

REPORT OF THE SALARIES AND ALLOWANCES TRIBUNAL

REMUNERATION OF JUDGES, DISTRICT COURT JUDGES, MASTERS OF THE SUPREME COURT, MAGISTRATES AND THE PARLIAMENTARY INSPECTOR OF THE CORRUPTION AND CRIME COMMISSION

BACKGROUND

1. Section 7 of the *Salaries and Allowances Act 1975* ('the Act') requires the Salaries and Allowances Tribunal ('the Tribunal') to inquire into and report to the Minister for Public Sector Management in relation to possible changes in 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.
2. The Act states the Tribunal must recommend the nature and extent of any changes to remuneration, if considered necessary.
3. From 28 February 2018 to 1 July 2021, the operation of section 10E of the Act prevented the Tribunal from making a report which recommended higher remuneration for Judicial 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 report 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.

CURRENT INQUIRY

4. In discharging its statutory requirements with respect to the remuneration of the Judiciary, the Tribunal has:
 - Invited submissions from key stakeholders and officeholders;
 - considered all relevant information including legislative requirements, rationale for historical relativities, as well as the financial position and financial strategy of the State Government;

- examined salary relativities in work levels between registrars and Judicial offices and considered requests for adjustment; and
- reviewed relativities between the Western Australian and interstate jurisdictions with a view that Western Australian salaries and conditions remain competitive.

5. The Tribunal received submissions from the:

- Chief Justice of Western Australia;
- Chief Judge, District Court;
- Chief Magistrate, Magistrates' Court;
- President, Magistrates' Society of Western Australia;
- Principal Registrar, Supreme Court; and
- Principal Registrar, District Court;

SUBMISSIONS AND CONSULTATIONS

6. The following is a summary of issues raised in submissions and consultations -

- All submissions supported increased remuneration and variously highlighted the absence of increases from 2016 to 2021, relativities with other jurisdictions and the rate of inflation which is outpacing wage growth.
- Most submissions noted an increase in the volume of work undertaken by officeholders, which resulted from changes in Judicial responsibilities and a general increase in the number of matters before the courts.
- Some submissions identified challenges in attracting and retaining Judicial officers in the current environment. These submissions highlighted the importance of attracting high-quality applicants and the difficulty of competing for applicants with other jurisdictions.
- Some submissions called for a review of relativities between levels of the Judiciary, but this was offset by others that considered relativities should be maintained.
- A number of submissions called for restoration of the pre-2016 relativity with Federal Court salaries, noting the complexities of attracting candidates when a Court of similar jurisdiction operating in the same location provides a higher salary and benefits.
- Submissions requested the Tribunal review the value of the Motor Vehicle Allowance provided to Judicial officeholders following from changes made in the previous Report.
- Some conditions of employment matters were also raised including regional housing entitlements and increases in superannuation.

ADDITIONAL CONSIDERATIONS

Economic Considerations

7. Table 1 sets out key economic indicators for the Western Australian and National economies.

Table 1: WA State and National Selected Economic Indicators 2023

Indicator	Percentage Change	Annual Average % Increase
Perth - Consumer Price Index – Aug 2023 Mth ¹	0.8%	5.2%
National - Consumer Price Index – June 2023 Qtr ²	0.8%	6.0%
WA - Wage Price Index – June 2023 Qtr ³	0.8%	3.6%
National - Wage Price Index – June 2023 Qtr ⁴	0.8%	3.6%
WA Total Unemployment Rate – August 2023 Mth ⁵	0.3%	3.8%
National Total Unemployment Rate – August 2023 Mth	0.0%	3.7%

8. In September 2022, the State Government released a revision of the State Wages Policy to provide for up to \$3,120 or 3% per year increase in salary for public sector employees. While the Policy does not apply to Judicial officers, it is considered as part of the Tribunal’s decision making as Judicial officers, while not public servants, are remunerated by the State within the broader public sector.
9. The Tribunal understands the current Policy is under review and will monitor its outcome.
10. The Tribunal has reviewed the WA State Government 2023-24 Budget and associated *Economic and Fiscal Outlook* published by the State Government in May 2023⁶.

Relativities to other jurisdictions

11. Within remuneration bodies across Australia, it is broadly accepted that the remuneration provided to a Judge of the Federal Court is the benchmark for setting the remuneration of Puisne Judges of the State Supreme Courts. Internal relativities within each jurisdiction’s Judicial levels are set from that starting point.

¹ Western Australian Treasury Corporation. (27 September 2023). [WA Consumer Price Index August 2023](#)

² Australia. Australian Bureau of Statistics. (26 July 2023). [Consumer Price Index, Australia](#)

³ Western Australian Treasury Corporation. (15 August 2023). [Economic Analysis Wage Price Index Q2 2023](#)

⁴ Australia. Australian Bureau of Statistics. (15 August 2023). [Wage Price Index, Australia](#)

⁵ Australia. Australian Bureau of Statistics. (14 September 2023). [Labour Force, Australia](#)

⁶ Government of Western Australia (11 May 2023). [Your State Budget 2023-24](#)

12. The current Western Australian Puisne Judge salary is approximately 94% of that of a Federal Court Judge. Further, there are notable non-salary terms of employment for a Judge of the Federal Court, including:
- Long-Service Leave accruing at five-year intervals compared to seven-year intervals for Western Australian Judicial officeholders.
 - The conditions of qualification for the Judges' Pension prevent Western Australian Judges from practising law after retiring from a Judicial posting, while Federal Court Judges retain the option to practice after retirement.
13. There have been notable variations in the remuneration changes of other jurisdictions in recent years.
14. The NSW Remuneration Tribunal adopted a 0% increase in 2023 as a result of a legislative "wage freeze" and following a 2.5% increase in 2022. However, the Federal Remuneration Tribunal has adopted a 4% increase for the Federal Judiciary, effective July 2023. As a number of other jurisdictions apply legislative or policy tools to automatically apply changes based on movements to the Federal Remuneration Tribunal decisions, this 4% increase has, or will, flow to a number of other positions. This 4% increase follows a 2.75% increase by the Federal Remuneration Tribunal in 2022.

REMUNERATION SETTING AND TRIBUNAL RECOMMENDATIONS

Judicial Salaries

15. In determining its recommendation, the Tribunal has taken due consideration of a number of factors including:
- submissions made to the Tribunal from officeholders as outlined above;
 - the WA State Government 2023-24 Budget and associated Economic and Fiscal Outlook;
 - the impact on the State Budget of any potential increase including the flow-on effect to the Judicial Pension;
 - the current State Wages Policy and other economic factors such as those outlined earlier in this Report;
 - salaries and increases of equivalent officeholders in other jurisdictions; and
 - the salary increase applied to offices in this report earlier this year effective 1 March 2023.
16. The Tribunal recommends a remuneration increase of 4% for offices within the report, with an effective date of 01 December 2023. This follows the 3.75% granted by the Tribunal in March of this year.

17. The Tribunal acknowledges concerns raised in submissions regarding the attraction and retention issues within the Judiciary. The remuneration increase recommended in this Report makes progress in mitigating these issues while mindful of expectations set in the State's economic outlook and remuneration outcomes for public officers.
18. The Tribunal acknowledges the requests for significant salary increases and notes an increase of 11.44% would be required to bring a Puisne Judge salary to the 105% level mentioned in submissions, reflecting 2016 inter-state relativities. While the Tribunal understands the basis for the request and the argument that Judicial officeholders are not Public Sector employees, the Tribunal is cognisant that salaries and the Judicial Pension are funded from public moneys.
19. The Tribunal has considered requests by some levels of the Western Australian Judiciary to modify the relativities between the levels that are currently in place. The basis for these requests appears to be centred around both an increase in work volume as well as in work value. The Tribunal has carefully reviewed the responsibilities of various levels of the Judiciary and concluded that these changes are reflected across the Judiciary and are accommodated within the existing relativities.

Motor Vehicle Allowance

20. The Tribunal considered requests to increase the amount of the Motor Vehicle Allowance. The Tribunal has reviewed current settings and undertaken research as part of the review process.
21. The Tribunal made changes to the Motor Vehicle Allowances in the Report effective 01 March 2023 following its review and consultation.
22. The Tribunal considers the current Motor Vehicle Allowance is appropriate given the recent changes provided.

Regional Housing

23. The Tribunal considered a request to implement a housing allowance for regional Magistrates where GROH housing is unavailable. The Tribunal considers regional housing to be an employment condition and not a remuneration issue. The matter would be more appropriately pursued through the Department of Justice.

TABLING OF REPORT

24. The Act requires this report to be tabled in each House of Parliament within five sitting days of the Minister for Public Sector Management receiving it. Changes to remuneration will come into force from the date specified in the Report unless either House of

Parliament, within 15 sitting days of the Report being tabled in that House, passes a resolution disapproving the Tribunal's recommendation.

The report will now issue.

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

PART 1: SALARY

- 1.1 Salary shall be payable at the following rates to Judges, Masters and Magistrates with effect from 01 December 2023.
- 1.2 The annual salary specified in this Part is inclusive of leave loading.

POSITION	ANNUAL SALARY
Chief Justice	\$564,970
President of the Court of Appeal	\$528,850
Senior Puisne Judge	\$505,013
Senior Judge of the Court of Appeal	\$505,013
Puisne Judge	\$490,097
Senior Master of the Supreme Court	\$454,251
Master of the Supreme Court	\$441,198
Chief Judge District Court	\$490,097
Senior Judge District Court	\$454,251
Judge District Court	\$441,198
Chief Magistrate	\$441,198
Deputy Chief Magistrate	\$386,874
Principal Registrar/Magistrate Supreme Court *	\$386,874
Principal Registrar/Magistrate Family Court *	\$386,874
Magistrates	\$364,181
Registrars/Magistrates Family Court*	\$364,181
Parliamentary Inspector, Corruption and Crime Commission	\$294,058

* The relevant officeholders 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

- 2.1 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 relevant Australian Taxation Office reasonable benefit limit

applicable from time to time and where accompanied by certification that the expense was appropriately incurred.

- 2.2 If reasonably and properly incurred travelling and accommodation expenses exceed the rate specified in 2.1, then actual costs should be reimbursed. Receipts or vouchers must be provided in support of any claim for reimbursement in excess of the specified rate.
- 2.3 Claims for overnight stays in the Perth metropolitan area should be subject in each case to the approval of the relevant Chief Judicial Officer.
- 2.4 Part payment of travelling and accommodation allowances shall apply in the following circumstances:
 - a. When 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.
 - b. When 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.
 - c. When in the case of commercial accommodation referred to in 2.4.b 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

- 3.1 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.
- 3.2 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".
- 3.3 Selection of appropriate vehicles should be subject to consultation between the Department of Justice (as the "Agency" responsible for managing the leasing arrangements for vehicles provided to Judges, Masters and Magistrates) and the relevant Court. Although the cost of 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.

3.4 In providing for the use of a motor vehicle under this arrangement, the Tribunal requires that officeholders and the Department of Justice 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 Judiciary;
- b. provide for adequate safety and security of Judicial officeholders;
- 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; and
- f. when private use of a vehicle is permitted, provide scope for personal preference in choice of motor vehicle consistent with the above principles.

3.5 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 a minimum of two years/40,000 kilometres. The lease value and term 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 officeholder as a result of fluctuations in lease costs during the specified term of the lease.

3.6 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:

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

3.7 FBT is costed at applicable Australian Taxation Office rates. FBT is costed at purchase price (including GST) x Statutory fraction x Gross up (2.0802) x FBT rate (0.470).

3.8 FBT 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.

- 3.9 Motor vehicles leased for Judicial officeholders 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 Justice.
- 3.10 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.
- 3.11 The Chief Justice is entitled to the provision of a vehicle to the notional value of \$28,000 per annum.
- 3.12 Judges, Masters and the Chief Magistrate are entitled to the provision of a vehicle to the notional value of \$27,500 per annum.
- 3.13 Magistrates are entitled to the provision of a vehicle to the notional value of \$26,900 per annum.
- 3.14 Judges, Masters, 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. When 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.
- 3.15 In the event a Judicial officeholder's motor vehicle requires modifications to cater for a disability, resulting in total vehicle costs higher than the notional lease values specified in Parts 3.11 to 3.13, then the reasonable additional cost may be approved by the relevant Chief Judicial Officer in consultation with the Department of Justice.
- 3.16 In order to contain additional administrative costs associated with "off contract" leases, officeholders 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.
- 3.17 Vehicles with V8 engines are not included. Turbo charged and super charged engines with a capacity greater than 3.0 litres are not included.
- 3.18 Each actual lease should be tailored to achieve the most cost-effective arrangement based on individual usage patterns.
- 3.19 Use of an off-road vehicle must be substantiated by operational need and 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 specified in Parts 3.11 to 3.13, whichever is higher. This includes the purchase cost of other essential accessories approved by the relevant Chief Judicial Officer.

- 3.20 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, officeholders are required to seek approval from State Fleet for travel outside Western Australia for periods of seven days or more.
- 3.21 When 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.
- 3.22 When 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.

Signed on 06 October 2023.

M Seares AO
CHAIR

B A Sargeant PSM
MEMBER

Hon. J Day
MEMBER

SALARIES AND ALLOWANCES TRIBUNAL