



## AUSTRALIAN CAPITAL TERRITORY REMUNERATION TRIBUNAL

### Statement Number 121

#### Chief Magistrate, Magistrates and Special Magistrates

#### **Background**

Paragraphs 10(1)(e) and (f) of the *Remuneration Tribunal Act 1995* require the Tribunal to inquire into, and determine, the remuneration and allowances to be paid, and other entitlements to be granted, to the Chief Magistrate and Magistrates.

The Tribunal last reviewed remuneration and allowances for the Chief Magistrate and Magistrates in November 2002, and issued Statement and Determination Number 111 dated 27 November 2002 following that review.

The Tribunal determined, based on submissions received and the Wage Cost Index of 3.1% for the 12 months to June 2002, to increase the remuneration of the Chief Magistrate, Magistrates and Special Magistrates by 3.1% with effect from 1 November 2002.

The Tribunal had undertaken to examine this matter again when the Commonwealth Remuneration Tribunal's comprehensive review of judicial remuneration within its jurisdiction was finalised.

#### **Commonwealth Remuneration Tribunal Determination**

The Commonwealth Remuneration Tribunal signed Determination 2002/21 on 25 November 2002 and this determination became operational on 16 May 2003. The Determination granted an increase of 7% with effect from 1 July 2002, and foreshadowed a second increase of 5% from 1 July 2003 and foreshadowed a third increase of 5% from 1 July 2004, the 2003 and 2004 increases to be in addition to any general increases for cost of living.

#### **Submissions**

The Chief Magistrate made written submissions on behalf of all Magistrates and a written submission was also received from the Department of Justice and Community Safety.

The Tribunal considered these submissions at its hearing on 20 May 2003 when the Chief Magistrate, Mr Ron Cahill and Magistrate Mr Shane Madden made an oral submission.

## **Tribunal Consideration**

The Tribunal considered the following matters that were raised in the submissions:

### Date of effect

The Tribunal decided that it would not change from its policy of determining a date of effect of 1 November each year for the judiciary. The Tribunal noted that a number of other jurisdictions have various dates of effect other than 1 July each year.

The Tribunal did not accept the submission that any increase in the current review should be backdated to 1 July 2002.

### Three year wages package

The Tribunal determined that it would continue its policy of reviewing salaries for the judiciary on the yearly basis required by the legislation and based on factors relevant at the time including CPI and relativity with pay increases in other jurisdictions.

### Increase in salary and parity with NSW

The Chief Magistrate submitted that the base salary of an ACT Magistrate be increased to that which applies in NSW and that the salary also be increased by 4.2% on top of the NSW rate. The Tribunal has previously rejected the nexus of salaries with other jurisdictions and relied on determining salaries in line with economic factors and other relevant issues. It decided that this position should be maintained.

### Additional allowances

Submissions were made for payment for the role of Magistrates in carrying out the function of a Coroner, additional role of acting and presiding as President of various tribunals, for sitting on Saturdays and Public Holidays and out of hours duty rosters and for the administrative workload of the Chief Magistrate in his role as Chief Coroner and President of most Tribunals. The Tribunal considered that there was no justification for payment of additional allowances as these factors had been previously considered in determining relevant salaries in the past.

### Relativity with other jurisdictions

The Tribunal maintained its policy of not applying relativity and nexus and fixed percentages with salaries in other jurisdictions or within jurisdictions. The Tribunal makes its determinations of salaries based on economic factors, relativities with other jurisdictions and other factors relevant at the time of review.

### Special Magistrates

The Tribunal considered the issue some Special Magistrates who take on a virtual full time workload but who do not have access to recreation, sick and long service leave. The Tribunal decided to maintain the existing arrangements at this time and suggested that more detailed evidence in support of this submission be provided for its next review in October 2003.

### Increase in salaries

The Tribunal considered whether any additional increase should be granted over and above the initial 3.1% determined with effect from 1 November 2002. The Tribunal was of the view that the Commonwealth Tribunals commitment to a schedule of substantial increases over and above movements in wage and salary costs has to be recognized, particularly having regard to issues of recruitment and retention and relativities with the federal judiciary.

The Tribunal determined an increase to the salaries of the Chief Magistrate, Magistrates and Special Magistrates of 3.9% (of the rate applying as at 31 October 2002) with effect from 1 November 2002. This, together with the 3.1% already determined, represents a total increase of 7%.

The further instalments of 5% foreshadowed by the Commonwealth Remuneration Tribunal will be considered by the Tribunal as part of its regular judicial remuneration review process conducted towards the end of each year.



**AUSTRALIAN CAPITAL TERRITORY  
REMUNERATION TRIBUNAL**

**Determination Number 121**

**Chief Magistrate, Magistrates and Special Magistrates**

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

Bill Lawrence MBE  
Chair

.....

May 2003

Roberta McRae OAM  
Member

.....

Alan Kerr AM  
Member

.....



## AUSTRALIAN CAPITAL TERRITORY REMUNERATION TRIBUNAL

### Determination Number 121

#### Chief Magistrate, Magistrates and Special Magistrates

Pursuant to paragraph 10(1)(e) and (f) of the *Remuneration Tribunal Act 1995* the Remuneration Tribunal has inquired into the remuneration and allowances to be paid to the Chief Magistrate and Magistrates and determines as follows:

-

1. Determination Number 111 dated 27 November 2002 is revoked.
2. Remuneration at the rate of \$197,950 per annum shall be payable to the Chief Magistrate.
3. Remuneration at the rate of \$173,340 per annum shall be payable to a Magistrate.
4. Remuneration at the rate of \$610 per diem shall be payable to a Special Magistrate.
5. Travelling Allowance (within Australia)
  - (a) For travel on official business outside Canberra but within Australia the Chief Magistrate or Magistrate shall be entitled to \$345 per overnight stay in a capital city or \$175 per overnight stay in other than a capital city.
  - (b) An allowance of \$55 shall be payable where travel involves an absence from home of at least 10 hours, but does not involve an overnight stay.
  - (c) Where the absence specified in sub-paragraph (a) exceeds a multiple of 24 hours by at least 10 hours, an extra \$55 shall be payable in addition to the appropriate overnight stay payments.
  - (d) Where the Government meets the travel cost for the Chief Magistrate's or Magistrate's spouse to accompany the Chief Magistrate or Magistrate, the additional cost of double room over single room accommodation shall be added to the appropriate overnight stay payment. Such additional cost shall be assessed at \$10 unless vouched.
  - (e) Where the cost of accommodation is met, travelling allowance at the rate of \$85 only shall be payable per overnight stay.

(f) Where the costs of accommodation and a meal per day are met, travelling allowance at the rate of \$70 only shall be payable per overnight stay.

(g) Where the costs of accommodation and all meals are met, travelling allowance at the rate of \$55 only shall be payable per overnight stay.

6. This determination shall take effect from 1 November 2002.

- - - - -