

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 the Tribunal must recommend the nature and extent of any changes to remuneration, if considered necessary.
3. From 28 February 2018 to 1 July 2021, the operation of section 10E of the Act prevented the Tribunal from making a report which recommended higher remuneration for judicial officeholders. While the restrictions contained in section 10E of the Act expired on 30 June 2021, the Tribunal's decisions remain subject to section 10G, which prevents the Tribunal from making a report that takes into consideration section 10E's operation by providing remuneration on the basis that it:
 - was not provided due to the operation of section 10E; or
 - accounted for any increase in the cost of living that occurred when section 10E was in effect.
4. Noting the requirements of section 10G, the Tribunal issued a Report effective from 01 July 2021 that applied a \$1,000 increase to remuneration. A subsequent Report provided a 2.75% increase, effective 01 January 2022.

CURRENT INQUIRY

5. In discharging its statutory requirements with respect to the remuneration of the judiciary, the Tribunal has:

- Invited submissions from key stakeholders and officeholders;
- considered all relevant information including legislative requirements, rationale for historical relativities, as well as the financial position and financial strategy of the State Government; and
- examined salary relativities in work levels between registrars and judicial offices and considered requests for adjustment.

6. The Tribunal received submissions from the:

- Chief Justice of Western Australia;
- Chief Judge, District Court;
- Chief Magistrate, Magistrates Court;
- President, Magistrates' Society of Western Australia;
- Principal Registrar, Supreme Court; and
- Principal Registrar, District Court;

SUBMISSIONS AND CONSULTATIONS

7. The following is a summary of issues raised in submissions and consultations -

- All submissions supported increased remuneration and highlighted the absence of increases from 2016 to 2021, which has reduced salary in real terms and relative to judicial salaries in other jurisdictions.
- Most submissions noted an increase in the volume of work undertaken by officeholders, which resulted from changes in judicial responsibilities and a general increase in numbers of matters before the courts.
- Some submissions identified challenges in attracting and retaining judicial officers in the current environment. These submissions highlighted the importance of attracting high quality applicants and the difficulty of competing for applicants with other jurisdictions.
- Some submissions called for a review of relativities between levels of the judiciary, but this was offset by others that considered relativities should be maintained.
- Submissions noted WA salary levels had not increased at the same rate as other jurisdictions, which did not follow the accepted nexus with other jurisdictions, account for non-salary components of remuneration or the distinctive challenges in this jurisdiction, such as its geographical size and remoteness of some communities, and the high volume of work in complex areas such as mining, construction and native title.
- Submissions requested the Tribunal review the value of the Motor Vehicle Allowance provided to judicial officeholders because the current value was out of step with increasing lease costs.

- State Fleet (Department of Finance) was consulted regarding issues raised around the Motor Vehicle Allowance. The Tribunal was provided with information and data to assist reviewing the Motor Vehicle Allowance.
- In addition to challenges of attracting suitably qualified candidates for judicial office, it was noted that current wage settings are impacting on retaining existing judicial officers. Judicial officeholders qualify for the maximum benefit of the judicial pension provided they are at least 60 years old and have held office for at least 10 years. The current salary, coupled with workloads experienced by some judges, has been identified as a factor in officeholders considering whether to continue in their role.

ADDITIONAL CONSIDERATIONS

Economic Considerations

8. Table 1 sets out key economic indicators for the Western Australian and National economies.

Table 1: WA State and National Selected Economic Indicators 2022

Indicator	Quarterly % Increase	Annual Average % Increase
Perth - Consumer Price Index – December 2022 Qtr ¹	3.6%	8.3%
National - Consumer Price Index – December 2022 Qtr	1.9%	7.8%
WA - Wage Price Index – September 2022 Qtr ²	1.4%	3.3%
National - Wage Price Index – September 2022 Qtr	1.4%	3.2%
WA Total Unemployment Rate – December 2022 Qtr ³	0%	3.6%
National Total Unemployment Rate – December 2022 Qtr	0%	3.5%

9. In September 2022, the State Government released a revision of the State Wages Policy to provide for up to \$3,120 or 3% per year increase in salary for public sector employees. While the Policy does not directly guide the Tribunal’s deliberations, it is considered as part of the Tribunal’s decision making.
10. The Tribunal has reviewed the Government Mid-year Financial Projections Statement published by the State Government in December 2022⁴.

¹ Australia. Australian Bureau of Statistics. (25 January 2023). [Consumer Price Index, Australia](#)

² Western Australian Treasury Corporation. (16 November 2022). [Economic Analysis Wage Price Index](#)

³ Australia. Australian Bureau of Statistics. (20 October 2022). [Labour Force, Australia](#)

⁴ Government of Western Australia (15 December 2022). [Mid-year Financial Projections Statement](#)

Relativities to other jurisdictions

11. Within remuneration bodies across Australia, it is broadly accepted that the remuneration provided to a judge of the Federal Court is the benchmark for setting the remuneration of Puisne judges of the State Supreme Courts. Internal relativities within each jurisdiction's judicial levels are set from that starting point.
12. The current Western Australian Puisne Judge salary is 94.5% of that of a Federal Court Judge. Further, there are notable non-salary terms of employment for a Judge of the Federal Court, including:
 - Long-Service Leave accruing at five-year intervals compared to seven-year intervals for Western Australian judicial officeholders.
 - The conditions of qualification for the judges' pension prevent Western Australian judges from practising law after retiring from a judicial posting, while Federal Court Judges retain the option to practice after retirement.
13. There has been limited movement in the remuneration of other jurisdictions in the past year, with Victoria notably resolving to apply a 0% increase to most Judicial Offices. The NSW Remuneration Tribunal applied a 2.5%⁵ increase and the Federal Remuneration Tribunal applied a 2.75% increase⁶, both effective July 2022. Other jurisdictions apply legislative or policy tools to automatically apply changes based on movements to the Federal Remuneration Tribunal decisions.

REMUNERATION SETTING AND TRIBUNAL RECOMMENDATIONS

Judicial Salaries

14. After due consideration of the economic outlook, the State Wages Policy, submissions, and relativities with offices in other jurisdictions, the Tribunal recommends a remuneration increase of 3.75% for offices within the Report, with an effective date of 01 March 2023.
15. The Tribunal acknowledges concerns raised in submissions regarding the attraction and retention issues within the Judiciary. The remuneration increase recommended in this Report makes progress in mitigating these issues while mindful of expectations set in the State Wages Policy and the State's economic outlook.
16. 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 an increase in work value. The Tribunal has carefully reviewed the responsibilities of

⁵ NSW Remuneration Tribunal (21 July 2022) [Annual Determination July 2022](#)

⁶ Federal Remuneration Tribunal (13 June 2022) [Judicial and Related Offices Determination 2022](#)

various levels of the judiciary and concluded any changes are accommodated within the existing relativities.

Motor Vehicle Allowance

17. The Tribunal considered requests to increase the amount of the Motor Vehicle Allowance. The Tribunal has reviewed current settings and undertaken extensive research as part of the review process.
18. The Tribunal considers vehicles available for lease by Ministers and the Premier as appropriate comparators for judicial offices.
19. The Tribunal notes increased costs associated with motor vehicles in recent years, but also recognises the Allowance provided to judicial officeholders is generally higher than other offices in the Tribunal's jurisdiction and judicial offices in other Australian jurisdictions.
20. Given these considerations, the Tribunal has recommended increasing the motor vehicle allowance effective from 01 March 2023, as follows –
 - Chief Justice - \$28,000 pa (from \$27,300)
 - Judges, Masters and the Chief Magistrate - \$27,500 pa (from \$26,900)
 - Magistrates – \$26,900 pa (from \$25,400)

TABLING OF REPORT

21. 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: SALARY

- 1.1 Salary shall be payable at the following rates to Judges, Masters and Magistrates with effect from 01 March 2023.
- 1.2 The annual salary specified in this Part is inclusive of leave loading.

POSITION	ANNUAL SALARY
Chief Justice	\$543,240
President of the Court of Appeal	\$508,510
Senior Puisne Judge	\$485,589
Senior Judge of the Court of Appeal	\$485,589
Puisne Judge	\$471,247
Senior Master of the Supreme Court	\$436,780
Master of the Supreme Court	\$424,229
Chief Judge District Court	\$471,247
Senior Judge District Court	\$436,780
Judge District Court	\$424,229
Chief Magistrate	\$424,229
Deputy Chief Magistrate	\$371,994
Principal Registrar/Magistrate Supreme Court *	\$371,994
Principal Registrar/Magistrate Family Court *	\$371,994
Magistrates	\$350,174
Registrars/Magistrates Family Court*	\$350,174
Parliamentary Inspector, Corruption and Crime Commission	\$282,748

* The relevant officeholders 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 officeholders 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 officeholders;
- 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; and
- f. 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 officeholder 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 officeholders 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 \$28,000 per annum.
- 3.12 Judges, Masters and the Chief Magistrate are entitled to the provision of a vehicle to the notional value of \$27,500 per annum.
- 3.13 Magistrates are entitled to the provision of a vehicle to the notional value of \$26,900 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 officeholder'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, officeholders 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, officeholders 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 14 February 2023.

M Seares AO
CHAIR

B A Sargeant PSM
MEMBER

Hon. J Day
MEMBER

SALARIES AND ALLOWANCES TRIBUNAL