REPORT ON THE REMUNERATION OF

JUDGES, DISTRICT COURT JUDGES, MASTERS OF THE SUPREME COURT,

MAGISTRATES AND THE PARLIAMENTARY INSPECTOR OF THE

CORRUPTION AND CRIME COMMISSION

PREAMBLE

1. Section 7 of the *Salaries and Allowances Act 1975* ('the Act') requires the Tribunal, at intervals of not more than twelve months, to inquire into and report to the Minister responsible on the question of whether any alterations are desirable in the remuneration to be paid or provided to Judges, District Court Judges, Masters of the Supreme Court, Magistrates and the Parliamentary Inspector of the Corruption and Crime Commission. The Act provides further that if the Tribunal reports that alterations are desirable, it shall recommend the nature and extent of the alterations to be made.

2. A copy of the report must be laid before each House of Parliament within five sitting days of that House after the Minister has received the report.

BACKGROUND

3. The Tribunal issued its last report on the remuneration of the judiciary on 25 November 2011. In so doing, it provided for remuneration increases that were consistent with the national hierarchy of the Courts.

4. On 22 June 2012, the Commonwealth Remuneration Tribunal (CRT) recommended a 3.0 per cent increase in remuneration for the Federal judiciary based on cost of living increases.

CURRENT INQUIRY

5. In discharging its statutory requirements with respect to the remuneration of the judiciary, the Tribunal's approach has been to:

    - Advertise for public submissions;
    - Write to key office holders; and
    - Consider relevant labour market and economic data.

6. This process provides an opportunity for members of the public, the Government, the judiciary themselves or any other interested party to make a submission. It also helps to inform the Tribunal of changes which might have taken place in the roles or responsibilities of the judiciary over the past year and other remuneration issues.

7. The Tribunal received submissions from the Minister for Commerce on behalf of the Government of Western Australia, the Chief Justice, the Chief Judge of the District Court and

the Magistrates' Society of Western Australia. The Tribunal considered all the submissions received.

SUBMISSIONS

8. The main issues raised in the submissions were:

- Whether the salary increases provided to the Federal judiciary should flow on to the Western Australian judiciary; and
- Whether there were exceptional circumstances to warrant an increase in the Magistrates' salaries relative to other judicial office holders.

9. The submission from the Minister for Commerce outlined the current economic situation in Western Australia as described in the 2012/13 State Budget and stated "the Western Australian economy continues to outperform the rest of the nation, reflecting the increasingly dominant influences of business investment and commodity exports on economic growth. Despite persistent risk and uncertainty in the global economic environment, the overall outlook for growth in Western Australia is positive". The submission invited the Tribunal to consider the Government Wages Policy while also recognising that the judiciary falls outside the scope of the policy.

10. The Chief Justice, on behalf of the Supreme Court Judges and the Master of the Supreme Court, submitted that the Tribunal should recommend an increase in the remuneration of Judges and the Master of the Supreme Court of 3.0 per cent to maintain parity with the Federal Courts.

11. The Judges of the District Court submitted that there were no exceptional circumstances to warrant a change in the relativities of judicial officers and that the 3.0 per cent increase recommended by the CRT should be recommended for the Western Australian judiciary.

12. The submission from the Magistrates' Society made a number of claims including:

- It would be appropriate to pass on the 3 per cent awarded to the Federal Judiciary;
- Due to legislative and jurisdiction changes, there is now no distinction between the work conducted by a Federal Magistrate and a WA Magistrate and that WA Magistrates should receive the same level of remuneration;
- That these changes represent an 'exceptional circumstance' that warrants the altering of remuneration relativities within the judicial hierarchy. The remuneration of Magistrates should therefore be set at 85 per cent of a District Court Judge up from the current 82.5 per cent;
- The Tribunal should adjust upwards the notional value of the vehicle entitlement; and
- The Tribunal should remove the restriction of travel within the Northern Territory for the Magistrate stationed at Kununurra.

CONSIDERATIONS

Economic Considerations

13. The economic indicators provided in the table below demonstrate that the Western Australian economy is in solid, steady period of economic growth. This is supported by statements from the Department of Treasury and economic advisory bodies such as the Reserve Bank of Australia[1]. However it is recognised by the Tribunal that despite the relatively healthy economic outlook in Western Australia, compared with other states and countries, there remain risks to the Western Australian economy associated with global financial issues and volatile commodity prices.

14. A recent statement by the Premier and Treasurer[2] highlighted some of the economic risks faced by the public sector arising from the volatility in iron ore prices, continuing strength in the Australian dollar and shrinking share of Goods and Services Tax revenue.

TABLE 1: NATIONAL AND WESTERN AUSTRALIAN ECONOMY – QUARTERLY AND ANNUAL AVERAGE INCREASES – SELECTED ECONOMIC INDICATORS 2012

Indicator	Quarterly % Increase	Annual Average % Increase
Perth - Consumer Price Index – Sept 2012 Qtr	1.1%	2.0%
National - Consumer Price Index – Sept 2012 Qtr	1.4%	2.0%
WA - Wage Price Index – June 2012 Qtr	0.9%	4.8%
National - Wage Price Index – June 2012 Qtr	0.7%	3.7%
WA – Wage Price Index –June 2012 Qtr – Private Sector	0.9%	4.9%
National – Wage Price Index –June 2012 Qtr – Private Sector	0.7%	3.9%
WA – Wage Price Index – June 2012 Qtr – Public Sector	1.1%	4.6%
National – Wage Price Index – June 2012 Qtr – Public Sector	0.6%	3.3%
WA – Average Weekly Earnings – May 2012 Qtr	1.5%	5.7%
National - Average Weekly Earnings – May 2012 Qtr	0.7%	3.7%
WA – Average Weekly Earnings (Full-time Adult Ordinary Time Earnings) – May 2012 Qtr	0.0%	2.9%
National - Average Weekly Earnings (Full-time Adult Ordinary Time Earnings) – May 2012 Qtr	0.4%	3.4%
WA Total Employment Growth – Sept 2012	1.0%	4.8%
National Total Employment Growth – Sept 2012	0.2%	0.5%

Sources: CPI ABS Cat 6401.0 WPI ABS Cat 6345.0 AWE ABS Cat 6302.0 EG ABS Cat 6202.0

[1]Reserve Bank of Australia Statement on Monetary Policy November 2012
http://www.rba.gov.au/publications/smp/index.html
[2]Media Statement 26 Sept 2012: Government focused on sound financial outcomes
http://www.mediastatements.wa.gov.au/Lists/Statements/DispForm.aspx?ID=151057

Remuneration of Judges

15. After taking due consideration of the present economic outlook, submissions received into the Tribunal's inquiry, increases awarded to other groups within the Tribunal's jurisdiction and the Federal judiciary, the Tribunal has recommended that the increase provided to the Federal judiciary should flow on to the Western Australian judiciary.

16. The Tribunal considered the prospect of aligning the salary of a Puisne Judge to that of a Federal Judge of the Commonwealth judiciary. Having considered the remuneration of the judiciary and its relationship with other jurisdictions, one needs to take into account the salary as well as other entitlements and conditions of service. An alignment in the base salary component of remuneration would be an approach that does not properly take into account other conditions of appointment and could disadvantage Western Australian Judges when there are variances in other entitlements such as judicial pensions, length of service required to access the pension, long service leave, and other factors. Therefore the Tribunal has recommended that it maintain its existing salaries for the judiciary with a 3 per cent economic adjustment.

Remuneration of Other Office Holders

17. The Magistrates' Society submission stated that "there will be no distinction between the Family Court work done by Federal Magistrates (soon to be Judges of the Federal Circuit Court of Australia) and that done by Western Australian Magistrates". As a result of these changes the Magistrates' Society concluded that they should receive the same salary as a Federal Magistrate, being $314,230 plus superannuation of 15.4 per cent. This represents an increase of 5.8 per cent in salary. However the submission considers that this represents an 'exceptional circumstance' that warrants the changing of relativities of a Magistrate to 85 per cent of the salary of a District Court Judge. This would represent an actual increase of 6.1 per cent.

18. The Tribunal does not accept that exceptional circumstances exists which should alter the remuneration relativities established in the Western Australian judiciary. It should be noted the Tribunal has explicitly acknowledged the increases in work value of Western Australian Magistrate in recent Recommendation Reports. In 2010 and 2011 the Tribunal recommended an increase of approximately 6 per cent above the general economic increases in recognition of these changes.

19. The Tribunal is satisfied that the current relativities between the magistracy and the Western Australian judiciary are set at an appropriate rate.

Motor Vehicles for Judges, Masters and Magistrates

20. The Magistrates' Society submission made three requests regarding motor vehicles. The first requested an increase in the notional whole of life lease value. While the lease costs of some specific vehicles have increased, the Tribunal has received advice from State Fleet that the majority of whole of life lease costs over the range of available vehicles have either remained steady or have decreased in 2012. Taking into account these factors, the Tribunal has recommended no change to the notional whole of life lease value of the motor vehicle entitlement in this report.

21. The second issue related to motor vehicle travel in the Northern Territory for the Magistrate stationed at Kununurra. In 2009 the Tribunal introduced a clause that allowed the Magistrate stationed at Kununurra to travel to Darwin for periods up to seven days under the same conditions as if the vehicle was in Western Australia. The rationale behind this decision was that Darwin is the closest regional centre for medical and allied health purposes, shopping and entertainment. The Magistrates' submission has now requested that the Magistrate located in Kununurra should be given more flexible arrangements to the Northern Territory,.

22. Kununurra is located about 37 kilometres from the Western Australian/Northern Territory border. The Tribunal has accepted the proposition that there may be times when it is considerably easier for the Magistrate in Kununurra to access services or recreational activities within the Northern Territory than they would be to access in Western Australia. The Tribunal has therefore allowed the Magistrate located in Kununurra to use their motor vehicle in the Northern Territory under the same conditions as if the vehicle where in Western Australia. It must be stressed that the Magistrate stationed in Kununurra has been granted this right due to the close proximity of Kununurra to the Western Australian/Northern Territory border. This is considered to be a unique set of circumstances.

23. The final issue raised was a minor clarification of the wording of Part 3.14 relating to off road vehicles which the Tribunal has accepted.

Travelling and Accommodation Allowance

24. There have been no submissions made regarding the travelling and accommodation allowance in the 2012 inquiry. The Tribunal has therefore maintained the existing alignment of travelling and accommodation benefits to the Australian Taxation Office (ATO) reasonable benefit limits.

RECOMMENDATION

25. The Tribunal recommends adjustments to the remuneration paid or provided to Judges, District Court Judges, Masters of the Supreme Court, Magistrates and the Parliamentary Inspector of the Corruption and Crime Commission to be in line with those set out in the attached Schedule. For ease of reference, the Schedule consists of a consolidated listing of

all the entitlements and benefits provided by way of past and current recommendations of the Tribunal.

26. Specifically, the current recommendation is that a 3.0 per cent increase in remuneration be granted to Judges, District Court Judges, Masters of the Supreme Court, Magistrates and the Parliamentary Inspector of the Corruption and Crime Commission with effect from 1 January 2013.

TABLING OF REPORT

27. Under the provisions of the *Salaries and Allowances Act 1975*, this report is required to be laid before each House of Parliament within five sitting days of the House after its receipt by the Minister. Either House of Parliament, within 15 sitting days of that House, having a copy of the report laid before it, may pass a resolution disapproving a recommendation made by the Tribunal.

The determination will now issue.

Signed this 23rd day of November 2012

W S Coleman AM	C A Broadbent	B J Moore
CHAIRMAN	MEMBER	MEMBER

SALARIES AND ALLOWANCES TRIBUNAL

SCHEDULE

REPORT ON THE REMUNERATION OF JUDGES, DISTRICT COURT JUDGES, MASTERS OF THE SUPREME COURT, MAGISTRATES, AND THE PARLIAMENTARY INSPECTOR OF THE CORRUPTION AND CRIME COMMISSION

REMUNERATION ARRANGEMENTS, INCORPORATING RECOMMENDED ALTERATIONS

PART 1: REMUNERATION

Remuneration shall be payable at the following rates to judges, masters and magistrates with effect from 1 January 2013.

POSITION	REMUNERATION
Chief Justice	$475,061
President of the Court of Appeal	$444,630
Senior Puisne Judge	$424,546
Senior Judge of the Court of Appeal	$424,546
Puisne Judge	$411,980
Senior Master of the Supreme Court	$381,780
Master of the Supreme Court	$370,781
Chief Judge District Court	$411,980
Senior Judge District Court	$381,780
Judge District Court	$370,781
Chief Magistrate	$370,781
Deputy Chief Magistrate	$325,013
Principal Registrar/Magistrate Supreme Court *	$325,013
Principal Registrar/Magistrate Family Court *	$325,013
Magistrates	$305,895
Registrars/Magistrates Family Court *	$305,895
Parliamentary Inspector, Corruption and Crime Commission	$164,791

PART 2: TRAVELLING AND ACCOMMODATION ALLOWANCE

Where an overnight stay away from home is involved, a travelling and accommodation allowance (inclusive of accommodation, meals and incidentals) shall be payable in accordance with the relevant Australian Taxation Office reasonable benefit limit applicable from time to time and where accompanied by certification that the expense was appropriately incurred.

2.1 If the reasonably and properly incurred travelling and accommodation expenses exceed the abovementioned specified rates, the actual costs should be reimbursed. Receipts or vouchers must be provided in support of any claim for reimbursement in excess of the specified rate.

2.2 Claims for overnight stays in the Perth metropolitan area should be subject in each case to the approval of the relevant Chief Judicial Officer.

2.3 Part payment of travelling and accommodation allowances shall apply in the following circumstances:

2.3.1 Where the Judge, Master or Magistrate is accommodated in private, non-commercial accommodation, such as the home of a family member or friend, a rate of one third of the specified rate shall be payable.

2.3.2 Where the cost of commercial accommodation is met by an entity other than the Judge, Master or Magistrate, an allowance shall be payable in accordance with the relevant Australian Taxation Office reasonable benefit limit for meals and incidentals applicable from time to time and where accompanied by certification that the expense was appropriately incurred.

2.3.3 Where in the case of commercial accommodation referred to in 2.3.2 above, the cost of a meal or meals is met by an entity other than the Judge, Master or Magistrate, the amount of travelling allowance shall be reduced by the relevant amount(s) referred to in the preceding paragraph.

PART 3: MOTOR VEHICLES

The following arrangements apply or continue to apply, as the case may be, to each Judge, Master and full-time Magistrate for the provision of a fully maintained motor vehicle for business and private use.

3.1 All vehicles (being part of the Government-owned State Fleet) should be managed in accordance with the policies and conditions established and amended from time to time by the Department of Finance (the effective owner of the State Fleet). Applicable terms and conditions are currently set out in the document "State Fleet - Agency General Agreement".

3.2 Selection of appropriate vehicles should be subject to consultation between the Department of the Attorney General (as the department administratively supporting the Courts and therefore the "Agency" responsible for managing the leasing arrangements for vehicles provided to Judges, Masters and Magistrates) and the relevant Court. Although the cost of the vehicles is centrally funded, as a consequence of it being a benefit recommended under the *Salaries and Allowances Act 1975*, the area remains an administrative responsibility of the Department to manage in a cost effective manner.

3.3 In providing for the use of a motor vehicle under this arrangement, the Tribunal requires that office holders and the Department of the Attorney General will take

account of the following principles established by the Tribunal. The provision of a motor vehicle should:

- meet the operational conveyance needs of the judiciary;
- be representative of fair value and benefit;
- be supportive of the efficient, effective and ethical use of State resources;
- be consistent with current principles of environmental sustainability, in particular, fuel efficiency and Government emissions targets;
- provide for adequate safety and security of judicial office holders;
- be commensurate with the status of judicial offices; and
- where private use of a vehicle is permitted, provide scope for personal preference in choice of motor vehicle consistent with the above principles.

3.4 For the purposes of determining the value of the motor vehicle lease relative to the value of the relevant benefit set out in this determination, the lease value shall be based on a whole of life lease over two years/40,000 kilometres. The lease value will be determined at the time of ordering the motor vehicle and will be inclusive of the cost of accessories. No additional costs shall be incurred by the office holder as a result of fluctuations in lease costs during the specified term of the lease.

3.5 The notional lease value must include the lease cost, Fringe Benefits Tax (FBT) and all other operating costs based on the relevant figure of nominated kilometres to be travelled annually. The formula to be adopted in valuing the motor vehicle is:

L + R + aD + FBT + I + LCT, where

L	=	Lease payments
R	=	Registration costs
a	=	Running cost per kilometre
D	=	nominated annual kilometres
FBT	=	Fringe Benefits Tax
I	=	Insurance
LCT	=	Luxury car tax

3.6 Motor vehicles leased for judicial office holders shall not be changed prior to the expiration of the lease unless it is for operational reasons approved by the relevant Chief Judicial Officer in consultation with the Department of the Attorney General.

3.7 The Chief Justice is entitled to the provision of a vehicle to the notional value of $27,300 per annum.

3.8 Judges, Masters and the Chief Magistrate are entitled to the provision of a vehicle to the notional value of $26,900 per annum.

3.9 Magistrates are entitled to the provision of a vehicle to the notional value of $25,400 per annum.

3.10 Judges, Masters, the Chief Magistrate and Magistrates may choose any vehicle and accessories in the Common Use Contract or an “off contract” vehicle and accessories available under Government leasing arrangements, the total cost of which does not exceed the maximum cost of accessing a motor vehicle benefit determined in this

report. Where the total cost of the chosen vehicle and accessories exceeds the maximum cost of accessing a motor vehicle benefit determined in this report, the additional cost must be borne by the individual. This includes the purchase cost of any accessories and the installation cost and removal costs if required before disposal of the vehicle.

3.11 In order to contain additional administrative costs associated with "off contract" leases, office holders may request cost quotations for not more than three vehicles outside the Government's Common User Contract for motor vehicles, in the process of selecting a vehicle under this arrangement.

3.12 Vehicles with V8 engines are not included. Turbo charged and super charged engines with a capacity greater than 3.0 litres are not included.

3.13 Each actual lease should be tailored to achieve the most cost-effective arrangement based on individual usage patterns.

3.14 Where the use of an off road vehicle is substantiated by operational need, this must be approved by the Chief Judicial Officer. Off road vehicles shall be of a standard, the cost of which does not exceed the whole of life notional lease value of the Toyota Prado GXL Auto 3.0 litre Turbo Diesel fitted with "roo" bar (air bag compliant) or the relevant notional value listed in Parts 3.7 to 3.9, whichever is higher. This includes the purchase cost of other essential accessories approved by the relevant Chief Judicial Officer.

3.15 For the Magistrate resident in Kununurra, use of the Government provided vehicle is permitted to and from the Northern Territory for periods of usage up to seven days under the same conditions as if the vehicle were in Western Australia. Under the State Fleet – Agency General Agreement, office holders are required to seek approval from State Fleet for travel outside Western Australia for periods of seven days or more.

3.16 Where a Magistrate is employed on a part time basis, a pro rata amount should be added to the remuneration in lieu of a motor vehicle. For that purpose, the full value of the vehicle is assessed at $24,000 per annum.

3.17 Where an acting magistrate is employed for less than two years, a pro rata amount should be added to the remuneration in lieu of a motor vehicle. For this purpose, the full value of the vehicle is assessed at $24,000 per annum.

The determination will now issue.

Signed this 23rd day of November 2012

W S Coleman AM	C A Broadbent	B J Moore
CHAIRMAN	MEMBER	MEMBER

SALARIES AND ALLOWANCES TRIBUNAL