



Australian Capital Territory Remuneration Tribunal

ACT Supreme Court Judicial Positions

Determination 10 of 2012

Made under the Remuneration Tribunal Act 1995

Accompanying Statement

Background

Under section 10 of the *Remuneration Tribunal Act 1995*, the Tribunal must inquire into and determine the remuneration, allowances and other entitlements to be paid to the holders of Judicial positions mentioned in Schedule 1 of the Act, on this occasion being the Chief Justice of the ACT Supreme Court, the President of the Court of Appeal, the Master of the Supreme Court and acting judges. For the Chief Justice and President, these entitlements are in addition to their entitlements as a resident judge under the *Supreme Court Act 1933*.

Remuneration for the Chief Justice is currently that of a Federal Court judge plus an allowance. The Tribunal set the allowance at 10% last year.

Remuneration for the President of the Court of Appeal is currently that of a Federal Court judge plus an allowance. The Tribunal set the allowance at 9.5% last year.

Remuneration for the Master of the Supreme Court has previously been set at \$309,712 per annum while acting judges are entitled to a daily proportion of the remuneration paid to a Supreme Court Judge.

The Tribunal last reviewed entitlements for these positions in September 2011. The latest inquiry was advertised early in August 2012 with a meeting of the Tribunal held on 26 September 2012. This determination sets out the Tribunal's decisions following that inquiry.

In line with recent changes to other administrative aspects of the Tribunal's work, the Tribunal intends to use a simplified format and terminology in its Determinations. Previously, decisions relating to ACT Supreme Court judicial positions were contained in four separate determinations. These have now been consolidated into one determination covering all positions related to the judicial officers of the ACT Supreme Court. While the presentation and wording are different, the remuneration, allowances and other entitlements provided have changed only as set out below.

Consideration

In conducting its inquiry, the Tribunal considered written submissions from the Chief Justice, Acting Chief Justice and Master of the Supreme Court of the ACT. The Tribunal is grateful to the office holders for their contributions to the review. The Tribunal also sought comments from the Director-General of the Justice and Community Safety Directorate (JACS) about the working arrangements between JACS and the Supreme Court.

The Tribunal notes that some jurisdictions maintain remuneration for Supreme Court Judges (or a Federal Court Judge) at approximately 85% of the remuneration paid to a Justice of the High Court, with other judicial positions such as the President, Master, Associate Judge or Magistrates cascading from this point. The nexus, as it is known, establishes an informal remuneration framework reflecting the relative workloads of judicial officers in the Australian judicial hierarchy.

For the allowances applying to the Chief Justice and President, because remuneration has typically been set at a percentage of what is determined at the Federal level, relativities are automatically retained when the percentage model is followed. The Tribunal decided to retain existing proportions of 10 per cent and 9.5 per cent for the Chief Justice and President respectively.

For the Master, however, on this occasion the Tribunal considered there to be a good case for moving closer to a position of relativity between the remuneration paid to the Master and that of Masters or Associate Judges in other jurisdictions. Accordingly, the Tribunal decided to increase the remuneration for the Master by 7%.

No change has been made to the method for determining the remuneration of acting judges.

In making its decision, the Tribunal was mindful that when compared to jurisdictional counterparts the remuneration levels for the judiciary within the ACT have slipped and decided that a degree of restoration of the comparative remuneration levels was appropriate. In 2013, the Tribunal will consider whether further adjustments, to achieve an even closer alignment with jurisdictional counterparts, are appropriate.



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1. Commencement

This instrument commences on 1 November 2012.

2. Remuneration

The benchmark is \$402,880 (being the remuneration payable to a Federal Court Judge and ACT Supreme Court Judge on 1 November 2012).

2.1 Chief Justice of the Supreme Court

The Chief Justice of the Supreme Court is entitled to an allowance of \$40,288 per annum in addition to the benchmark.

2.2 President of the Court of Appeal

The President of the Court of Appeal is entitled to an allowance of \$38,274 per annum in addition to the benchmark.

2.3 Master of the ACT Supreme Court

The Master of the Supreme Court is entitled to remuneration of \$331,392 per annum.

2.4 Acting Judge

An acting Judge is entitled to be paid remuneration calculated at the rate of 1/230 of the annual remuneration paid to a judge of the ACT Supreme Court per day.

In any 12 month period, total remuneration paid to an acting judge must not exceed that paid to a judge of the ACT Supreme Court.

3. Salary packaging for the Master

- 3.1 The Master may elect to take their remuneration mentioned as:
- a) salary; or
 - b) a combination of salary and other benefits (a **salary package**).
- 3.2 Salary packaging must be consistent with:
- a) taxation laws and guidelines issued by the Australian Taxation Office; and
 - b) the [ACT Public Service Salary Packaging Policy and Procedures](#) issued by the Commissioner for Public Administration, with up to 100% of the remuneration able to be taken as benefits and related costs such as fringe benefits tax.
- 3.3 Salary packaging must be administered without additional cost to the employer and any fringe benefits tax associated with the provision of a benefit must be included in the salary package.
- 3.4 Salary for superannuation purposes is not affected by salary packaging.

4. Travelling Allowance for the Master —within Australia

- 4.1 If the Master undertakes official travel within Australia, the employer will pay a travelling allowance of:
- a) If the cost of accommodation is not met—\$345 for each overnight stay in a capital city or \$290 for each overnight stay in a non-capital city; or
 - b) If the cost of accommodation is met—\$85 for each overnight stay; or
 - c) If the cost of accommodation and one meal is met—\$70 for each overnight stay; or
 - d) If the cost of accommodation and all meals is met—\$55 for each overnight stay; or
 - e) \$55 for travel that involves an absence from home of at least 10 hours, but does not involve an overnight stay;
 - f) \$55 for travel that involved an overnight stay if the total absence from home is at least 10 hours longer than a multiple of 24 hours
- 4.2 If the employer meets the travel cost for the Master's spouse to accompany the Master, the additional accommodation cost of a double room over a single room will be paid by the employer. The additional cost will be \$10.

5. Travelling Allowance for the Master —outside Australia

- 5.1 If the Master undertakes official travel outside Australia, the employer will pay a travelling allowance equivalent to what would be paid to a person who is an executive employed under the *Public Sector Management Act 1994*.

6. Definitions

6.1 In this Determination:

employer means the Australian Capital Territory and includes any person authorised to act on behalf of the Australian Capital Territory.

fringe benefits tax means the tax assessed under the *Fringe Benefits Tax Assessment Act 1986*.

7. Revocation of previous determinations

Determinations 10, 11 and 13 of 2011 and 7 of 2010 are revoked.

Authorised by:

Anne Cahill Lambert AM, Chair

Colin Adrian, Member

James Smythe, Member

November 2012