

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 responsible 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 2006.

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 2007, the Commonwealth Remuneration Tribunal recommended an increase of 4.2 per cent for the Federal judiciary.

CURRENT ENQUIRY

As part of conducting its current enquiry, the Tribunal placed an advertisement in "The West Australian" newspaper of Saturday, 25 August 2007 and on its official website calling for submissions from interested persons and organisations. It also wrote directly to the affected parties.

The Tribunal received submissions from the Chief Justice, the Supreme Court, the District Court, the Magistrates' Society of Western Australia, the Premier on behalf of the Government of Western Australia, the State Solicitor and Deputy State Solicitor, and the Parliamentary Counsel. The Tribunal considered all the submissions received.

Subsequent to receiving submissions, the Tribunal met separately with the Chief Justice and with the Chief Magistrate and a senior member of the Magistrates' Society of Western Australia.

SUBMISSIONS

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

Most advocated that the established relativities between this jurisdiction and the Federal judiciary, noted above, should be maintained. The majority of the submissions also sought the maintenance of a 2 per cent margin above the 85 per cent national relativity as an appropriate recognition of the Tribunal's decision that its recommendations should apply prospectively, currently six months after the introduction of the Federal recommendation.

The submission from the District Court noted that travel and accommodation expenses incurred in circuit work in the southern parts of the State were increasing and sought an increase to the travel allowance.

The Parliamentary Counsel proposed that the position of Senior Parliamentary Counsel be linked to that of the position of Registrar, District Court, for the purposes of remuneration.

The Magistrates' Society's submission again 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. The submission enumerated many examples demonstrating an increase in the value of the work of Magistrates. It also indicated again that it believed there were comparabilities between the State and Federal magistracy. In particular, the Magistrates' Society pointed to several 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, or as an alternative, to be set at 85 per cent of the remuneration of a District Court Judge, rather than the present 80 per cent.

The Magistrates' Society requested a review of the existing relativities on which the remuneration of the Chief Magistrate was based. It submitted that an appropriate comparator was the salary of the Chief Federal Magistrate or, alternatively, the salary of a District Court Judge.

The Magistrates' Society sought further alignment with the Federal Magistracy in the matters of travel and accommodation allowances. It proposed that the Tribunal should follow the Federal Tribunal in the setting of travel allowances. It noted that the Tribunal had made only nominal adjustments in the rates paid to Magistrates since 2000.

Finally, the Magistrates' Society sought a power of discretion for the Chief Magistrate to approve operational accessories for the motor vehicles used by Magistrates.

CONSIDERATIONS

Remuneration of Judges

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 2007 flow on to judges in this State. Accordingly the Tribunal recommends an increase in the remuneration of judges of 4.2 per cent effective from 1 January 2008.

Remuneration of Other Office Holders

The Tribunal met separately with the Chief Magistrate and a senior member of the Magistrates' Society to assist its understanding of the impact of the implementation of the *Magistrates Court Act 2004* on the magistracy. In its 2006 Report, the Tribunal stated it was mindful that the implementation of the *Magistrates Court Act 2004* was in its early stages and its full impact, within and beyond the magistracy, was not yet fully apparent, but would be kept under review.

The Tribunal also noted that the remuneration of Magistrates was related to a wider 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, as was noted in the 2006 report, and the Tribunal will need more detailed information than it has currently about the work value of these other positions to address it.

In the course of its review, the Tribunal was advised of a similar review being undertaken by the Federal Remuneration Tribunal of the Federal Magistracy. It is not completed, so the Tribunal does not have the benefit of its report and makes no comment at this stage on the case for uniform comparability of magistrates' remuneration between the jurisdictions. However, the Tribunal believes that there has been an increase in work value as a result of the *Magistrates Court Act 2004* and that this warrants an increase in remuneration. This will alter slightly the relativities within the State judiciary.

The role and work of the Chief Magistrate has been reviewed by the Tribunal. Of particular importance is the impact of growth in the number and locations of the magistrates around the State and the management tasks that have developed as a result of new legislation. The Tribunal is satisfied that there has been a substantial increase in work value and that alignment of the salary of the Chief Magistrate with that of a District Court Judge is appropriate.

Motor Vehicles for Judges, Masters and Magistrates

The Tribunal removed the need for a prescribed or approved list of accessories for vehicles in its 2006 report. It remains of the view that the arrangement where motor vehicles are able to be accessorised to meet individual needs must sit within the total cost of the individual's entitlement and the requirements for the administration of the state motor vehicle fleet. The entitlement and conditions are set out in Section 3 of the Schedule.

Travelling and Accommodation

The Tribunal has reviewed travelling and accommodation rates and these have been adjusted in this report. The new rates establish the same levels of these allowances for Judges and other office holders.

Timing

The Tribunal has further considered the timing of any alterations to recommendations for remuneration. At present they are prospective and take effect about six months after the Federal determination. The Tribunal sees no reason to depart from these arrangements.

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 4.2 per cent 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 2008.

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 2007.

Dr M C Wood
CHAIRMAN

M L Nadebaum
MEMBER

W S Coleman
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 OF THE CORRUPTION AND CRIME COMMISSION

REMUNERATION ARRANGEMENTS, INCORPORATING RECOMMENDED ALTERATIONS

1. Remuneration

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

POSITION	\$ PER ANNUM
Chief Justice	369,122
President of the Court of Appeal	353,169
Senior Puisne Judge	337,216
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Puisne Judge	327,235
Senior Master of the Supreme Court	303,247
Master of the Supreme Court	294,511
Chief Judge District Court	327,235
Senior Judge District Court	303,247
Judge District Court	294,511
Chief Stipendiary Magistrate	294,511
Deputy Chief Stipendiary Magistrate	258,157
Principal Registrar/Stipendiary Magistrate Family Court	258,157
Stipendiary Magistrates	242,972
Registrars/Stipendiary Magistrates Family Court	242,972
Parliamentary Inspector, Corruption and Crime Commission	130,894

2. Travelling and Accommodation Allowance

Effective from 1 January 2008, 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 and where accompanied by certification that the expense was appropriately incurred.

Locations	Judges, Masters and Magistrates
WA North of the 26th parallel	\$440
Sydney	\$405
Melbourne	\$405
Brisbane	\$356
Perth	\$353
Adelaide	\$335
Canberra	\$335
Darwin	\$335
Hobart	\$335
Other Areas	\$320

2.1 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.

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

2.3 Part payment of travelling and accommodation allowances shall apply in the following circumstances:

2.3.1 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.

2.3.2 Where the cost of commercial accommodation is met by an entity other than the Judge, Master or Magistrate, an allowance only of \$140 per overnight stay shall be payable (comprised of: Dinner \$57, Lunch \$36, Breakfast \$25, Incidentals \$22).

2.3.3 Where in the case of commercial accommodation referred to in 2.3.2 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.

3. Motor Vehicles

The following arrangements apply or continue to apply, as the case may be, to the entitlement of each Judge, Master and full-time 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) and 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 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 \$22,000 per annum.

Dated at Perth this 30th day of November 2007.

Dr M C Wood
CHAIRMAN

M L Nadebaum
MEMBER

W S Coleman
MEMBER

SALARIES AND ALLOWANCES TRIBUNAL

SALARIES AND ALLOWANCES ACT 1975

**SALARIES AND ALLOWANCES TRIBUNAL
DETERMINATION VARIATION**

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 2008 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 4.2 per cent.

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 4.2 per cent 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	Consultant State Prosecutor – Queen’s/Senior Counsel	\$279,783
Note: Effective from 1 January 2008	Director Legal Services	\$265,059
	Consultant State Prosecutor	\$221,384

AGENCY	OFFICE	CLASSIFICATION
Department of the Attorney General	State Solicitor	\$294,511
Note: Effective from 1 January 2008	Parliamentary Counsel	\$294,511
	State Counsel - Queen's/Senior Counsel	\$279,783
	State Counsel	\$265,059
	Deputy State Solicitor	\$250,333
	Deputy Parliamentary Counsel	\$250,333
	Senior Adviser, State Solicitor's Office	\$235,610

2. 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 2008:

AGENCY	OFFICE	CLASSIFICATION
Supreme Court	Principal Registrar	\$252,984
	Registrar	\$224,034
District Court	Principal Registrar	\$235,610
	Registrar	\$221,384
	Deputy Registrar	\$199,061

Dated at Perth this 30th day of November 2007.

Dr M C Wood
CHAIRMAN

M L Nadebaum
MEMBER

W S Coleman
MEMBER

SALARIES AND ALLOWANCES TRIBUNAL