

Premier,

**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**

Section 7 of the *Salaries and Allowances Act 1975* (the Act) requires the Tribunal, at intervals of not more than twelve months, to inquire into and report to the Minister on the question of whether any alterations are desirable in the remuneration to be paid or provided to Judges, District Court Judges, Masters of the Supreme Court, Magistrates, and the Parliamentary Inspector of the Corruption and Crime Commission. The Act provides further that if the Tribunal reports that alterations are desirable it shall recommend the nature and extent of the alterations that should be made.

A copy of the report must be laid before each House of Parliament, within five sitting days of that House, after the Minister has received the report.

#### JUDICIAL REMUNERATION

##### *Background*

It is customary for the Tribunal to conduct its annual inquiries into judicial remuneration during November of each year, with any recommendations for change being operative prospectively from 1 January of the following year.

The Tribunal, in its report of December 2003, set out a comprehensive history and reasoning of the recommended full flow-on to this jurisdiction's judges of the increases since July 2002 to the federal judiciary.

At this time, after taking account of all relevant factors, the Tribunal considers it prudent to recommend to the Parliament that the well-established relativities between the jurisdictions be maintained. A summary of the recent and emerging history of judicial remuneration in Australia follows.

After a major examination into judicial remuneration completed by the Commonwealth Remuneration Tribunal in late 2002, it was recommended that increases should flow to Federal judicial office-holders on the following basis:

“The first increase arising from the Review will be 7 per cent for judicial office holders and is to take effect from 1 July 2002. The second and third increases for judicial office holders arising from the Review are to be implemented in two instalments of 5 per cent from July 2003 and 5 per cent from July 2004...”.

The Commonwealth Remuneration Tribunal made it clear that the latter two instalments were to proceed independently of and additionally to any other annual increases it might make to reflect changed economic circumstances in 2003 and 2004.

The current nexus between the Commonwealth and State jurisdictions was effectively endorsed at a Special Heads of Government meeting held in October 1990 in Brisbane, from which the following statement was issued:

“The Heads of Government also agreed to pursue arrangements for the co-ordination of future increases in judicial remuneration. They emphasised that these arrangements would be aimed at setting maximum remuneration, with the clear understanding that remuneration levels within these maxima could vary significantly between States.”

With effect from 1 July 2004, the Federal Remuneration Tribunal recommended a compound 9.1 per cent increase (being made up of the last 5 per cent from 2002 and an increase of 3.9 per cent as part of the 2004 review) for the Commonwealth jurisdiction.

### *Current Inquiry*

For the purposes of conducting its current inquiry, the Tribunal placed an advertisement in “The West Australian” newspaper of 15 September 2004 and on its official website calling for submissions from interested persons and organisations. It also wrote directly to all relevant, affected parties.

The Tribunal received submissions from the Supreme Court, the District Court and the Stipendiary Magistrates’ Society of Western Australia, the Department of Justice and the Premier. No submissions were received from the general public. The Tribunal considered carefully all the submissions received.

Most of the submissions expressed the need for the established relativities to be maintained.

The Premier’s submission stated:

“Whilst the Government does not depart from the policy of national relativity in relation to judicial remuneration, it requests that the Tribunal closely scrutinise whether it is appropriate that the salary increase recently granted to Federal Judges be fully matched in this State.”

The submission from the Registrars of the Supreme Court raised the issue of their salaries relative to those of the Masters in light of what they saw as an increase in the judicial aspects of their work. The Tribunal awarded the Registrars an increase in 1997 in recognition of changes in work value, which had been addressed in the Fielding Report of 1995. Since then they have continued to receive the salary adjustments recommended for Judges and Masters, although they are covered in the Special Division of the Public Service for the purposes of the *Salaries and Allowances Act 1975*. They are not covered by Section 7 of this Act. The Tribunal in its commitment to maintain the relativities with the Federal judiciary throughout the three year phase-in period of the salary increase

announced in 2002, has not considered it appropriate to change any of the relativities within the Western Australian judiciary or related positions.

In its 2003 report on judicial salaries, the Tribunal included the Commissioners of the Western Australian Industrial Commission. Since then, the Tribunal has been undertaking a comprehensive review of these Commissioners' salaries and will report separately on these in 2005.

In the formulation of this year's report, the Tribunal has given consideration to a range of economic and other indices, as is its usual practice. These have included the latest relevant data issued by the Australian Bureau of Statistics, such as the 2004 September Quarter Consumer Price (CPI) Index and the 2004 May Quarter Average Weekly Earnings Index, and a number of Government and private sector forecasted movements in CPI and wages. It also has considered the Western Australian Wage Cost Index and Average Weekly Earnings over the last twelve months and the Government's Wages Policy for the current financial year. The Tribunal has also been mindful of increases it has provided to other officeholders under its jurisdiction over the past twelve months. The cost of living adjustment recommended by the Tribunal is inline with the general movement in these economic indices and policy.

In its report of 26 March 2003, the Tribunal made the following statement on the need for continuation of the relativity with the Federal judiciary:

"In the Tribunal's considered opinion, particularly having regard to issues of recruitment and retention, there is no practical alternative but to maintain the longstanding relativities that have existed nationally in the area of judicial remuneration. Indeed a meeting of State Judicial Remuneration Tribunals held in Melbourne in mid-February 2003, confirmed as essential the continuance of these relativities."

The Tribunal is of the opinion that there have been no changed circumstances since then which would warrant its departing from this viewpoint and accordingly recommends the full flow-on of the latest changes implemented at the Federal level.

The District Court submission reiterated its submissions in previous years that the operative date of an increase should align with the Federal jurisdiction and be retrospective to 1 July rather than prospective to 1 January.

The Tribunal does not see any compelling basis for backdating of the increases to coincide with the operative date in the Federal jurisdiction. In the Tribunal's opinion, persistence in its current practice of prospective increases – in this case the next increase to be effective from 1 January 2005 – would have minimal adverse impact on any aspect of the terms and conditions applying to the judiciary in this State.

Immediately prior to the issue of this report, the Tribunal was advised of the legislation creating a new Appeal Court with effect from 1 February 2005. The Tribunal considered taking account of this prospectively in its present report. However, such action would have denied interested parties the opportunity to make a submission to the Tribunal on the matter and also would have required judgements to be made about its operation prior to its commencement. Accordingly, the Tribunal proposes to make recommendations on the salaries of the President and Senior Appeal

Judge of this Court by July 2005. By this time it is assumed the court's operations will be well established.

The Tribunal recommends adjustments to 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 to be in line with those set out in the attached Schedule. For ease of reference, the Schedule consists of a consolidated listing of all the entitlements and benefits provided by way of past and current recommendations of the Tribunal. Specifically, the current recommendations are:

- a 5 per cent increase in salaries representing the last component of the July 2002 adjustment to be effective from 1 January 2005.
- a further 3.9 per cent cost of living adjustment to be effective from 1 January 2005.

The Tribunal wishes to emphasise the fact that the 9.1 per cent overall increase incorporates the final 5 per cent increment of the special 17 per cent adjustment which commenced as a result of the Commonwealth review in 2002.

#### TABLING OF REPORT

Under the provisions of the *Salaries and Allowances Act 1975*, this report is required to be laid before each House of Parliament within five sitting days of the House after its receipt by the Minister. Either House of Parliament, within 15 sitting days of that House after a copy of the report has been laid before it, may pass a resolution disapproving a recommendation made by the Tribunal.

Dated at Perth this 1st day of December 2004.

Professor M C Wood  
CHAIRMAN

J A S Mews  
MEMBER

M L Nadebaum  
MEMBER

SALARIES AND ALLOWANCES TRIBUNAL

## SCHEDULE

### REPORT ON THE REMUNERATION OF JUDGES, DISTRICT COURT JUDGES MASTERS OF THE SUPREME COURT, MAGISTRATES and THE PARLIAMENTARY INSPECTOR

#### Remuneration Arrangements, Incorporating Recommended Alterations:

##### 1. Salaries

Effective from 1 January 2005, the salary of a Puisne Judge of the Supreme Court shall be increased to \$288,962 per annum.

Salaries shall consequently be payable at the following rates to Judges, Masters and Magistrates –

Position	\$ per annum
Chief Justice	325950
Senior Puisne Judge	297776
Puisne Judge	288962
Senior Master of the Supreme Court	267780
Master of the Supreme Court	260065
Chief Judge District Court	288962
Senior Judge District Court	267780
Judge District Court	260065
Chief Stipendiary Magistrate	234058
Deputy Chief Stipendiary Magistrate	221055
Principal Registrar/Stipendiary Magistrate Family Court	221055
Stipendiary Magistrates	208053
Registrars/Stipendiary Magistrates Family Court	208053
Parliamentary Inspector, Corruption and Crime Commission	115585

##### 2. Travelling and Accommodation Allowance

Effective from 1 January 2004, 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 following rates –

<b>Location</b>	<b>Judges and Masters</b>	<b>Magistrates</b>
Western Australia North of the 26° Latitude	\$340	As per the Public Service Award 1992 – Schedule I plus 5per cent
Sydney	\$350	\$285
Melbourne, Brisbane	\$340	\$255
Perth, Adelaide, Canberra, Darwin & Hobart	\$290	\$215
Other than a Capital City	\$220	\$180

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.

Claims for overnight stays in the Perth metropolitan area should be subject in each case to the approval of the relevant Chief Judicial Officer.

Part payment of travelling and accommodation allowance shall apply in the following circumstances, when an entity other than the Judge, Master or Magistrate meets the cost of accommodation and/or meals -

- ❑ Where 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.
- ❑ Where the cost of commercial accommodation is met by an entity other than the Judge, Master or Magistrate, an allowance only of \$95 per overnight stay shall be payable (comprised of: Dinner \$35, Lunch \$25, Breakfast \$16, Incidentals \$19).
- ❑ Where in the case of commercial accommodation 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.

### **3. Motor Vehicles**

The following arrangements apply, or continue to apply as the case may be, to the entitlement of each Judge, Master and fulltime Magistrate to the provision of a fully maintained motor vehicle for business and private use:

- ❑ Judges, Masters and the Chief Stipendiary Magistrate are entitled to provision of a "Prestige" vehicle, selected from the Government's Common Use Contract no. 012A1994, Items 1008 (Prestige Class) and 1009 (Restricted Prestige Class), as amended from time to time.

Vehicles with supercharged or V8 engines are not included.

Availability of Ford LTD or GMH Caprice is restricted to the Chief Justice.

- Magistrates are entitled to provision of a "Prestige" vehicle, selected from Item 1008 (Prestige Class), as amended from time to time.
- 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 the Treasury and Finance (the effective owner of the State Fleet).

Applicable terms and conditions are currently set out in the document "State Fleet - Agency General Agreement".

- Selection of appropriate vehicles should be subject to consultation between the Department of Justice (as the department administratively supporting the Courts and therefore the "Agency" responsible for managing the leasing arrangements for vehicles provided to Judges, Masters and Magistrates) and the relevant Court.

Although the cost of the vehicles is centrally funded as a consequence of it being an emolument recommended under the *Salaries and Allowances Act 1975*, the area nevertheless remains an administrative responsibility of the Department to manage.

Based on individual usage patterns, each lease should be tailored to achieve the most cost-effective arrangement, but with the maximum lease term being two years.

- The relevant Chief Judicial Officer should approve each selection, provided that:
  - selection of any vehicle from a lesser category (i.e. other than the "Prestige" range) in the Common Use Contract does not exceed the cost of accessing a vehicle to which an entitlement exists in the "Prestige" range, and
  - provision of 4 wheel drive vehicles is substantiated by operational need.
- Accessories should be limited to whatever is the standard (not the optional) equipment that comes with the vehicle selected. However, to the extent that such equipment does not include them, the following items may be added:
  - Air-conditioning
  - Airbags
  - ABS braking
  - Automatic / power steering
  - Cruise control
  - Mud flaps
  - Sunroof (only for those entitled to a "Prestige" vehicle selected from Item 1009)
  - Tow bar (or other accessory – e.g. child restraints – to the value, including installation, of a tow bar for the specific make and model of the vehicle)

and where operational need arises

- Roo bar
- Long range fuel tank
- Extra spare tyre
- Winch
- Window tinting

The cost of any other extra equipment should be met by the individual – i.e. purchase of item, installation and removal if required before disposal of the vehicle.

Where a magistrate is employed on a part time basis, a pro rata amount should be added to the salary in lieu of a motor vehicle. For that purpose, the full value of the vehicle is assessed at \$17,000 per annum.

Dated at Perth this 1st day of December 2004.

Professor M C Wood  
CHAIRMAN

J A S Mews  
MEMBER

M L Nadebaum  
MEMBER

SALARIES AND ALLOWANCES TRIBUNAL

**SALARIES AND ALLOWANCES TRIBUNAL  
DETERMINATION VARIATION  
SALARIES AND ALLOWANCES ACT 1975**

**Preamble**

The Tribunal has today issued a report under section 7 of the *Salaries and Allowances Act 1975* to the Minister recommending an adjustment effective from 1 January 2005 in the remuneration 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. The adjustment provides for an increase in salary of 5 per cent representing the last component of the 2002 adjustment and a further 3.9 per cent cost of living adjustment.

The report is required to be laid before each House of Parliament within five sitting days of the House after its receipt by the Minister. Either House of Parliament, within 15 sitting days of that House after a copy of the report has been laid before it, may pass a resolution disapproving a recommendation made by the Tribunal.

This determination provides for the increase to flow through to the linked “judicial” positions of Registrar in both the Supreme and District Courts, and Senior Legal Officer positions in the Office of the Director of Public Prosecutions and the Department of Justice. Should either House of the Parliament disallow the salary adjustment recommended in the report, this determination, insofar as it deals with these positions, shall cease to have effect from the date that House passes such a resolution.

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**Determination**

The determination of the Salaries and Allowances Tribunal made on 8 April 2004 under sections 6(1)(c), (d) and (e) of the *Salaries and Allowances Act 1975* (as varied from time to time) is hereby varied by a further determination, to make the amendments set out below –

1. Insert and replace, as the case requires, in Part 1 of the First Schedule the following:

<b>AGENCY</b>	<b>OFFICE</b>	<b>CLASSIFICATION</b>
Office of the Director of Public Prosecutions Note: Effective from 1 January 2005	Director Legal Services	\$234058
	Consultant State Prosecutor	\$195492
Department of Justice Note: Effective from 1 January 2005	State Solicitor	\$260065
	Parliamentary Counsel	\$260065
	Queen’s / Senior Counsel	\$247061
	State Counsel	\$234058
	Deputy State Solicitor	\$221055
	Deputy Parliamentary Counsel	\$221055
	Senior Adviser, State Solicitor’s Office	\$208053

2. Insert and replace, as the case requires, in the Second Schedule the following:

Pursuant to section 6(1)(d) of the *Salaries and Allowances Act 1975* the Salaries and Allowances Tribunal determines the following levels of remuneration with effect from 1 January 2005:

Supreme Court	Principal Registrar	\$223396
	Registrar	\$197832
District Court	Principal Registrar	\$208053
	Registrar	\$195492
	Deputy Registrar	\$175779

Dated at Perth this 1st day of December 2004.

Professor M C Wood  
CHAIRMAN

J A S Mews  
MEMBER

M L Nadebaum  
MEMBER

SALARIES AND ALLOWANCES TRIBUNAL