

## *SALARIES AND ALLOWANCES ACT 1975*

### DETERMINATION OF THE REMUNERATION

### OF COMMISSIONERS OF THE

### WESTERN AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

#### **PREAMBLE**

1. Section 6(1)(e) of the *Salaries and Allowances Act 1975* (“the Act”) requires the Salaries and Allowances Tribunal (“the Tribunal”), at intervals of not more than twelve months, to inquire into and determine the remuneration to be paid to a person holding any office prescribed for the purposes of that section.
2. The offices of the members of the Western Australian Industrial Relations Commission are prescribed in section 20 of the *Industrial Relations Act 1979* for the purposes of section 6(1)(e) of the Act.

#### **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, members of the State Administrative Tribunal and holders of offices Prescribed for the purposes of section 6(1)(e) of the Act, including Western Australian Industrial Relations Commissioners (“Commissioners”).
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.

#### **CURRENT INQUIRY**

5. In discharging its statutory requirements with respect to the remuneration of Commissioners, the Tribunal’s approach has been to:
  - advertise for public submissions;
  - seek submission from 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.
6. This process provides an opportunity for members of the public, the Government, Commissioners 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 Commissioners over the past year and other remuneration.

### ***Public submissions***

7. 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***

8. The Tribunal wrote to the Chief Commissioner of the Western Australian Industrial Relations Commission, inviting submissions to its inquiry.

### ***Labour Market and Economic Data***

9. 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 adjustment being applied to various office holders under the Tribunal's jurisdiction, including Commissioners. This data is considered relevant to the current inquiry.
10. Since then, the Government has issued the Public Sector Wages Policy Statement 2014. Although not specifically applying to Commissioners, 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**

11. The Tribunal received a joint submission from the Chief Commissioner, Senior Commissioner and Commissioners of the Western Australian Industrial Relations Commission.
12. The submission focused on two issues.
  - **Relativities and Alignments** – The submission stated that the Western Australian Industrial Relations Commissioners had lost salary relativity since 2005 with certain interstate comparators and Western Australian judicial officers. Reference was also made to a Tribunal determination issued in 2005 which stated “[the Tribunal] considers that the salaries of the WAIRC Commissioners warrant some comparison with the Deputy Presidents in Queensland and South Australian’.
  - **Superannuation** – The submission indicated that two Commissioners receive a State contribution of 9.25 per cent to their accumulation superannuation scheme while the remaining Commissioners receive higher State contributions to a defined benefit superannuation scheme (the Gold State Superannuation Scheme) which is

now closed to new members. In relation to the members of the accumulation scheme, the submission stated, “*This is an inequity compared with other members of the Commission, and we raise this for the Tribunal’s consideration*”.

## CONSIDERATIONS

13. 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 Commissioners, 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 offices to the State and our democratic system of government;
  - measures of the “work value” of the offices; and
  - the level of remuneration of the offices within the context of wage and salary rates applying generally in the community.
14. **Relativities and Alignments** – The Tribunal is required under the Act to review the remuneration provided to Commissioners on an annual basis. In so doing, the Tribunal has taken into account local factors such as the State wages policy and global factors such as the financial crisis of 2008. The Tribunal has also considered the remuneration paid to judicial officers and industrial commissioners in other Australian jurisdictions as well as the framework of public sector salaries in Western Australia. The outcomes determined annually reflect the judgement of the Tribunal at a particular point in time balancing local factors, global factors and factors in other jurisdictions. Hence in 2009, the Tribunal determined that Commissioners along with a range of other office holders should not receive any pay increase in the wake of the global financial crisis. In January 2013 however, Commissioners received a 5 per cent pay increase which exceeded the general increase applied to other classes of office holder at that time.
15. Salary parity with a particular office, either in Western Australia or another jurisdiction on an ongoing basis is not something that the Tribunal considers to be appropriate. It limits the capacity of the Tribunal to exercise its judgement in the light of other factors which might prevail in any particular year. In this determination, the Tribunal has noted the submission from the Commissioners and taken into account the salaries of Commissioners in Western Australia relative to Deputy Presidents in Queensland and South Australia. In the context of the current inquiry, the Tribunal does not consider that a realignment of salary relativities is warranted, particularly in the light of the State’s current fiscal position and wages policy.
16. **Superannuation** – The Tribunal has previously considered the issue of different superannuation schemes applicable to offices under the Tribunal’s jurisdiction. The Tribunal specifically reviewed the superannuation contributions for Commissioners in 2011 where it stated “*In relation to the disparities between the different superannuation schemes accessible by the Commissioners, the Tribunal noted that such disparities applied across the wider public sector. The Tribunal concluded that any attempt to equalise the retirement benefits of individuals by means of salary adjustments would be impossible because of the variables*

*pertaining to each scheme and each individual (e.g. varying investment outcomes, lengths of service, retirement age and life expectancy).”<sup>1</sup>*

17. The Tribunal acknowledges that there is a disparity in superannuation contributions and benefits applicable to office holders of the same classification caused by the closing of the Gold State Superannuation Scheme in 1995. The Tribunal is also aware that other public office holders have been similarly affected by the closure of other superannuation schemes such as the Parliamentary Pension Scheme which was closed to new members in 2000. The disparities in total employment cost created by membership of different superannuation schemes continues to be wide spread within the offices under the Tribunal’s jurisdiction. This includes disparities for members of the Special Division of the Public Service, other Prescribed Office holders and Members of Parliament. It is also widespread in the General Division of the public service.
18. It remains the case, as stated in 2011, that attempts to equalise retirement benefits for members would be impossible due to the numerous variables pertaining to each scheme and individual. It would also be inequitable to attempt to equalise the retirement benefits for a small section of the public sector without it also applying to other offices within the Tribunal’s jurisdiction and to the wider public service.

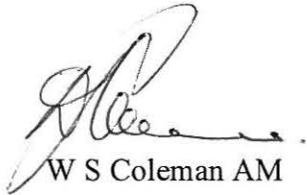
## **CONCLUSIONS**

19. The Tribunal has examined the remuneration provided to Commissioners based upon the principles of remuneration set out above and within the framework of salaries for public offices under the Tribunal’s jurisdiction and in Western Australia generally. It is the Tribunal’s decision that the current remuneration for Commissioners is set at an appropriate rate.
20. The determination will now issue.

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<sup>1</sup> Special Division and Prescribed Office Holders Determination 31 March 2011  
[http://www.sat.wa.gov.au/SpecialDivisionAndPrescribedOfficeHolders/2011March/Pages/Default.aspx#COMMISSIONERS OF THE WESTERN AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION](http://www.sat.wa.gov.au/SpecialDivisionAndPrescribedOfficeHolders/2011March/Pages/Default.aspx#COMMISSIONERS_OF_THE_WESTERN_AUSTRALIAN_INDUSTRIAL_RELATIONS_COMMISSION)

Signed this 22<sup>nd</sup> day of November 2013



W S Coleman AM  
CHAIRMAN



C A Broadbent  
MEMBER



B J Moore  
MEMBER

SALARIES AND ALLOWANCES TRIBUNAL

*SALARIES AND ALLOWANCES ACT 1975*

**DETERMINATION OF THE REMUNERATION  
OF COMMISSIONERS OF THE  
WESTERN AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION  
PURSUANT TO SECTION 6(1)(e)**

**PART 1: INTRODUCTORY MATTERS**

*This part deals with some matters that are relevant to the determination generally.*

**1.1 Short Title**

This determination may be cited as the *Commissioners of the Western Australian Industrial Relations Commission Determination No. 1 of 2013*.

**1.2 Commencement**

This determination comes into operation on 1 January 2014.

**1.3 Content and intent**

- (1) This determination provides for the salary, allowances and other benefits to be paid, provided or reimbursed to holders of offices of the Western Australian Industrial Relations Commission ('the Commission') prescribed for the purposes of section 6(1)(e) of the *Salaries and Allowances Act 1975*.
- (2) The offices to which this determination applies are the offices of the members of the Commission other than the President as prescribed in section 20(2) of the *Industrial Relations Act 1979*.

**1.4 Terms used**

In this determination, unless the contrary intention appears –

***Chief Commissioner*** means a Chief Commissioner appointed under the *Industrial Relations Act 1979*;

***Senior Commissioner*** means a Senior Commissioner appointed under the *Industrial Relations Act 1979*;

***Commissioner*** means a commissioner appointed under the *Industrial Relations Act 1979*.

## **1.5 Conditions of service**

- (1) Pursuant to section 20(10) of the *Industrial Relations Act 1979* a Chief Commissioner, Senior Commissioner and Commissioner have a right to paid leave of absence and to lump sum payments on ceasing to hold office for the money equivalent of leave of absence which shall not be less than those applicable to a permanent public office under the *Public Sector Management Act 1994*.
- (2) To the extent that conditions of service affect remuneration (e.g. paid leave of absence), a Chief Commissioner, Senior Commissioner and Commissioner are entitled to the same terms and conditions as contained in the *Public Service Award 1992* and the *Public Service and Government Officers General Agreement 2011*. Where there is any inconsistency between the remuneration payable under this determination and the terms of the *Public Service Award 1992* and the *Public Service and Government Officers General Agreement 2011*, the remuneration specified in this determination shall prevail to the extent of any inconsistency.

## **1.6 Salary Packaging**

A Chief Commissioner, Senior Commissioner and Commissioner are entitled to participate in salary packaging arrangements for superannuation and novated leases in accordance with the “Guidelines for Salary Packaging in the WA Public Sector” document, which can be accessed at -

[http://www.commerce.wa.gov.au/LabourRelations/PDF/Circulars/2012\\_004.pdf](http://www.commerce.wa.gov.au/LabourRelations/PDF/Circulars/2012_004.pdf)

## **PART 2: SALARY**

*This part deals with the salary payable to a Chief Commissioner, Senior Commissioner or Commissioner for the performance of their duties pursuant to their appointments under the Industrial Relations Act 1979.*

### **2.1 General**

The amount of a person's entitlement to an annual salary shall be calculated on a pro rata basis in accordance with the proportion of full-time hours worked by an office holder.

### **2.2 Offices and salaries**

The annual salaries specified in Table 1 of this Part apply to a Chief Commissioner, Senior Commissioner and Commissioner.

**Table 1: Annual salaries payable to a Chief Commissioner, Senior Commissioner and Commissioner**

<b>OFFICE</b>	<b>ANNUAL SALARY</b>
Chief Commissioner	\$332,176
Senior Commissioner	\$310,264
Commissioner	\$293,935



## **PART 3: MOTOR VEHICLE BENEFITS**

*This Part deals with the motor vehicle benefits paid or provided to a Chief Commissioner, Senior Commissioner and Commissioner.*

### **3.1 General**

- (1) Each Chief Commissioner, Senior Commissioner and Commissioner is entitled to the provision of a fully maintained motor vehicle for business and private use.
- (2) All vehicles (being part of the Government-owned State Fleet) are to 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) Selection of appropriate vehicles is to be subject to consultation between the Chief Commissioner and the Department of the Registrar of the Commission as the department administratively supporting the Commission and therefore the "Agency" responsible for managing the leasing arrangements for vehicles provided under this determination.
- (4) In providing for the use of a motor vehicle under this arrangement, the Tribunal requires that the Department of the Registrar of the Commission will take account of the following principles established by the Tribunal. The provision of a motor vehicle should:
  - a) meet the operational conveyance needs of the Commissioners;
  - b) provide for adequate safety and security of Commissioners;
  - c) be representative of fair value and benefit;
  - d) be supportive of the efficient, effective and ethical use of State resources;
  - e) be consistent with current principles of environmental sustainability, in particular, fuel efficiency and Government emissions targets;
  - f) be commensurate with the status of Commissioners; and
  - g) where private use of a vehicle is permitted, provide scope for personal preference in choice of motor vehicle consistent with the above principles.
- (5) Motor vehicles leased for a Chief Commissioner, Senior Commissioner and Commissioner shall not be changed prior to the expiration of the lease unless it is for operational reasons approved by the Chief Commissioner and the Department of the Registrar of the Commission.
- (6) 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 Use Contract for motor vehicles, in the process of selecting a vehicle under this arrangement.
- (7) Vehicles with V8 engines are not included. Turbo charged and supercharged engines with a capacity greater than 3.0 litres are not included.

- (8) Each lease is to be tailored to achieve the most cost-effective arrangement based on individual usage patterns.
- (9) The Chief Commissioner must approve the selection of the vehicle and approve that the provision of an off road vehicle and factory fitted “roo” bar is substantiated by operational need.

### **3.2 Value of the Motor Vehicle Benefit**

- (1) 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
- (2) 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:

$$L + R + aD + FBT + I + LCT, \text{ where}$$

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) A Chief Commissioner is entitled to the provision of a vehicle to the notional value of \$26,900 per annum.
- (4) A Senior Commissioner and Commissioner are entitled to the provision of a vehicle to the notional value of \$25,400 per annum.
- (5) The notional values specified in this Section shall be calculated on a pro rata basis in accordance with the proportion of full-time hours worked by the relevant office holder.

- (6) A Chief Commissioner, Senior Commissioner and Commissioner may choose any vehicle and accessories in the relevant Western Australian Government 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 Part. Where the total cost of the chosen vehicle and accessories exceeds the maximum cost of accessing a motor vehicle benefit determined in this Part, 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.
- (7) Off road vehicles shall be of a standard, the cost of which does not exceed the lease value of the Toyota Prado GXL Auto 3.0 litre Turbo Diesel fitted with “roo” bar (air bag compliant). This includes the purchase cost of other essential accessories approved by the Chief Commissioner.

## **PART 4: TRAVELLING AND ACCOMMODATION ALLOWANCE**

*This Part deals with the travelling and accommodation allowance to be paid or reimbursed to a Chief Commissioner, Senior Commissioner and Commissioner.*

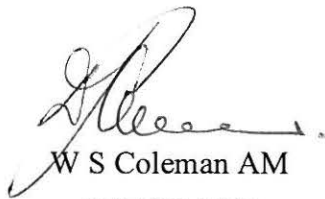
### **4.1 General**

- (1) A Chief Commissioner, Senior Commissioner and Commissioner shall be entitled to claim a travelling and accommodation allowance or reimbursement as specified in this Part while travelling on official business.
- (2) Claims for overnight stays in the Perth metropolitan area shall be subject in each case to the approval of the Chief Commissioner.

### **4.2 Allowance or reimbursement payable**

- (1) 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 Australian Taxation Office reasonable benefit limit 2013/14 rates found in Taxation Determination TD 2013/16 and where accompanied by certification that the expense was appropriately incurred.
- (2) 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.
- (3) Part payment of travelling and accommodation allowances shall apply in the following circumstances.
  - (a) Where the Chief Commissioner, Senior Commissioner or Commissioner 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.
  - (b) Where the cost of commercial accommodation is met by an entity other than the Chief Commissioner, Senior Commissioner or Commissioner, an allowance shall be payable in accordance with the relevant Australian Taxation Office reasonable benefit limit 2013/14 rates found in Taxation Determination TD 2013/16 for meals and incidentals where accompanied by certification that the expense was appropriately incurred.
  - (c) Where in the case of commercial accommodation referred to in sub section (b) above, the cost of a meal or meals is met by an entity other than the Chief Commissioner, Senior Commissioner or Commissioner, the amount of travelling allowance shall be reduced by the relevant amount or amounts referred to in the preceding paragraph.

Signed this 22<sup>nd</sup> day of November 2013



W S Coleman AM  
CHAIRMAN



C A Broadbent  
MEMBER



B J Moore  
MEMBER

SALARIES AND ALLOWANCES TRIBUNAL