

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 enquire 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.

BACKGROUND

It is customary for the Tribunal to conduct its annual enquiries into judicial remuneration during the last quarter of each year, with any recommendations for change being operative from 1 January of the following year. The Tribunal's last report was issued on 30 November 2005.

Since 1990 the Western Australian Government has endorsed the appropriateness of maintaining national relativity in relation to judicial remuneration. The Tribunal summarised the background agreement between the Australian Attorneys-General in its 2003 recommendation. In brief, the national relativities intend to recognise the pre-eminence of the High Court, ensure some consistency between jurisdictions and reduce leap-frogging caused by differences in remuneration between jurisdictions. The Attorneys-General considered the State relativity for judges' remuneration to be of the order of 85 percent of remuneration set for the High Court.

This year, with effect from 1 July 2006, the Commonwealth Remuneration Tribunal recommended an increase of 4.4 percent for the Federal judiciary.

CURRENT ENQUIRY

As part of conducting its current enquiry, the Tribunal placed an advertisement in "The West Australian" newspaper of 1 September 2006 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 Registrars of the Supreme Court, the District Court, the Magistrates' Society of Western Australia, Parliamentary Counsel and a member of the general public. The Tribunal considered all the submissions received.

Subsequent to receiving submissions, the Tribunal met with the Chief Justice and with the Chief Magistrate and the President of the Magistrates' Society of Western Australia

SUBMISSIONS

Some of the main issues raised in the submissions are outlined below.

Most expressed the view that the established relativities between this jurisdiction and the Federal judiciary should be maintained. The majority of the submissions repeated a proposal made in previous years that the operative date for any increase should be aligned with the Federal jurisdiction, being retrospective to 1 July rather than prospective to 1 January.

The Chief Justice also noted that an increase in remuneration was warranted because of the performance of the Court. In this context it should be noted that the Tribunal has neither the means nor the mandate to assess performance.

The Registrars of the Supreme Court submitted that their remuneration should be increased by any percentage increase in remuneration for Judges and Masters of the Supreme Court.

The submission from the District Court noted that the duties and responsibilities of Judges continue to increase and that the need to attract suitable candidates to the judiciary was an important consideration in the light of the remuneration available to senior lawyers in private practice. It also raised concerns about the remuneration of the Senior Master of the Supreme Court being higher than that of a Judge of the District Court, given their respective responsibilities. Further it advocated increases in the travelling allowance.

The Magistrates' Society's submission drew to the Tribunal's attention the impact of the *Magistrates Court Act 2004* which it claimed had increased the responsibilities of the State magistracy. It also indicated that there were comparabilities between the State and Federal magistracy. In particular, the Magistrates pointed to matters of shared jurisdiction and the exercise of powers identical to those of the Federal magistracy. The submission called for the remuneration of Magistrates to be linked with those of the Federal Magistrates.

The Parliamentary Counsel stated that attracting and retaining staff remained a difficulty for that office and proposed that the linkage between judicial remuneration and the office remain in place.

CONSIDERATIONS

Remuneration of Judges

The Tribunal has noted in the last two reports that it was monitoring the establishment and development of the Court of Appeal in this jurisdiction. The Tribunal has been informed that the Court of Appeal is now fully operational. In its June 1997 report the Tribunal recommended judicial remuneration for this State which equated to approximately 87 percent of comparable High Court positions in specific recognition of the appellate work of the Supreme Court Judges and “differences in other remuneration factors applying to judges elsewhere”. With the Appeal Court now fully operational, the relativity has been re-examined in the context of all the factors taken into account in the framing of this report.

The factors taken into account in this recommendation, in addition to the Federal review, include the strength and rate of growth of the Western Australian economy; the need to be able to attract to the judiciary, and retain, the very best people from intrastate and interstate; the most recent economic indices, and the level of increase in remuneration granted to the other groups under the Tribunal’s jurisdiction in the last 12 months. The Government’s Wages Policy for the current financial year was also taken into account.

The Tribunal believes that, in the light of all the information considered, it is appropriate that the increase granted to the Federal judiciary on 1 July 2006 flow on to judges in this State. Accordingly the Tribunal recommends an increase in the remuneration of judges of 4.4 percent effective from 1 January 2007.

Remuneration of other office holders

The Tribunal met with the Chief Magistrate and the President of the Magistrates’ Society to assist its understanding of the impact of the implementation of the *Magistrates Act 2004* on the magistracy. On the basis of the information presented to it, the Tribunal was of the opinion that the Act would result in some changes in work value. However, it was also mindful that the implementation of the Act is in its early stages and its full impact, within and beyond the magistracy, may not yet be fully apparent.

The Tribunal is of the opinion that to make any adjustment to the remuneration of magistrates at this stage, in isolation and without more widely-based information to confirm the extent of any changes, would be premature. It would disturb the relativities which the Tribunal has established and maintained over some years and which have been largely supported in the submissions received. With this would come the risk of there being significant unintended consequences, particularly if the Tribunal were not sufficiently well-informed.

The changing circumstances resulting from the *Magistrates Act 2004* are linked to a wider issue to which the Tribunal, in recent years, has given some consideration - the issue of whether the remuneration of the increasing number of other office holders under its jurisdiction remains appropriate by being linked to the remuneration of

judges. The matter is complex and the Tribunal will need more detailed information than it has currently about the work value of these other positions to make a decision.

The Tribunal intends to collect more detailed information through inviting written submissions and having face-to-face meetings with stakeholders in the first half of 2007. The Tribunal's aim is to review the appropriateness of the existing relativities between the remuneration of judges and other office holders, and to reflect the outcomes of this review in its November 2007 report.

The Tribunal is of the opinion that to maintain the existing relativities for a further year whilst the foreshadowed review is undertaken will not give rise to any significant inequities because the unofficial linking of these other positions to the remuneration of judges over the past three years has resulted in salary increases for these office holders in excess of those applying generally in the wider community.

Motor Vehicles for Judges, Masters and Magistrates

In last year's report, changes in relation to motor vehicle accessories were made in response to submissions which requested greater flexibility for officers to individualise the accessories on their motor vehicles rather than being limited to a prescriptive list. There is no longer a prescribed or approved list of accessories. A submission from the Magistrates' Society this year stated that there were some shortcomings in the arrangements put into practice in 2005. However, the Tribunal, in the absence of strong evidence to the contrary, remains of the view that the arrangement where motor vehicles are able to be accessorised to meet individual needs within the total cost of the individual's entitlement and the conditions set out in Section 3 of the Schedule is appropriate.

Travelling and Accommodation

The Tribunal, in its report of December 2003, recommended increases in the travelling/accommodation rates for the judiciary and it has monitored these since. Rates have been adjusted where appropriate in this report.

Timing

The Tribunal has not and does not accept the submissions that the timing of any remuneration alteration arising from its recommendation should be aligned with the Federal judiciary and be made retrospective to the previous 1 July. The Tribunal, in setting its annual schedules, prefers its recommendations and determinations to be current or prospective rather than retrospective.

In recent times the Federal judiciary has received remuneration reviews on 1 July. However this has not always been the case. The relativity with Federal judicial remuneration is but one of many factors taken into account by the Tribunal in making its recommendation. It is appropriate to consider the Federal review as part of this recommendation and such review necessarily occurs after the Federal review is published. There may from time to time be factors which cause a departure from the Federal decision and the Tribunal considers its recommendations have taken account of the timing difference between the operative dates applying to Federal judicial remuneration and those which are the subject of this recommendation.

RECOMMENDATION

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 recommendation is that a 4.4 percent increase in remuneration be granted to Judges, District Court Judges, Masters of the Supreme Court, Magistrates and the Parliamentary Inspector of the Corruption and Crime Commission with effect from 1 January 2007.

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 30th day of November 2006.

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. Remuneration

Effective from 1 January 2007, the remuneration of a Puisne Judge of the Supreme Court shall be increased to \$314,045 per annum.

Remuneration shall consequently be payable at the following rates to Judges, Masters and Magistrates.

Position	\$ per annum
Chief Justice	354,244
President of the Court of Appeal	338,934
Senior Puisne Judge	323,624
senior Judge of the Court of Appeal	323,624
Puisne Judge	314,045
Senior Master of the Supreme Court	291,024
Master of the Supreme Court	282,640
Chief Judge District Court	314,045
Senior Judge District Court	291,024
Judge District Court	282,640
Chief Stipendiary Magistrate	254,375
Deputy Chief Stipendiary Magistrate	240,243
Principal Registrar/Stipendiary Magistrate Family Court	240,243
Stipendiary Magistrates	226,113
Registrars/Stipendiary Magistrates Family Court	226,113
Parliamentary Inspector, Corruption and Crime Commission	125,618

NB: There is no provision for the payment of leave loading on top of the above remuneration

2. Travelling and Accommodation Allowance

2.1 Effective from 1 January 2007, 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.

Locations	Judges and Masters	Magistrates
WA North of the 26th parallel	\$440	As per the rates in the Public Service Award 1992 – Schedule – Locality North of 26 degrees South Latitude plus 5 percent
Sydney	\$350	\$300
Melbourne	\$380	\$280
Brisbane, Adelaide	\$340	\$260
Darwin	\$310	\$250
Hobart, Canberra	\$310	\$230
Perth	\$310	\$210
Other Areas	\$220	\$185

2.2 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.

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 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:

2.4.1 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.

2.4.2 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).

2.4.3 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.

3.1 Judges, Masters and the Chief Stipendiary Magistrate are entitled to the 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.

3.2 Magistrates are entitled to the provision of a prestige vehicle selected from Item 1008 (Prestige Class), as amended from time to time.

3.3 Vehicles with supercharged, turbo or V8 engines are not included. The availability of a Ford LTD or a GMH Caprice model is restricted to the Chief Justice.

3.4 Judges, Masters, the Chief Stipendiary Magistrate and Magistrates may choose any vehicle and accessories in the Common Use Contract the total cost of which does not exceed the maximum cost of accessing a vehicle to which an entitlement exists in the relevant Prestige Class.

The total cost will be 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, and include any standard accessories (including a tow bar or, for those entitled to a prestige vehicle selected from Item 1009, also a sunroof).

Where the total cost of the chosen vehicle and accessories (excluding the standard ones referred to in this paragraph) exceeds the maximum cost of accessing a vehicle to which an entitlement exists in the relevant Prestige Class the additional cost must be borne by the individual. This includes the purchase cost of any accessory(ies), the installation cost and removal costs if required before disposal of the vehicle.

3.5 The relevant Chief Judicial Officer must approve the selection of the vehicle and approve that the provision of a 4-wheel drive vehicle is substantiated by operational need.

3.6 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 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".

3.7 Selection of appropriate vehicles should be subject to consultation between the Department of the Attorney General (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 in a cost effective manner.

3.8 Where 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 \$19,200 per annum.

Dated at Perth this 30th day of November 2006.

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 2007 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 remuneration of 4.4 percent.

The Section 7 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 of 4.4 percent to flow through to the linked other 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 the Attorney General. Should either House of the Parliament disallow the remuneration adjustment recommended in the Section 7 report, this determination, insofar as it deals with these positions, shall cease to have effect from the date that House passes such a resolution.

DETERMINATION VARIATION

The determination of the Salaries and Allowances Tribunal made on 7 April 2006 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:

AGENCY	OFFICE	CLASSIFICATION
Office of the Director of Public Prosecutions	Director Legal Services	\$254,375
Note: Effective from 1 January 2007	Consultant State Prosecutor	\$212,461
	Queen's/Senior Counsel	Mr Bruno Fiannaca will be paid at the Queen's/Senior Counsel rate of \$268,506 during his tenure in the DPP's Office
Department of the Attorney General	State Solicitor	\$282,640
Note: Effective from 1 January 2007	Parliamentary Counsel	\$282,640

	Queen's/Senior Counsel	Mr George Tannin will be paid at the Queen's/Senior Counsel rate of \$268,506 during his tenure in the Department of the Attorney General
	State Counsel	\$254,375
	Deputy State Solicitor	\$240,243
	Deputy Parliamentary Counsel	\$240,243
	Senior Adviser, State Solicitor's Office	\$226,113

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 remuneration levels with effect from 1 January 2007:

AGENCY	OFFICE	CLASSIFICATION
Supreme Court	Principal Registrar	\$242,787
	Registrar	\$215,004
District Court	Principal Registrar	\$226,113
	Registrar	\$212,461
	Deputy Registrar	\$191,037

Dated at Perth this 30th day of November 2006.

Professor M C Wood
CHAIRMAN

J A S Mews
MEMBER

M L Nadebaum
MEMBER

SALARIES AND ALLOWANCES TRIBUNAL