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SALARIES AND ALLOWANCES ACT 1975

**DETERMINATION OF THE
SALARIES AND ALLOWANCES
TRIBUNAL**

SALARIES AND ALLOWANCES ACT 1975**SALARIES AND ALLOWANCES TRIBUNAL**

Determination Variation

Senior Legal Officers

PREAMBLE

The Salaries and Allowances Tribunal is required to determine the remuneration payable to certain senior legal officer positions under Sections 6(1) of the *Salaries and Allowances Act 1975* (the Act) by virtue of those positions having been included in the Special Division of the Public Service. In this determination, the Tribunal has continued to follow its practice of determining the remuneration of those positions in the context of its enquiries into the remuneration of other related legal and judicial positions.

The Tribunal has today issued a report under Section 7 of the the Act to the Minister recommending an adjustment effective from 1 January 2009 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.

A determination has also been issued today under Section 6(1) of the Act for the remuneration of full-time Senior and Ordinary non-judicial Members of the State Administrative Tribunal.

CURRENT ENQUIRY

In discharging its statutory requirements with respect to the remuneration of senior legal officer positions, the Tribunal's approach has been to—

- Advertise for public submissions;
- Write to key office holders; and
- Consider relevant labour market and economic data.

Submissions

Submissions were received from the Parliamentary Counsel and the Principal Registrar. In addition, relevant correspondence was received from the State Solicitor prior to commencing the current enquiry.

The Parliamentary Counsel stated his view that current linkages of remuneration of senior legal officers in his Office with remuneration of judicial officers should be maintained and flow-on received accordingly.

The Principal Registrar of the Supreme Court similarly submitted that Registrars should continue to receive the same percentage increase in salary as any awarded to the Judges and Masters of the Supreme Court. The Chief Justice wrote supporting the Principal Registrar in this view. The Principal Registrar also restated the case put in October 2004 for an increase in the remuneration of a Registrar of the Supreme Court from 76 per cent of a Master's salary to 80 per cent of a Master's salary.

Correspondence from the State Solicitor drew to the attention of the Tribunal, the additional responsibilities which accrue to the office of Deputy State Solicitor by virtue of the holder of that office having been appointed a Senior Counsel. The Tribunal agreed to consider the remuneration of the position in the context of its determination on senior legal officer positions linked to the judiciary.

CONSIDERATIONS

His Honour, 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 in this determination to provide for any future office holders who are not appointed a Magistrate.

In exercising its statutory responsibilities, the Tribunal applies broad principles upon which levels of remuneration are determined for all categories of offices and positions coming within the scope of the *Salaries and Allowances Act 1975*. These principles, particularised to the relevant senior legal officers, have been applied by the Tribunal to make judgements with respect to the remuneration in this determination. These principles are the value of the senior legal officers to the state, measures of their "work value" and their levels of remuneration within the context of recent public sector salary adjustments and wage rates applying generally in the community.

DETERMINATION VARIATION

This determination provides for the increase of 4.3 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.

In respect of the position of a Deputy State Solicitor who holds the appointment of a Queen's Counsel or Senior Counsel, the Tribunal accepted the submission that such an office holder carried additional responsibilities. The Tribunal also noted that a distinction had already been made in regard to other offices under its jurisdiction where the office holder was appointed a Queen's Counsel or Senior Counsel. It was decided that the position of Deputy State Solicitor who holds the appointment of a

Queen's Counsel or Senior Counsel should be remunerated at a rate approximating the mid point between the salary of a State Counsel and a Deputy State Solicitor.

The determination of the Salaries and Allowances Tribunal made on 4 April 2008 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	\$291,814
Note: Effective from 1 January 2009	Director Legal Services	\$276,457
	Consultant State Prosecutor	\$230,904
Department of the Attorney General	State Solicitor	\$307,175
Note: Effective from 1 January 2009	Parliamentary Counsel	\$307,175
	State Counsel—Queen's/Senior Counsel	\$291,814
	State Counsel	\$276,457
	Deputy State Solicitor—Queen's/Senior Counsel	\$268,779
	Deputy State Solicitor	\$261,097
	Deputy Parliamentary Counsel	\$261,097
	Senior Adviser, State Solicitor's Office	\$245,741
	Senior Parliamentary Counsel	\$245,741
	Senior Assistant Parliamentary Counsel	\$199,665
	Adviser	\$199,665

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 2009:

AGENCY	OFFICE	CLASSIFICATION
Supreme Court	Principal Registrar *	\$263,862
	Registrar	\$233,667
District Court	Principal Registrar	\$245,741
	Registrar	\$230,904
	Deputy Registrar	\$207,621

*Note: The remuneration of any Principal Registrar of the Supreme Court who is appointed a Magistrate is set out in the Tribunal's report on judicial salaries pursuant to Section 7 of the *Salaries and Allowances Act 1975*.

Dated at Perth this 28th day of November 2008.

Professor M. C. Wood
CHAIRMAN

W. S. Coleman AM
MEMBER

SALARIES AND ALLOWANCES TRIBUNAL

SALARIES AND ALLOWANCES ACT 1975**DETERMINATION ON THE REMUNERATION OF FULL-TIME SENIOR AND ORDINARY MEMBERS OF THE STATE ADMINISTRATIVE TRIBUNAL**

Section 6(1)(e) of the *Salaries and Allowances Act 1975* (“the Act”) requires the Salaries and Allowances Tribunal (“the Tribunal”), at intervals of not more than twelve months, to enquire into and determine the remuneration to be paid to a person holding any office prescribed for this section.

BACKGROUND

The remuneration of full-time Senior and Ordinary non-judicial Members of the State Administrative Tribunal (“Members”) came under the jurisdiction of the Salaries and Allowances Tribunal through the Salaries and Allowances Amendment Regulations 2007 which were gazetted on 16 January 2007. This regulation amendment prescribed these offices for the purposes of Section 6(1)(e) of the Act.

CURRENT ENQUIRY

In discharging its statutory requirements with respect to the remuneration of Members, 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, Members 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 Members over the past year and other remuneration issues for Members.

Public Submissions

Public submissions were sought by advertisement in *The West Australian* on Wednesday, 3 September 2008 and on the Tribunal’s website with a closing date of Friday, 26 September 2008.

Invitation to Office Holders

The Tribunal wrote to the Hon Justice Michael Barker, President of the State Administrative Tribunal, inviting submissions to its enquiry.

Labour Market and Economic Data

Relevant labour market and economic data were sought from a variety of sources. For example, the Tribunal sought current data on the Wage Price Index, Average Weekly Earnings, the Consumer Price Index and Total Employment Growth. Economic forecasts at a national and state level were also considered.

CONSIDERATIONS

In exercising its statutory responsibilities, the Tribunal applies broad principles upon which levels of remuneration are determined for all categories of offices and positions coming within the scope of the *Salaries and Allowances Act 1975*. These principles, particularised to Members of the State Administrative Tribunal, have been applied by the Tribunal to make judgements with respect to the remuneration in this determination. These principles are—

- the value of Members to the state and our democratic system of government;
- measures of the “work value” of Members; and
- the level of remuneration of Members within the context of the environment of wage and salary rates applying generally in the community.

Submissions

A submission was received from the Hon Justice Barker on behalf of non-judicial Members. The submission sought an adjustment to the remuneration of Members “in line with any increase that may be granted to other judicial officers in Western Australia”. The submission stated that this would maintain relativities with other judicial officers and recognise the increased workload of Members “by natural increase and the additional of two further enabling acts in the past 12 months”.

DETERMINATION

The Tribunal has adjusted the remuneration of Members in line with the framework of rates payable to judicial and legal offices in Western Australia. The adjustment has taken into account levels of remuneration in other relevant jurisdictions and maintains existing relativities.

Motor Vehicle Entitlements

As was the case in previous determinations, the Tribunal has provided for Members to have an entitlement to a motor vehicle for private use under the conditions set out in the Schedule below.

This entitlement is consistent with that applying to the Special Division of the Public Service and other offices prescribed for the purposes of Section 6(1)(e) of the Act. The Tribunal is currently reviewing motor vehicle entitlements of various office holders under 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 CO₂ emission targets.

The Tribunal proposes to consult with Members in the process of reviewing motor vehicle entitlements.

In the meantime, the Tribunal has determined that the Ford Falcon G6E will be the new benchmark vehicle to replace the Ford Fairmont Ghia which is no longer manufactured.

The Tribunal determined that the amount payable to a Member who foregoes the entitlement of a Government supplied vehicle will increase from \$22,000 per annum to \$23,000 per annum to reflect increased motor vehicle leasing costs.

To clarify the intention of the Tribunal in respect of exercising the option for a Member to take cash in lieu of a Government supplied motor vehicle, a statement has been included in Part 2 of the Schedule of the determination to the effect that this option can only be used as a means of changing motor vehicles at the expiration of a normal lease.

The details of costing Fringe Benefits Tax on motor vehicle entitlements have also been updated in accordance with the applicable Australian Taxation Office rates.

The Tribunal determines that the remuneration paid or provided to Senior and Ordinary Members of the State Administrative Tribunal will be as set out in the attached Schedule effective from 1 January 2009.

SCHEDULE

1. Remuneration

POSITION	REMUNERATION
Senior full-time member	\$253,420
Ordinary full-time member	\$190,065

2. Motor Vehicles

In addition to the remuneration determined for the officers and persons holding offices listed in Part 1 of this Schedule, the office holders have an entitlement to a motor vehicle for private use provided through State Fleet in accordance with the criteria below.

Benchmark Vehicle

Where a Benchmark Vehicle is sought through State Fleet, the entitlement is to a Ford Falcon G6E or a Holden Calais.

Non-Benchmark Vehicle

Where a vehicle and accessories other than a Benchmark Vehicle is sought through State Fleet, the difference in cost to Government—

- where greater, is to be paid fortnightly by the individual; or
- where lesser, is to be paid fortnightly as part of the individual's remuneration.

The method of determining whether an additional contribution must be made by the individual or the surplus paid as part of remuneration shall be based on the actual cost to Government of the vehicle sought (using the formula detailed below), compared against the more expensive of the Benchmark Vehicles mentioned above. The cost at the time of entering into the lease is applicable.

Where an individual wishes to obtain a motor vehicle that varies from the Benchmark Vehicle, the motor vehicle costs must include the lease cost, Fringe Benefits Tax 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—

$L + R + aD + \text{FBT}$, where

L	=	Lease payments
R	=	Registration costs
a	=	Running cost per kilometre
D	=	nominated annual kilometres*
FBT	=	Fringe Benefits Tax

*Note: To the extent that in line with State Fleet policy agencies may in practice already have adopted this approach (i.e. departed from the originally specified 20,000 km per annum calculation base) this is endorsed.

FBT is costed at applicable Australian Taxation Office rates as adjusted from time to time. Currently, FBT is costed at purchase price (inc GST) x Statutory fraction x Gross up (2.0647) x FBT rate (0.465).

Fringe Benefits Tax 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.

Should an officer choose other than a Benchmark Vehicle, it may have implications on their superable remuneration. Further information can be obtained from the Government Employees' Superannuation Board's Members' Services Centre.

Non-chief executive officers who wish to vary from the Benchmark Vehicle must also obtain the approval of their chief executive officer for the make and model of vehicle required.

The cost of vehicle accessories over and above those available to Senior Executive Service members as set out in the "WA Government Fleet Policy and Guidelines" should be borne by the individual.

In most instances the Fleet Manager will provide a total costing for each vehicle.

Cash Value

Where a person elects not to be provided with a motor vehicle through State Fleet he/she is entitled to the cash value being paid fortnightly as additional remuneration. This option can only be accessed as a means of returning motor vehicles to the administering department at the expiration of a normal lease.

The cash value has been determined at \$23,000 per annum.

General

The provision of vehicles remains an administrative responsibility of the Department to manage in a cost effective manner.

An individual accessing a vehicle under this Part shall take due care of the condition and security of the vehicle. This includes responsibility for ensuring the vehicle is regularly serviced and maintained at government expense according to the manufacturer's recommended specifications, and making arrangements for off-street parking at home, whenever practicable, with appropriate security precautions taken at all times. Any theft or damage, however slight, should be reported to the Fleet Manager with a view to repairs being effected at the earliest opportunity.

While the vehicle may be used anywhere in Western Australia at no cost to the individual, if the vehicle is driven interstate, the individual is liable for the cost of fuel and oil while interstate. Furthermore, if used outside of Western Australia, the custodian must be in the vehicle at all times that it is being used.

Should the officer choose not to use the vehicle, supplied through State Fleet, for business, but allows and authorises the vehicle to be used for private use during business hours by another family member or person, he/she is not entitled to access another government vehicle for his/her private use.

Signed at Perth this 28th day of November 2008.

Professor M. C. Wood
CHAIRMAN

W. S. Coleman AM
MEMBER

SALARIES AND ALLOWANCES TRIBUNAL
