

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 2007.

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 2008, the Commonwealth Remuneration Tribunal recommended an increase of 4.3 per cent for the Federal judiciary.

## **CURRENT ENQUIRY**

In discharging its statutory requirements with respect to the remuneration of the judiciary, the Tribunal's approach has been to:

- advertise for public submissions;
- write to key office holders; and
- consider relevant labour market and economic data.

This process provides an opportunity for members of the public, the Government, the judiciary themselves or any other interested party to make a submission. It also helps to inform the Tribunal of changes which might have taken place in the roles or responsibilities of the judiciary over the past year and other remuneration issues for Members.

The Tribunal received submissions from the Minister for Commerce on behalf of the Government of Western Australia, the Chief Justice, the Chief Judge of the District Court, the Magistrates' Society of Western Australia and a member of the public. The Tribunal considered all the submissions received.

Subsequent to receiving submissions, the Tribunal met separately with the Chief Justice, the Chief Judge of the District Court 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 were:

- whether Judges of the District Court should have parity with Judges of the General Division of the Supreme Court;
- whether relativities between Federal and State Magistrates lost in 2004, should be restored;
- whether the salary of a Magistrate should be increased to 90 per cent of the salary of a District Court Judge;
- whether the salary of the Deputy Chief Magistrate should be increased to 92.5 per cent of the salary of a District Court Judge;
- whether the Principal Registrar of the Supreme Court when appointed a Magistrate should be remunerated at a higher level than the Principal Registrar of the Family Court;
- whether increases to Western Australian judicial salaries should be limited to the national Consumer Price Index;
- whether the increase of 4.3 per cent provided to the Commonwealth judiciary in June 2008 should flow on to the Western Australian judiciary;
- whether the timing of any increase should be from 1 January or at another date; and
- whether motor vehicle entitlements of the Western Australian judiciary should be related to CO<sub>2</sub> emissions.

A submission from the Minister for Commerce noted that the State's economic growth exceeded the national average over the past five years and that the 2008 State Wage Case decision raised the minimum wage by \$29 per week. The Minister supported "fair equitable and economically sustainable" remuneration increases and advised that as a general principle, he "did not depart from the policy of maintaining national relativity in relation to Judicial remuneration".

The Chief Justice provided advice to the Tribunal that the Principal Registrar of the Supreme Court had been appointed a Magistrate in October 2007. He further advised that the remuneration of a Principal Registrar of the Supreme Court when appointed a

Magistrate should be determined under section 7 of the *Salaries and Allowances Act 1975*. In consideration of this, the Tribunal has included reference to the position of Principal Registrar of the Supreme Court in its recommendation on judicial salaries to provide for office holders who have been appointed a Magistrate. The Tribunal has also continued to determine remuneration rates for the position of Principal Registrar of the Supreme Court under section 6 of the Act to provide for any future office holders who are not appointed a Magistrate.

## **CONSIDERATIONS**

### ***Remuneration of Judges***

The Tribunal noted the long-standing national agreement on judicial remuneration, the support for it contained in the submission from the State Government and the need to both attract and retain the very best lawyers to the bench. The relativities between the High Court and the Supreme Court are seen by the Tribunal as important for maintaining the hierarchy of the Courts in the State and Federal system.

The Tribunal was particularly mindful of the deterioration in the international and national economy since the Commonwealth Tribunal made its recommendation for an increase of 4.3 per cent in June this year and considered whether the practice of recommending a flow-on to the judiciary in Western Australia was warranted in the circumstances.

It noted that the rate of growth of judicial remuneration during the recent economic up-swing was substantially less than the growth reported in the remuneration of senior members of the legal profession in private practice and executives in the general community over the same period. The Tribunal also noted that the differences in remuneration between the public and private sectors are very significant.

The Tribunal has noted recently reported data on the remuneration paid by major legal firms in Australia. The data indicates that entry level partners in major firms typically receive more than \$300,000 per annum while the majority of equity partners received more than \$1 million per annum.

The most recent economic indices show that the Wage Price Index for the period to 30 September 2008 grew by an annual average of 4.1 per cent nationally and 5.1 per cent in Western Australia. The Consumer Price Index for the same period grew by 5.0 per cent nationally and 4.9 per cent in Western Australia. These and other relevant indices are shown in Table One below.

**Table 1: National and Western Australian Economy – Quarterly and Annual Average Increases – Selected Economic Indicators 2008**

<b>Indicator</b>	<b>Quarterly % Increase</b>	<b>Annual Average % increase</b>
Perth - Consumer Price Index – Jun 08 Qtr to Sep 08 Qtr	1.0%	4.9%
National - Consumer Price Index – Jun 2008 Qtr to Sep 2008 Qtr	1.2%	5.0%
WA - Wage Price Index – Sep Qtr 2008	1.3%	5.1%
National - Wage Price Index – Sep Qtr 2008	1.2%	4.1%
WA – Wage Price Index – Sep Qtr 2008 – Private Sector	1.5%	5.4%
National – Wage Price Index – Sep Qtr 2008 – Private Sector	1.1%	4.2%
WA – Wage Price Index – Sep Qtr 2008 – Public Sector	1.1%	4.0%
National – Wage Price Index – Sep Qtr 2008 – Public Sector	1.3%	3.6%
WA – Average Weekly Earnings – Aug Qtr 2008	0.3%	5.8%
National - Average Weekly Earnings – Aug Qtr 2008	1.3%	3.5%
WA – Average Weekly Earnings (Full-time Adult Ordinary Time Earnings) – Aug 2008 Qtr	1.5%	8.5%
National - Average Weekly Earnings (Full-time Adult Ordinary Time Earnings) – Aug 2008 Qtr	1.6%	4.7%
WA Total Employment Growth – Oct 2008	1.1%	5.3%
National Total Employment Growth – Oct 2008	0.2%	2.1%

*Source: CPI: ABS Cat. 6401.0; WPI ABS Cat. 6345.0; AWE ABS Cat. 6302.0; EG ABS Cat. 6202.0*

The Tribunal notes that if the recommended remuneration was adjusted in accordance with changes in the CPI, the remuneration for the judiciary would increase by at least 5.0 per cent.

The Tribunal also reviewed data on the operations of the Western Australian courts and other courts in Australia. These data showed clearance indicators for all criminal and civil matters derived from all lodgements and finalisations of cases. The submission from the Chief Judge of the District Court sought parity with the Judges of the General Division of the Supreme Court. The Chief Justice believed that the existing relativities correctly reflected the hierarchy of the courts.

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 2008 flow on to judges in this State. Accordingly the Tribunal recommends an increase in the remuneration of judges of 4.3 per cent effective from 1 January 2009.

### ***Remuneration of Other Office Holders***

The Tribunal met with the Chief Magistrate and a senior member of the Magistrates' Society. The Tribunal also noted in its 2006 and 2007 reports 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 Tribunal, having considered the arguments put before it, decided to make no changes to the existing arrangements.

### ***Motor Vehicles for Judges, Masters and Magistrates***

The Tribunal is currently reviewing motor vehicle entitlements of various office holders within its jurisdiction. This review is being conducted with reference to the Government's *Fleet Policy and Guidelines* that became effective on 21 August 2008 and introduced a Fuel Efficiency Policy with specified CO<sub>2</sub> emission targets. The Tribunal proposes to consult with affected parties in the process of reviewing motor vehicle entitlements.

In the meantime, the Tribunal has recommended some minor adjustments to the motor vehicle entitlement. The Tribunal has deleted reference to the Ford LTD which is no longer manufactured and reconsidered its position on turbo charged engines.

In respect of the turbo charged engines, the original intent of the Tribunal's prohibition on their selection seems to have been intended to preclude high performance sports cars. While turbo charging continues to be used on high performance sports cars, it has also become common on smaller diesel powered motor vehicles that would not be regarded as sports cars. Taking this into account, the Tribunal has recommended that turbo charged engines up to a capacity of 3.0 litres be allowable with the limitation on engine capacity intended to preclude sports models.

### ***Travelling and Accommodation Allowance***

The Tribunal has reviewed the travelling and accommodation allowance and it has been adjusted in this report. In reviewing the allowance, the Tribunal has continued to apply the principle that the allowance is intended neither to provide financial gain nor loss on the part of members of the judiciary in carrying out their duties.

The new rates for interstate, Perth and "other areas" travel and accommodation, reflect the Australian Taxation Office's (ATO) 2008/09 reasonable benefit limit for

employees with an annual salary above \$160,100. The relevant ATO rates for travel and accommodation were applied by the Tribunal in 2007 and it is noted that these rates have also been adopted by the Commonwealth Remuneration Tribunal in respect of the Commonwealth judiciary. In considering the rate to apply to non-metropolitan locations north of the 26<sup>th</sup> parallel, in 2007 the Tribunal determined rates of \$440 per night. However, there has been a growing gap between accommodation rates in various locations north of the 26<sup>th</sup> parallel. Furthermore, it has been found that the current Western Australian Public Service rates for locations such as Karratha are higher than the ATO reasonable benefit limit (i.e. \$500.80 per night compared with \$385.00 per night). Accordingly, the Tribunal has recommended that Western Australian Public Service Rates apply to locations north of the 26<sup>th</sup> parallel and now considers it appropriate to adopt the Public Service Rates (as adjusted from time to time) as the standard.

The Tribunal has continued to make provision for additional costs to be paid, “If the reasonably and properly incurred travelling and accommodation expenses exceed the abovementioned specified rates”.

The meals and incidentals rate has been increased from \$140 to \$141 in accordance with the relevant ATO 2008/09 rates.

The value at which a motor vehicle should be assessed for the purpose of remunerating a part time Magistrate has been increased from \$22,000 per annum to \$23,000 per annum in recognition of increased leasing costs of vehicles currently on the Government’s Common Use Contract Item 1008.

### ***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 4.3 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 2009.

## **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 28<sup>th</sup> day of November 2008.

Professor M C Wood  
CHAIRMAN

W S Coleman AM  
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	384,995
President of the Court of Appeal	368,356
Senior Puisne Judge	351,717
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Puisne Judge	341,306
Senior Master of the Supreme Court	316,287
Master of the Supreme Court	307,175
Chief Judge District Court	341,306
Senior Judge District Court	316,287
Judge District Court	307,175
Chief Stipendiary Magistrate	307,175
Deputy Chief Stipendiary Magistrate	269,258
Principal Registrar/Magistrate, Magistrates' Court	269,258
Principal Registrar/Stipendiary Magistrate Family Court	269,258
Stipendiary Magistrates	253,420
Registrars/Stipendiary Magistrates Family Court	253,420
Parliamentary Inspector, Corruption and Crime Commission	136,522

## 2. Travelling and Accommodation Allowance

Effective from 1 January 2009, 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.

<b>Locations</b>	<b>Judges, Masters and Magistrates</b>
WA North of the 26th parallel	As per the rates in the Public Service Award 1992 – Schedule – Locality North of 26 degrees South Latitude.
Perth	\$416
Sydney	\$406
Melbourne	\$406
Brisbane	\$372
Canberra	\$357
Adelaide	\$350
Darwin	\$336
Hobart	\$336
Other Areas	\$327

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 \$141 per overnight stay shall be payable (comprised of: Dinner \$57.30, Lunch \$36, Breakfast \$25, Incidentals \$22.70).

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 or V8 engines are not included. Turbo charged engines with a capacity greater than 3.0 litres are not included. The availability of 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 \$23,000 per annum.

Dated at Perth this 28<sup>th</sup> day of November 2008.

Professor M C Wood  
CHAIRMAN

W S Coleman AM  
MEMBER

SALARIES AND ALLOWANCES TRIBUNAL