



ACT
Government

AUSTRALIAN CAPITAL TERRITORY REMUNERATION TRIBUNAL

Statement and Determination 12 of 2011

Chief Magistrate, Magistrates and Special Magistrates

Background

Section 10 of the *Remuneration Tribunal Act 1995* requires the Remuneration Tribunal (the Tribunal) to inquire into and determine remuneration, allowances and other entitlements to be paid to the Chief Magistrate and Magistrates.

The Tribunal last reviewed remuneration and allowances for the Chief Magistrate, Magistrates and Special Magistrates in October 2010, and issued Statement and Determination 10 dated 1 December 2010.

The latest inquiry was notified in the press on 6 August 2011.

Written submissions were received and considered by the Tribunal at its meetings on 6 and 13 September 2011.

Tribunal Consideration

The Tribunal considered submissions, prevailing economic factors and comparative data on remuneration. The Tribunal noted the current remuneration prescribed for the judiciary in other jurisdictions and also the material in the presentation by Acting Chief Magistrate Peter Dingwall and Magistrate Maria Doogan at its meeting on 6 September 2011. The material presented by the magistrates proposed that over time there had been workload and work value increases as a result of changes to the operations of the courts and that this should be reflected in the remuneration determined for magistrates.

The Tribunal also noted the uncertain economic climate facing the ACT and the impact that the economic uncertainty may have on the budgetary position of the Government. This was evident from a range of published material and reinforced in the Chief Minister's submission. The Tribunal was particularly concerned about possible weakening of the budgetary position and the recent re-emergence of global financial problems. It noted that the ACT is not and should not be a leader amongst Australian jurisdictions in setting remuneration for public officials, including the judiciary, and that the Tribunal cannot operate in isolation and must take into account community expectations of appropriate salary setting and the long-term capacity of the Government to fund the remuneration of public officials.

The Tribunal considered all the material before it including the arguments by the magistrates about changes in work value and determined that remuneration for the Chief Magistrate and Magistrates and Special Magistrates should be increased by 3.5% with effect from 1 November 2011.

In reaching its conclusions the Tribunal noted, with this increase included, that since mid-2008 the remuneration of the Chief Magistrate will have increased cumulatively by approximately 20.4% and the remuneration of Magistrates by approximately 18.9%. This compares to a cumulative increase of approximately 11.7% for the executive group in the same period. The Tribunal noted that there is a similar differential outcome if comparisons between these groups are made over a longer period of time.

ACT Remuneration Tribunal
September 2011



ACT
Government

**AUSTRALIAN CAPITAL TERRITORY
REMUNERATION TRIBUNAL**

Determination 12 of 2011

Chief Magistrate, Magistrates and Special Magistrates

Under section 10 of the *Remuneration Tribunal Act 1995* the Remuneration Tribunal has inquired into the remuneration, allowances and other entitlements to be paid to the Chief Magistrate and Magistrates.

This Determination is effective on and from 1 November 2011.

Anne Cahill Lambert AM
Chair

.....

Greg Friedewald
Member

.....

September 2011



ACT
Government

AUSTRALIAN CAPITAL TERRITORY REMUNERATION TRIBUNAL

Determination 12 of 2011

Chief Magistrate, Magistrates and Special Magistrates

Under section 10 of the *Remuneration Tribunal Act 1995* the Remuneration Tribunal has inquired into the remuneration, allowances and other entitlements to be paid to the Chief Magistrate and Magistrates and determines as follows: -

1. Determination 10 of 2010, dated 1 December 2010 is revoked.

Remuneration

2. Remuneration of \$309,712 per annum shall be payable to the Chief Magistrate.
3. Remuneration of \$271,923 per annum shall be payable to a Magistrate.
4. Per diem remuneration shall be payable to a Special Magistrate where the Special Magistrate sits for 3 hours or more on any given day. The Chief Magistrate may have regard to reasonable travelling time incurred by the Special Magistrate when determining whether the Special Magistrate has been engaged for 3 hours or more on any given day. The remuneration is calculated in accordance with the following formula:

$$\frac{A}{230} = \textit{per diem salary}$$

where A is the annual remuneration of a Magistrate.

5. Where a Special Magistrate sits for less than 3 hours on a given day then the remuneration payable for that day shall be three-fifths of the per diem salary calculated in accordance with the formula in clause 4 above.

Travelling Allowance

5. (a) For travel on official business outside Canberra the Chief Magistrate or Magistrate shall be entitled to the reasonable amounts for daily travel allowance expenses, according to salary levels and destinations, specified in Taxation Determination 2011/17 – “Income tax: what are the reasonable travel and overtime meal allowance expense amounts for the 2011-12 income year” issued by the Australian Taxation Office and any determination that supersedes Taxation Determination 2011/17. (Current taxation determinations are can be viewed under the Law, rulings and policy directory at <http://ato.gov.au>).

(b) Where the cost of accommodation is met, the rate for accommodation in the Determination is not payable.

(c) Where the cost of accommodation and any meal is met, the rates for accommodation and that meal in the Determination are not payable.

(d) Where the cost of accommodation and all meals are met, only the rate for incidentals in the Determination is payable.

Salary Packaging

6. (a) Subject to the following conditions, a Chief Magistrate or Magistrate may elect to take remuneration as salary or take a combination of salary and other benefits best suited to his or her personal needs and preferences.

(b) The scheme is to be consistent with taxation laws and guidelines applicable to salary packaging schemes, issued by the Australian Taxation Office.

(c) The Department of Justice and Community Safety will administer the scheme which is to be based on the ACT Public Service Salary Packaging Policy and Procedures issued by the Commissioner for Public Administration, with up to 100% of the relevant remuneration to be taken as benefits and related costs such as fringe benefits tax.

(d) The scheme shall be operated and administered so that there will be no additional cost to the ACT Government. In particular, any fringe benefits tax associated with the provision of a benefit is to be included in the salary package.

(e) The salary for superannuation purposes is unaffected by participation in the salary packaging scheme.

Revocation of Previous Determination

7. Determinations 10 of 2010, dated 1 December 2010 and 8 of 2011, dated 17 June 2011 are revoked.

Date of Effect

8. This determination is effective on and from 1 November 2011.
