

# ***SALARIES AND ALLOWANCES ACT 1975***

## **DETERMINATION OF SENIOR AND ORDINARY MEMBERS OF THE STATE ADMINISTRATIVE TRIBUNAL**

### **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 purpose of that section.
2. Senior and Ordinary Members of the State Administrative Tribunal have been so prescribed in regulation 3 of the *Salaries and Allowances Regulations 1975*.

### **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, including Senior and Ordinary non-judicial Members of the State Administrative Tribunal (“Members”).
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 Members, 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.
6. This process provides an opportunity for members of the public, the Government, Members 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 Members over the past year and other remuneration issues for Members.

### ***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 President of the State Administrative Tribunal, 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 Members. 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 Members, 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 submission from Justice John Chaney, President of the State Administrative Tribunal.
12. The submission sought that the salary relativities between the Members of the State Administrative Tribunal and other judicial officers in Western Australia be maintained. The submission also suggested that motor vehicle entitlements should continue as at present.

## **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 Members of the State Administrative Tribunal, 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.

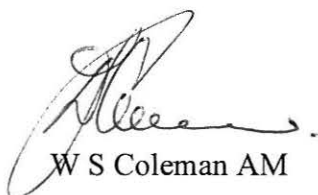
14. There have been no issues identified in submissions, economic and labour market data reviewed, state government policy and financial strategies which would indicate the need for an additional increase in remuneration for the Members. The Tribunal also considered that there was no case for altering the existing salary relativities of Members. Therefore the Tribunal has concluded that there shall be no salary increase for Members at this time.
15. The Motor vehicle entitlements 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.

## **CONCLUSIONS**

16. The Tribunal has examined the remuneration provided to Members based upon the principles of remuneration set out above and within the framework of salaries for judicial office holders and court registrars under the Tribunal's jurisdiction in Western Australia. It is the Tribunal's decision that the current remuneration for Members is set at an appropriate rate.

The determination will now issue.

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

A handwritten signature in black ink, appearing to read 'W S Coleman'.

W S Coleman AM  
CHAIRMAN

A handwritten signature in blue ink, appearing to read 'C A Broadbent'.

C A Broadbent  
MEMBER

A handwritten signature in black ink, appearing to read 'B J Moore'.

B J Moore  
MEMBER

SALARIES AND ALLOWANCES TRIBUNAL

***SALARIES AND ALLOWANCES ACT 1975***

**DETERMINATION OF THE REMUNERATION OF**

**SENIOR AND ORDINARY MEMBERS OF THE**

**STATE ADMINISTRATIVE TRIBUNAL**

**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 *Senior and Ordinary Members of the State Administrative Tribunal 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 State Administrative Tribunal 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 Senior and Ordinary Members of the State Administrative Tribunal as prescribed in regulation 3 of the *Salaries and Allowances Regulations 1975*.

**1.4     Terms used**

In this determination, unless the contrary intention appears –

***Senior Member*** means a Senior Member appointed under the *State Administrative Tribunal Act 2004*;

***Ordinary Member*** means an Ordinary Member appointed under the *State Administrative Tribunal Act 2004*.

## **1.5 Conditions of service**

- (1) Pursuant to section 119(4) of the *State Administrative Tribunal Act 2004* the Governor may determine the leave of absence to which a Senior or an Ordinary Member is entitled and any other terms and conditions of service as a Senior or an Ordinary Member.
- (2) To the extent that conditions of service affect remuneration (e.g. paid leave of absence), a Senior and an Ordinary Member are entitled to the same terms and conditions as contained in the *Public Service Award 1992* and the *Public Service and General Officers Agreement 2011*. Where there is any inconsistency between the remuneration payable under this determination and as determined by the Governor under section 119(1) of the *State Administrative Tribunal Act 2004*, the remuneration specified in this determination shall prevail to the extent of any inconsistency.
- (3) In accordance with section 119(3) of the *State Administrative Tribunal Act 2004*, the emoluments and benefits to which a Senior and an Ordinary Member are entitled cannot, during the member's term of office, be changed to be less favourable without the member's consent.

## **1.6 Salary Packaging**

A Senior and an Ordinary Member 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 Senior or an Ordinary Members for the performance of their duties pursuant to their appointments under the State Administrative Tribunal Act 2004.*

### **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 Senior and Ordinary Members.

**Table 1: Annual salaries payable to Senior and Ordinary Members**

<b>OFFICE</b>	<b>ANNUAL SALARY</b>
Senior Member	\$313,849
Ordinary Member	\$235,387

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

*This Part deals with the motor vehicle benefits paid or provided to a Senior or an Ordinary Member.*

### **3.1 General**

- (1) In addition to the salary determined for the holders of offices listed in Part 2 of this Determination, those office holders have an entitlement to an allowance which may be taken as cash with salary or may be utilised to access a motor vehicle for private use leased through State Fleet.
- (2) The motor vehicle (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) A person holding more than one Special Division or Prescribed Office, shall be entitled to a motor vehicle or cash in lieu of a motor vehicle for one such office only, being the office classified or remunerated at the highest level.
- (4) An individual accessing a vehicle under this Part shall take due care of the condition and security of the vehicle. This includes responsibility for ensuring the vehicle is regularly serviced and maintained at government expense according to the manufacturer's recommended specifications, and making arrangements for off-street parking at home, whenever practicable, with appropriate security precautions taken at all times. Any theft or damage should be reported to the Fleet Manager.
- (5) Motor vehicles leased for office holders under this determination or a previous determination of the Tribunal shall not be changed or cash in lieu taken prior to the expiration of the lease.
- (6) While the vehicle may be used anywhere in Western Australia at no cost to the individual, if the vehicle is driven interstate, the individual is liable for the cost of fuel and oil while interstate. Furthermore, if used outside of Western Australia, the custodian must be in the vehicle at all times that it is being used.
- (7) Should the officer choose not to use the vehicle, supplied through State Fleet, for business, or for travelling to and from work, but allows and authorises the vehicle to be used for private use during business hours by another family member or person, he/she is not entitled to access another government vehicle for his/her private use, including transport to and from work.

- (8) Should the officer choose to take cash in lieu of a motor vehicle supplied through State Fleet, it is not the Tribunal's intent that this should result in additional government expense or an increase in the government fleet to provide transport for the office holder during business hours. The office holder is not entitled to claim a mileage allowance for use of their private vehicle for work purposes. Neither is he or she entitled to access another government vehicle for their personal use including transport to and from work.

### **3.2 Notional value of the lease and the cost to the Office Holder**

- (1) The notional value of the lease (and all associated costs) per annum is \$24,000.
- (2) The notional value of the lease shall be calculated on a pro rata basis in accordance with the proportion of full-time hours worked by an office holder.
- (3) The total lease cost of the chosen vehicle and accessories determined in this section, must be borne by the office holder. This includes the purchase cost of any accessories and the installation cost and removal costs if required, before disposal of the vehicle. 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.
- (4) Where the total lease and associated costs of a vehicle and accessories in accordance with this determination is less than the relevant motor vehicle benefit determined in this section, the difference in the cost to Government is to be paid fortnightly as part of the office holder's remuneration.
- (5) The method of determining whether an additional contribution must be made by the office holder or the surplus is to be paid to the office holder, shall be based on the notional lease cost to the Government of the vehicle sought (using the formula detailed below), compared with the relevant notional lease value determined for the benefit in this section. The cost at the time of entering into the lease is applicable.
- (6) The notional value of the vehicle benefit 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:

Value of Motor Vehicle =

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

- (7) FBT is costed at applicable Australian Taxation Office rates. FBT is costed at purchase price (including GST) x Statutory fraction x Gross up (2.0647) x FBT rate (0.465).

Fringe Benefits Tax Exempt Agencies: Where an organisation is exempt from FBT in accordance with Commonwealth Government legislation, a notional amount equal to the standard FBT must be added to the cost of the benefit.

- (8) Each lease should be tailored to achieve the most cost-effective arrangement based on individual usage patterns.

### **3.3 Choice of Motor Vehicle**

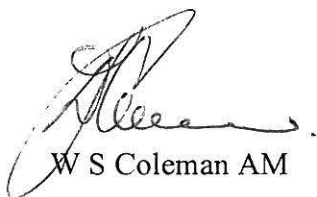
- (1) Where an office holder elects to access a leased vehicle under State Fleet arrangements, he/she may choose any vehicle and accessories in the relevant Western Australian Government Common Use Contract or an “off contract” vehicle and accessories available under Government leasing arrangements in accordance with the following criteria.
- (2) Vehicles with V8 engines are not included. Supercharged and turbo-charged engines with a capacity greater than 3.0 litres are not included.
- (3) Office holders unable to lease their choice of vehicle within the scope of the arrangements set out in this determination should elect to make their own arrangements to meet their personal transport needs.

### **3.4 Cash Value of the Motor Vehicle Allowance**


- (1) Where a person elects not to be provided with a motor vehicle through State Fleet he/she is entitled to the cash value being paid fortnightly as additional remuneration. The relevant cash value is \$24,000 per annum.
- (2) The cash value of the motor vehicle allowance shall be calculated on a pro rata basis in accordance with the proportion of full-time hours worked by an office holder.

The determination will now issue.

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