office shall be a member of it, no additional remuneration is payable in respect of that membership.

Full fees should be paid where the following criteria are all met:

- (i) the board role is clearly unrelated to the Crown Servant's normal position and is not associated with the business or role of their agency, and
- (ii) the time commitment is predominantly in excess of the hours required to perform the Crown Servant's substantive position, and
- (iii) the appointment is a personal one designed to secure particular skills for the board.

If criteria (i) and (iii) are met, 75% fees should be paid.

If criteria (ii) and (iii) are met, 75% fees should be paid.

If criteria (i) and (ii) are met, 50% fees should be paid.

Many Acts specify that payment to State Servants must be approved by the Minister responsible for the *State Service Act 2000* and no fee should be paid without this approval.

The relevant portfolio Minister may approve a fee for a State Servant for non-statutory boards, after consultation with DPAC about the level of remuneration.

Board Categories

Commercial Boards – Level of Competition

A	Fully Competitive <ul style="list-style-type: none"> • Exposed fully to market • Not subsidised • Typically exposed to Corporations Law • Pays full taxes (or tax equivalent payments) • Pays dividends
B	Partly Competitive <ul style="list-style-type: none"> • Exposed to market, but subsidised (financially or asset provided) • Exposed to market, but greater than 50% of income is captive • Partial monopoly
C	Full Monopoly/Non-Competitive <ul style="list-style-type: none"> • Captive market • Commercial business management, but not in competition • Trading with community (charges for services) • Typically non-State Servant members • Sets rates/prices to gain commercial rate-of-return • Invests to achieve commercial advantage

Commercial Board – size (based on turnover or asset base in \$ million)

0 – 49

50 – 149

150 – 449

450+

Board Categories

Non Commercial Boards – Nature of Board Accountability

D	<p>Governing</p> <ul style="list-style-type: none"> • has own Act; • sets own policies; • subject to broad Ministerial direction only; • CEO accountable to the board; • has financial impact on State Government; • directors fully accountable for actions of board and organisation; • not a trading enterprise; and • funds predominantly provided by Government.
E	<p>Policy/Review/Specialist</p> <ul style="list-style-type: none"> • predominant influence of board is on policy direction (ie influential over strategic decision-making, but not determining key strategies); • organisation's employees employed under <i>State Service Act 2000</i>; • budgetary freedom constrained by State Service department; • organisation subject to Ministerial direction; • review boards directly advise Government on substantive Government policy issues; • boards require specialist professional appointees; and • judicial/appeals boards which have a policy initiation role.
F	<p>Regulatory/Registration/Appeal</p> <ul style="list-style-type: none"> • decision making bodies (eg registration, appeal, regulatory); and • appeal boards have a solely case determination role.
G	<p>Community Advisory/Self-Regulation</p> <ul style="list-style-type: none"> • boards exist for purpose of consultation, advice, liaison to provide for community input; • typically membership is from specific interest groups or representatives of the wider community; • decision making bodies (eg registration, appeal, regulatory); and • boards provide for community management of community resources/assets of a non-critical nature.

Board Categories

All Boards - Impact

1. Critical to government

- critical to public interest;
- important source of state revenue;
- essential to state infrastructure;
- impact on stability of state economy;
- substantive impact on whole-of-government policy; and
- impact on state credit rating.

2. Statewide (broad focus)

- impact throughout the state in terms of:
 - a) the whole community, but not in an area that is critical to government
 - b) a substantial industry strategic government policy focus;
- impact on a substantial area of government policy, but not critical to government;
- medium to large government businesses with impact on government, but not of a critical nature; and
- if a trading enterprise, then turnover/assets in excess of \$100 million.

3. Regional/statewide (narrow focus)

- impact throughout the State, but with a narrow focus (eg controlling registration) and not of strategic or substantive policy nature;
- comprehensive impact on a small industry with limited community interest; and
- impact on particular aspects of a substantial industry.

4. Local area

- impact on small or narrow industry;
- impact on a narrow set of non-critical government policies/activities;
- medium to large government businesses with impact on government, but not of a critical nature; and
- single, small government business with little impact on government.

Attachment B

Maximum Board Fees

COMMERCIAL / TRADING BOARDS

With Ministerial approval may be applied after 1 December 2020

ORGANISATION PARAMETERS		1. Critical		2. Broad		3. Narrow		4. Local	
Competitive Situation	Turnover/ Assets \$m	Chair \$ p.a.	Member \$ p.a.	Chair \$ p.a.	Member \$ p.a.	Chair \$ p.a.	Member \$ p.a.	Chair \$ p.a.	Member \$ p.a.
A. Fully Competitive	0-49	51,863	32,600	35,564	22,226	25,190	16,301	17,781	11,855
	50-149	82,980	40,006	57,789	31,117	40,006	22,226	28,155	16,301
	150-449	88,906	44,454	62,237	41,489	42,972	29,635	29,635	20,743
	450+	124,469	57,789	87,425	41,489	60,755	29,635	42,972	20,743
B. Partly Competitive	0-49	35,564	22,226	25,190	16,301	17,781	11,855	11,855	8,889
	50-149	57,789	31,117	40,006	22,226	28,155	16,301	19,263	11,855
	150-449	62,237	41,489	44,454	29,635	31,117	20,743	22,226	14,819
	450+	87,425	41,489	60,755	29,635	42,972	20,743	29,635	14,819
C. Full Monopoly/ Non-Competitive	0-49	25,190	16,301	17,781	11,855	11,855	8,889	8,889	6,041
	50-149	40,006	22,226	28,155	16,301	19,263	11,855	13,337	8,889
	150-449	42,972	29,635	29,635	20,743	20,743	14,819	14,819	10,373
	450+	60,755	29,635	42,977	20,743	29,635	14,819	20,743	10,373

Attachment B

Maximum Board Fees

NON-COMMERCIAL / NON-TRADING BOARDS

With Ministerial approval may be applied after 1 December 2020

NATURE OF BOARD	1. Critical		2. Broad		3. Narrow		4. Local	
	Chair \$	Member \$	Chair \$	Member \$	Chair \$	Member \$	Chair \$	Member \$
D. Governing	60,749 p.a	34,080 p.a	42,969 p.a	25,189 p.a	29,633 p.a	17,781 p.a	356 per day*	269 per day*
E. Policy/Review/Specialist	42,969 p.a	25,189 p.a	29,633 p.a	17,781 p.a	20,742 p.a	11,854 p.a	252 per day*	177 per day*
F. Special Regulatory **	42,969 p.a	25,189 p.a						
F. Regulatory	870 per day*	831 per day*	490 per day*	371 per day*	252 per day*	177 per day*	252 per day*	177 per day*
G. Community Advisory	No remuneration paid.							

*Per day or part thereof

** Board whose appeal function operates in a critical to Government policy area and whose determinations are likely to be subject to legal challenge