

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 that the Tribunal must recommend the nature and extent of any changes to remuneration, if considered necessary.
3. Since February 2018, section 10E of the Act prevented the Tribunal from making a report which recommended higher remuneration for judicial officeholders. The restrictions contained in section 10E of the Act expired on 30 June 2021.
4. A Report issued by the Tribunal effective from 01 July 2021 applied a \$1,000 increase in keeping with other officers in the Tribunal's jurisdiction and economic conditions at the time. This provided a point of reference for remuneration provided to members of the judiciary at the expiry of these legislative restrictions.
5. From 01 July 2021, the Tribunal's decisions in relation to judicial officeholders remain subject to section 10G, which prevents the Tribunal from making a report that:
 - has the effect of providing for the payment or provisions of remuneration on the basis that the remuneration was not paid or provided before 01 July 2021 by reason of the operation of section 10E; or
 - takes into account any increase in the cost of living that occurred between commencement day and 01 July 2021.

CURRENT INQUIRY

6. In discharging its statutory requirements with respect to the remuneration of the judiciary, the Tribunal's approach has been to:
 - Write to key office holders providing the opportunity for them to make submissions to the Tribunal;
 - Write to key stakeholders providing the opportunity for them to make submissions to the Tribunal; and
 - Consider all relevant information including legislative requirements, rationale for historical relativities as well as the financial position and financial strategy of the State Government.
7. The Tribunal received submissions from:
 - Chief Justice of Western Australia;
 - Chief Judge, District Court;
 - Chief Magistrate, Magistrates Court;
 - President, Magistrates' Society of Western Australia;
 - A/ Principal Registrar, Supreme Court;
 - Principal Registrar, District Court;
 - Attorney General;
 - Solicitor General – via Attorney General's Office; and
 - Government Sector Labour Relations (GSLR), Department of Mines, Industry Regulation and Safety

SUBMISSIONS AND CONSULTATIONS

8. The main issues raised in the submissions and consultations received by the Tribunal included:
 - All office holders called for an increase in remuneration and highlighted the lack of any increase (except \$1,000 in July 2021) since 2016 and growing pressures of increased work volume. These submissions also highlighted the significant change in relativities in comparison to other jurisdictions.
 - Most submissions from stakeholders noted an increase in the volume of work being undertaken by officeholders. Increases in workload were caused by changes in judicial responsibilities for various courts in addition to a general increase in matters heard by the courts.
 - Various submissions identified ongoing issues in attracting and retaining judicial appointments in the current market, in particular as a result of the "wage freeze". These submissions highlighted the importance of attracting high quality applicants

to court positions and the difficulty the Western Australian Courts face when competing for applicants with other jurisdictions.

- Some submissions called for a review of relativities between levels of the judiciary, however others also submitted that relativities should remain as they are.
- The submission from GSLR highlighted the economic conditions in the State and also provided further information on the State Wages Policy.
- Submissions requested the Tribunal review the value of the Motor Vehicle Allowance provided to members of the judiciary. It was presented to the Tribunal that the current value has not been increased alongside the cost of leases and is no longer in keeping with the provisions of clause 3.4 of the June 2021 Report.
- State Fleet (Department of Finance) was consulted regarding issues raised around the Motor Vehicle Allowance and the leasing of Electric Vehicles. The Tribunal was provided with relevant information and data to assist reviewing the Motor Vehicle Allowance assigned to members and potential conditions on leasing Electric Vehicles.
- It was highlighted to the Tribunal that along with issues in attracting officers to the judiciary, the current wage settings are contributing to issues with retaining existing judicial officers. The judicial pension allows judges to retire after 10 years of service and at 60 years of age, before the compulsory retirement age of 70. The current salary, coupled with workloads experienced by some judges, has been identified as an issue for incumbents continuing on in the position. The Chief Justice identified up to twelve Supreme Court judges (or Puisne judges) who are eligible to retire on the full pension in 2022. Should these judges choose to retire, the State will have to pay the ongoing pension (60% of salary) plus the salary of the judges appointed to replace those who retire. It was presented to the Tribunal that an increase in salary to assist in retaining judges would ultimately have a cost saving element.

ADDITIONAL CONSIDERATIONS

Economic Considerations

9. Table 1 sets out some key economic indicators for the Western Australian and National economy. The GSLR submission indicates that the Western Australian labour market has performed strongly, with employment growth trending upwards and spare capacity in the market being absorbed. This has resulted in the State's lowest unemployment rate since December 2008¹.

¹ Western Australia. Department of Premier and Cabinet. (20 January 2022). [WA's successful economy continues to drive down unemployment](#)

10. Table 1: WA State and National Selected Economic Indicators 2021

Indicator	Quarterly % Increase	Annual Average % Increase
Perth - Consumer Price Index – December 2021 Qtr ²	1.4%	5.7%
National - Consumer Price Index – December 2021 Qtr	1.3%	3.5%
WA - Wage Price Index – December 2021 Qtr ³	0.7%	2.3%
National - Wage Price Index – December 2021 Qtr	0.7%	2.3%
WA Total Unemployment Rate – Jan 2022 ⁴	- 0.3%	3.7%
National Total Unemployment Rate – Jan 2022 Qtr	0%	4.2%

11. In December 2021, the State Government announced a review of the State Wages Policy to provide for up to a 2.5% - 2.75% increase in salary for public sector employees. The Public Sector Wages Policy Statement 2022 issued by GSLR, has been effective from 11 February 2022. While the State Wages Policy does not have a direct impact on the deliberations of the Tribunal in determining the judicial report, it is considered as part of the Tribunal's decision making.
12. The current economic performance of the State⁵ provides the Tribunal with an opportunity to explore applying an increase to judicial salaries, while taking into account the volatile nature of the national and State economies at this time.
13. The Mid-year Financial Projections Statement⁶ released by the State Government highlights that the domestic economy has grown by 4.4% in financial year 2020-21 and is projected to increase a further 5% in 2021-22, following additional investment in the State and a projected budget surplus of \$2.4 billion.

² Australia. Australian Bureau of Statistics. (25 January 2022). [Consumer Price Index, Australia](#)

³ Western Australian Treasury Corporation. (17 November 2021). [Economic Analysis Wage Price Index Q2 2021.pdf](#)

⁴ Australia. Australian Bureau of Statistics. (17 February 2022). [Labour Force, Australia](#)

⁵ Government of Western Australia. (16 December 2021). [WA public sector workers to benefit from new wages policy](#)

⁶ Government of Western Australia (16 December 2021). [Government Mid-year Projections Statement 2021-22](#)

Relativities to other jurisdictions

14. Within remuneration bodies across Australia, it is widely viewed that remuneration provided to a judge of the Federal Court is the benchmark for setting the remuneration of Puisne judges. Internal relativities within each jurisdiction's judicial levels are applied from there.
15. The current Western Australian Puisne Judge salary is 94% of that of a Federal Court Judge. This does not take into account non-salary terms of employment which are in place for a Judge of the Federal Court, including:
 - Long-Service Leave accruing at five year intervals compared to seven year intervals in Western Australia.
 - Western Australian judges are prevented from practising law after retiring from a judicial posting. Judges of the Federal Court are not prohibited in this way and many return to practising law after retirement.
16. Previous determinations by the Tribunal have set the WA Puisne Judge salary at 105% of a Federal Court Judge to compensate for these non-salary components of remuneration and in recognition of the challenges presented to members of the Western Australian judiciary.
17. The Western Australian judiciary is considered to be amongst the most challenging jurisdictions in the country, due to a number of factors. Of particular note, the geographical size and remoteness of some communities within the jurisdiction require members of the judiciary to travel vast distances to hear cases. In addition, the scale and complexity of cases presented before the Courts are significant given the substantial work being undertaken in relation to mining, construction and native title within the State.
18. Of the remuneration tribunals in other Australian jurisdictions only NSW has recently implemented an increase in the remuneration of the judiciary with a 2.5% increase.

REMUNERATION SETTING AND TRIBUNAL RECOMMENDATIONS

Judicial Salaries

19. After taking due consideration of the present economic outlook, the State Wages Policy and submissions received, together with the remuneration of Federal Court judges, the Tribunal recommends an increase of 2.75% to all judicial salaries within the Report with an effective date of 01 January 2022.
20. The Tribunal is concerned about the growing attraction and retention issues within the judiciary as raised by a number of submissions including that of the Chief Justice. This

increase reflects the essential nature of the judiciary in maintaining the rule of law, the proper administration of justice, the impact on the economy and social order of the State.

21. The Tribunal has considered requests by some levels of the Western Australian judiciary to modify the relativities currently in place. The basis for these requests is centred around expanding work volumes; however the Tribunal considers this issue is not unique to the judiciary and should be addressed with resourcing outside of salary. Accordingly the Tribunal considers the current relativities should remain in place.

Motor Vehicle Allowance

22. The Tribunal considered the request from judicial officers to increase the amount of the Motor Vehicle Allowance in the June 2021 Report. The Tribunal took into consideration the flexibility of lease terms, the number and range of cars available, the variable nature of lease costs and that Judicial Officers currently receive the highest Motor Vehicle Allowance of all groups in the Tribunal's jurisdiction.
23. The Tribunal identified that the Motor Vehicle Allowance value has been and will be maintained for a number of years to allow officeholders the ability to enter into longer term leases. Office holders can therefore maximise their value through longer leases without having any concerns the Tribunal may change the allowance.
24. Given the considerations above, the Tribunal has determined to maintain the current level of Motor Vehicle Allowance for all offices in this report.

Electric Vehicles

25. The Tribunal considered verbal and written submissions regarding leasing electric vehicles and the differences between leasing an electric vehicle compared to an internal combustion vehicle. The Tribunal consulted with State Fleet, GSLR and other jurisdictions regarding issues surrounding leasing and maintaining electric vehicles and the rapidly evolving rollout of cars and infrastructure to support electric vehicles. The Tribunal resolved to add a clause to the report outlining that any electric vehicle lease will need to abide by the rules and requirements set by State Fleet. The Tribunal will continue to monitor issues related to electric vehicles and may choose to update this section in future reports.

TABLING OF REPORT

26. The Act requires this report to be tabled in each House of Parliament within five sitting days of the Minister 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: REMUNERATION

- 1.1 Remuneration shall be payable at the following rates to Judges, Masters and Magistrates with effect from 01 January 2022.
- 1.2 The annual salary specified in this Part is inclusive of leave loading.

POSITION	ANNUAL SALARY
Chief Justice	\$523,605
President of the Court of Appeal	\$490,130
Senior Puisne Judge	\$468,038
Senior Judge of the Court of Appeal	\$468,038
Puisne Judge	\$454,214
Senior Master of the Supreme Court	\$420,993
Master of the Supreme Court	\$408,895
Chief Judge District Court	\$454,214
Senior Judge District Court	\$420,993
Judge District Court	\$408,895
Chief Magistrate	\$408,895
Deputy Chief Magistrate	\$358,548
Principal Registrar/Magistrate Supreme Court *	\$358,548
Principal Registrar/Magistrate Family Court *	\$358,548
Magistrates	\$337,517
Registrars/Magistrates Family Court*	\$337,517
Parliamentary Inspector, Corruption and Crime Commission	\$272,528

* The relevant office holders 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 office holders 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 office holders;
- 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;
- f. be commensurate with the status of judicial offices; and
- g. 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 office holder 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 office holders 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 \$27,300 per annum.
- 3.12 Judges, Masters and the Chief Magistrate are entitled to the provision of a vehicle to the notional value of \$26,900 per annum.
- 3.13 Magistrates are entitled to the provision of a vehicle to the notional value of \$25,400 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 office holder'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, office holders 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, office holders 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 11 March 2022.

M Seares AO
CHAIR

B A Sargeant PSM
MEMBER

Hon. J Day
MEMBER

SALARIES AND ALLOWANCES TRIBUNAL