

SALARIES AND ALLOWANCES ACT 1975

DETERMINATION OF THE REMUNERATION OF SENIOR AND ORDINARY MEMBERS OF THE STATE ADMINISTRATIVE TRIBUNAL

1. The Salaries and Allowances Tribunal (“Tribunal”) issues this Determination pursuant to section 6(1)(e) of the *Salaries and Allowances Act 1975* (“the Act”).
2. From 28 February 2018 to 1 July 2021, the operation of section 10D of the Act prevented the Tribunal from making a Determination which provided higher remuneration for officeholders. While the restrictions contained in section 10D expired on 30 June 2021, the Tribunal’s decisions remain subject to section 10G, which prevents the Tribunal from making a Determination that takes into consideration section 10D’s operation by providing remuneration on the basis that it:
 - was not provided due to the operation of section 10D; or
 - accounted for any increase in the cost of living that occurred when section 10D was in effect.
3. While noting the requirements of section 10G, the Tribunal issued a determination effective from 1 July 2021 that applied a \$1,000 increase in the remuneration for Members of the State Administrative Tribunal. A subsequent determination effective from 01 January 2022 provided a 2.75% increase to salaries.
4. In accordance with section 10A, this Determination is issued following consideration of the:
 - *Public Sector Wages Policy Statement 2022*; and
 - financial position and fiscal strategy of the State, as stated in the *Western Australia State Budget 2022-23 Economic and Fiscal Outlook*.

CURRENT INQUIRY

5. In discharging the Tribunal's statutory requirements with respect to Members of the State Administrative Tribunal, submissions were invited from stakeholders and office holders.
6. The Tribunal received submissions that claimed the current remuneration relativity applied to Senior Members and Ordinary Members does not correspond to the practical work value differential between the two offices.
7. Historically, work value has been one factor considered when setting the salary provided to an Ordinary Member at 75% of the salary provided to a Senior Member. The submissions claimed there had been considerable changes to the roles and, as a result, the relativity between the offices was out of date.

8. The Tribunal engaged an independent consultant to assess work value of the offices. The assessment supported the submissions' claims and concluded the salary provided to an Ordinary Member should increase.
9. Based on submissions and the assessment, the Tribunal is satisfied the responsibilities of an Ordinary Member are appropriately reflected at a salary level that is 85% of the salary provided to a Senior Member.
10. The Tribunal notes the costs for motor vehicles have increased in recent years and has determined a \$1,000 increase in the Motor Vehicle Benefit provided to Senior and Ordinary Members.

SUMMARY OF DETERMINATION

11. The Tribunal has:
 - a) determined a general 3.75% increase in the remuneration for Senior and Ordinary Members of the State Administrative Tribunal, which is in line with other office holders within the judicial and quasi-judicial sphere;
 - b) reset the salary provided to an Ordinary Member at 85% of the salary provided to a Senior Member to reflect current responsibilities of the respective offices; and
 - c) increased the Motor Vehicle Benefit, from \$24,000 p.a. to \$25,000 p.a., to reflect increasing costs.
12. The determination will now issue.

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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 2023*.

1.2 Commencement

This determination comes into operation on 1 March 2023.

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* (the Act).
- (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 Sector CSA Agreement 2021*. When 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 the 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", issued by the Department of Mines, Industry Regulation and Safety.

PART 2: SALARY

This part deals with the salary payable to a Senior or an Ordinary Member 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

OFFICE	ANNUAL SALARY
Senior Member	\$350,176
Ordinary Member	\$297,650

PART 3: MOTOR VEHICLE BENEFITS

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

3.1 General

- (1) In addition to the salary determined for office holders listed in Part 2 of this Determination, those office holders are entitled 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) 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 Agency responsible for the State Fleet). Applicable terms and conditions are currently set out in the document "State Fleet - Agency General Agreement".
- (3) Officeholders who choose to lease an Electric Vehicle (EV) need to be aware that the costs associated with re-fuelling an electric vehicle are not included in published annual operating costs. Government agencies will therefore bear no costs associated with refuelling SAT-leased EVs. Officeholders will be responsible for making their own arrangements for at-home EV charging infrastructure and energy costs. Officeholders may not utilise office-based charging infrastructure nor agency-provided recharging cards to refuel SAT vehicles.
- (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 regular servicing and maintenance 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 at all times. 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, the individual is liable for the cost of fuel and oil incurred when driving 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, they are not entitled to access another government vehicle for 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. Office holders are not entitled to claim mileage allowance for use of private vehicles for work purposes. Neither are they 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 \$25,000.
- (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, including installation 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) When 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) In the event an office holder's vehicle requires modifications to cater for a disability, resulting in total vehicle costs higher than the notional lease values specified in 3.2(1), then the reasonable additional cost may be approved by

the President of the State Administrative Tribunal in consultation with the Department of Justice.

- (6) The notional value of the vehicle benefit must include 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 + 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

- (7) FBT is costed at applicable Australian Taxation Office rates: purchase price (including GST) x Statutory fraction x Gross up (2.0802) x FBT rate (0.470).
- (8) Each lease should be tailored to achieve the most cost-effective arrangement based on individual usage.

3.3 Choice of Motor Vehicle

- (1) Where office holders elect to access a leased vehicle under State Fleet arrangements, they 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 officeholders elect to not be provided with a motor vehicle through State Fleet they are entitled to the cash value being paid fortnightly as additional remuneration. The relevant cash value is \$25,000 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.

Signed on 14 February 2023.

M Seares AO
CHAIR

B A Sargeant PSM
MEMBER

Hon. J Day
MEMBER

SALARIES AND ALLOWANCES TRIBUNAL