

SALARIES AND ALLOWANCES ACT 1975

DETERMINATION OF THE REMUNERATION OF COMMISSIONERS OF THE WESTERN AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

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 10E of the Act prevented the Tribunal from making a Determination which provided higher remuneration for officeholders. While the restrictions contained in section 10E of the Act 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 10E’s operation by providing remuneration on the basis that it:
 - was not provided due to the operation of section 10E; or
 - accounted for any increase in the cost of living that occurred when section 10E was in effect.
3. In accordance with section 10A, this Determination has considered the:
 - *Public Sector Wages Policy Statement 2022*; and
 - financial position and fiscal strategy of the State, as stated in the *Western Australia State Budget 2023-24 Economic and Fiscal Outlook*.

CURRENT INQUIRY

4. In discharging the Tribunal's statutory requirements with respect to Commissioners of the Western Australian Industrial Relations Commission, submissions were invited from stakeholders and office holders.
5. The Tribunal received submissions outlining legislative changes to the jurisdiction of the Commission including the *Industrial Relations Legislation Amendment Act 2021*, *Work Health and Safety Act 2020* and *Owner-Drivers (Contracts and Disputes) Amendment Act 2022*.
6. The submission also noted the distortion of salary relativities due to the introduction of Industrial Magistrates where Industrial Relations Commissioners hold dual appointments.

SUMMARY OF DETERMINATION

7. The Tribunal has determined a 4% economic increase in the remuneration for Commissioners of the Western Australian Industrial Relations Commission, in line with other office holders within the judicial and quasi-judicial sphere.

8. The Tribunal has also re-established internal relativities between the Chief Commissioner, Senior Commissioner and Commissioners to ensure sufficient distinction between the seniority of the Chief and Senior Commissioners. The Tribunal has adjusted remuneration, recognising Commissioners holding dual appointments as Industrial Magistrates are remunerated at the Magistrate level.
9. The Determination will now issue.

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. 2 of 2023*.

1.2 Commencement

This Determination comes into operation on 1 December 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 Western Australian Industrial Relations Commission ('the Commission') 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 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 Sector CSA Agreement 2021. When there is any inconsistency between the remuneration payable under this Determination and the terms of the *Public Service Award 1992* and the Public Sector CSA Agreement 2021, 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" issued by the Department of Mines, Industry Regulation and Safety.

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

- (1) The annual salaries specified in Table 1 of this Part apply to a Chief Commissioner, Senior Commissioner and Commissioner.
- (2) The annual salaries specified are inclusive of leave loading entitlements.

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

OFFICE	ANNUAL SALARY
Chief Commissioner	\$404,645
Senior Commissioner	\$384,413
Commissioner	\$364,181

PART 3: MOTOR VEHICLE BENEFITS

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

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 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 EV's. 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) shall be:

Table 2: Notional value of motor vehicle lease

OFFICE	NOTIONAL VALUE OF THE LEASE
Chief Commissioner	\$27,500 p.a.
Senior Commissioner	\$26,900 p.a.
Commissioner	\$26,900 p.a.

- (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 Chief Commissioner, in consultation with the Department of the Registrar, Western Australian Industrial Relations Commission.
- (7) 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

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

3.3 Choice of Motor Vehicle

- (1) When 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) When officeholders elect not to 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 as specified in Table 3.

Table 3: Cash Value of a Motor Vehicle

OFFICE	NOTIONAL VALUE OF THE LEASE
Chief Commissioner	\$27,500 p.a.
Senior Commissioner	\$26,900 p.a.
Commissioner	\$26,900 p.a.

- (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.
- (3) A Gold State member electing to take a motor vehicle or the cash equivalent in lieu of a motor vehicle is not entitled to have either amount included for superannuation purposes.
- (4) A West State or GESB Super member electing to take a vehicle does not have the cash value of that vehicle included for superannuation. However if the office holder elects to take a cash equivalent in lieu of a motor vehicle then this amount is included for the purposes of superannuation.

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) When 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's reasonable benefit limit rates for the relevant financial year as specified in the ATO's Taxation Determination and when 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) When 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) When 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 Australian Taxation Office's reasonable benefit limit rates for the relevant financial year as specified in the ATO's Taxation Determination for meals and incidentals when accompanied by certification that the expense was appropriately incurred.
 - c) When 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 on 23 October 2023.

M Seares AO
CHAIR

B A Sargeant PSM
MEMBER

Hon. J Day
MEMBER

SALARIES AND ALLOWANCES TRIBUNAL