

**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 a General Remuneration Adjustment Determination on 27 June 2013 providing a 2.6 per cent salary increase with effect from 1 July 2013 for Members and office holders of the Parliament, Clerks and Deputy Clerks of the Parliament, holders of offices in the Special Division of the Public Service and holders of offices Prescribed for the purposes of section 6(1)(e) of the Act.
4. At the same time, the Tribunal issued a report under Section 7 of the Act recommending a 2.6 per cent increase to the salaries to be paid to Judges of the Supreme and District Courts, Masters of the Supreme Court, Magistrates and the Parliamentary Inspector of the Corruption and Crime Commission with effect from 1 July 2013.
5. On 13 June 2013, the Commonwealth Remuneration Tribunal's (CRT) *Review of Remuneration for Public Office Holders Statement* recommended a 2.4 per cent increase in remuneration for the Federal judiciary based on cost of living increases.

CURRENT INQUIRY

6. 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 including the:

- Public Sector Wages Policy Statement 2014;
- Government Financial Strategy Statement; and
- Government Financial Projections Statement.

7. 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.

Public submissions

8. An advertisement calling for public submissions to the Tribunal's inquiry was placed in *The West Australian* newspaper on Thursday, 13 June 2013 with a closing date of Friday, 21 June 2013. The advertisement was also placed on the Tribunal's website at <http://www.sat.wa.gov.au/LatestNews/Pages/Default.aspx>

Invitation to Office Holders

9. The Tribunal wrote to the chief judicial officers, inviting submissions to its inquiry.

Labour Market and Economic Data

10. Relevant labour market and economic data were considered in the context of the general remuneration determination of June 2013 which resulted in a 2.6 per cent economic adjustment being applied to various office holders under the Tribunal's jurisdiction. The same increase was recommended in the judicial recommendation report for members of the judiciary. This data is considered relevant to the current inquiry.
11. Since then, the Government has issued the Public Sector Wages Policy Statement 2014. Although not specifically applying to the judiciary, the Policy essentially requires that all industrial agreements expiring after 1 November 2013 be capped at the projected growth in the Perth Consumer Price Index, as published from time to time by the Department of Treasury. The Government Financial Strategy Statement and Financial Projection Statement were also considered during the Tribunal's inquiry.

SUBMISSIONS

12. The Tribunal received submissions from the Chief Justice, the Chief Judge of the District Court, Chief Magistrate and the Magistrates' Society of Western Australia, Registrar of the Supreme Court, Registrar of the District Court and the Parliamentary Inspector of the Corruption and Crime Commission of Western Australia. The Tribunal considered all the submissions received.

13. All of the submissions sought to have the existing salary relativities maintained, with the exception of the Magistrates' submission. Issues raised by the Magistrates relating to salary relativity were considered in the general remuneration adjustment inquiry.
14. Two other issues were raised in the submissions. The first related to the work value of Magistrates and the second was relating to the Fringe Benefit Tax (FBT) associated with motor vehicles.

CONSIDERATIONS

15. In exercising its statutory responsibilities, the Tribunal applies broad principles upon which levels of remuneration are determined for all categories of offices and positions coming within the scope of the Act. These principles, particularised to the judiciary, have been applied by the Tribunal to make judgments with respect to the remuneration and entitlements in this determination. These principles are:
 - the value of the judicial offices to the State and our democratic system of government;
 - measures of the “work value” of judicial offices; and
 - the level of remuneration of judicial offices within the context of wage and salary rates applying generally in the community.
16. There have been no issues identified in economic and labour market data reviewed or State Government policy and financial strategies that would indicate an additional increase in remuneration for the judiciary.
17. The motor vehicle and the travel and accommodation allowance have also been examined during the inquiry. It has been determined that there are no reasons that would warrant altering the current motor vehicle entitlements.

Remuneration of Magistrates

18. The submission received from the Chief Magistrate of Western Australia and the Magistrates' Society of Western Australia indicated that the increasing jurisdiction and work value of magistrates warranted an “*upwardly adjust[ment of] the salaries of Magistrates*”.
19. In support of this request, the submission cited the Commonwealth Remuneration Tribunal's review published in May 2013 into the Federal Circuit Court which ultimately increased the salary for a Federal Circuit Judge from \$314,230 to \$348,160 per annum – the equivalent of a 10.8 per cent increase. It has previously been stated by the Magistrates and restated in the current submission, that there is no distinction between the work conducted by a Federal Circuit Judge and a WA Magistrate. The submission “*invites the Tribunal to accept the work value review undertaken by the Commonwealth Remuneration Tribunal and apply a similar increase to Magistrates in Western Australia.*”.

20. The Tribunal has acknowledged work load and jurisdictional increases for Magistrates including the devolution of responsibilities from other courts. Between October 2009 and May 2011 the Tribunal awarded Magistrates four 1.5 per cent salary increases, with a cumulative total of 6.14 per cent, in recognition of work value increases. At the same time, the Tribunal acknowledged the increased complexity and jurisdiction of the judges of the District Court and Supreme Court by determining the same work value increases. These increases were additional to the general increases determined each year for the judiciary.
21. The Tribunal does not ascribe to the view that there is a particular alignment between one court or another which must be maintained. Indeed this could be regarded as fettering the Tribunal's discretion. Where there is strong evidence of a case to adjust the alignment between the salaries of various judicial offices, the Tribunal has done so. For instance, in 2007 the Tribunal determined that Magistrates' salaries should increase from 80 per cent of a District Court judge's salary to 82.5 per cent. This was in recognition of increased responsibilities arising from the *Magistrates Court Act 2004*.
22. While salary alignments between particular positions are not taken by the Tribunal to be immutable, the Tribunal does however, acknowledge the hierarchy of judicial and quasi-judicial positions in Western Australia and elsewhere which reflects the status of each position.
23. Taking into account all the factors before it, the Tribunal considers that the present relationship between the salaries paid to Magistrates, District Court judges and Supreme Court judges, properly reflects the work value of the various positions.

Motor Vehicles for Judges, Masters and Magistrates

24. An issue raised in four of the submissions to the current inquiry related to a Federal election commitment from the former Labor Government to alter the FBT arrangements for leased vehicles.
25. The commitment would have increased the FBT for most vehicles and would effectively have resulted in a reduced range of vehicles being available to members of the judiciary due to the FBT impact on the notional whole of life lease value determined by the Tribunal. The submissions indicated that the standard of vehicles available to judicial officers should not be adversely affected due to this possible change in FBT arrangements and if necessary, the Tribunal should increase the notional value of motor vehicles.
26. The views expressed in the submissions from the judiciary were taken into account by the Tribunal. The Tribunal is mindful of the operational conveyance needs of the judiciary and the importance of providing for adequate, safe and secure transport.
27. As a matter of principle however, the Tribunal does not consider that Commonwealth taxation adjustments applied universally should necessarily result in corresponding remuneration adjustments particular to judicial officers.

RECOMMENDATION

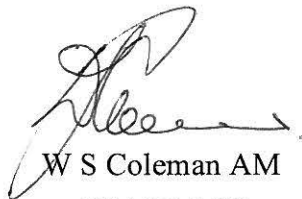
28. The Tribunal recommends no change to the remuneration paid or provided to Judges, District Court Judges, Masters of the Supreme Court, Magistrates and the Parliamentary Inspector of the Corruption and Crime Commission in line with those set out in the attached Schedule.
29. For ease of reference, the Schedule consists of a consolidated listing of all the entitlements and benefits provided by way of past and current recommendations of the Tribunal.

TABLING OF REPORT

30. 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 22nd day of November 2013



W S Coleman AM
CHAIRMAN



C A Broadbent
MEMBER



B J Moore
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

1.1 Remuneration shall be payable at the following rates to judges, masters and magistrates with effect from the date of this report.

1.2 The annual salary specified in this Part is inclusive of leave loading.

POSITION	ANNUAL SALARY
Chief Justice	\$487,413
President of the Court of Appeal	\$456,190
Senior Puisne Judge	\$435,584
Senior Judge of the Court of Appeal	\$435,584
Puisne Judge	\$422,691
Senior Master of the Supreme Court	\$391,706
Master of the Supreme Court	\$380,421
Chief Judge District Court	\$422,691
Senior Judge District Court	\$391,706
Judge District Court	\$380,421
Chief Magistrate	\$380,421
Deputy Chief Magistrate	\$333,463
Principal Registrar/Magistrate Supreme Court *	\$333,463
Principal Registrar/Magistrate Family Court *	\$333,463
Magistrates	\$313,848
Registrars/Magistrates Family Court *	\$313,848
Parliamentary Inspector, Corruption and Crime Commission	\$169,076

* The relevant office holders remunerated under this Part hold commissions to be Magistrates while having been given leave to hold the offices of Registrar or Principal Registrar as the case may be.

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;
- provide for adequate safety and security of judicial office holders;
- 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;
- 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.

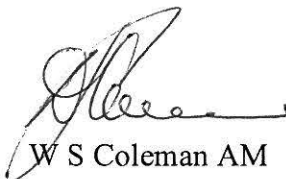
3.10 Judges, Masters, the Chief Magistrate and Magistrates may choose any vehicle and accessories in the Common Use Contract or an “off contract” vehicle and accessories

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 22nd day of November 2013



W S Coleman AM
CHAIRMAN



C A Broadbent
MEMBER



B J Moore
MEMBER

SALARIES AND ALLOWANCES TRIBUNAL