 Australian Capital Territory Remuneration Tribunal

# ACT Supreme Court Judicial Positions

# Determination 8 of 2015

made under the

***Remuneration Tribunal Act 1995***

# ACCOMPANYING STATEMENT

## Background

Under section 10 of the *Remuneration Tribunal Act 1995* (the Act), the Remuneration Tribunal (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, including the Chief Justice of the ACT Supreme Court, the President of the Court of Appeal, the Associate Judge (formerly 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*.

**Previous Determination: Determination 8 of 2014** (commenced 1 November 2014)

Remuneration for the Chief Justice is that of a Federal Court judge plus an allowance, which the Tribunal set at 10 per cent of that remuneration.

Remuneration for the President of the Court of Appeal is that of a Federal Court judge plus an allowance set by the Tribunal at 9.5 per cent of that remuneration.

Remuneration for the Master of the Supreme Court was set at $350,668 per annum. The same rate was provided for the Retired Master until 31 October 2014 or until all the Retired Master of the Supreme Court judgements are delivered, whichever occurs first.

Acting Judges are entitled to a daily proportion of the remuneration paid to a Supreme Court Judge.

**Considerations for the 2015 review**

The Tribunal’s 2015 review of remuneration and entitlements for ACT Supreme Court Judicial positions was advertised in August 2015. All relevant stakeholders, including occupants of each position under review, received advice about the Tribunal’s review.

Meetings of the Tribunal were held during September 2015 and this determination sets out the Tribunal’s decisions following that review.

In conducting its review, the Tribunal considered a written submission from the Chief Justice of the ACT Supreme Court and an oral submission from the Acting Chief Justice which addressed matters relating to the positions of the Chief Justice, the Associate Judge and confirmation that the Retired Master had finalised his work in the ACT Supreme Court.

The Tribunal was mindful of the economic and financial considerations facing the ACT and as outlined by the Chief Minister in his government submission. ACT Treasury provided a comprehensive briefing to the Tribunal on the prevailing economic circumstances for 2015 and forecasts for the coming years. In addition, the Tribunal received advice from officials representing the Justice and Community Safety Directorate.

The Tribunal noted the remuneration increases to occur in the 2015-16 financial year for the majority of ACT Public Servants under the *ACT Public Service Administrative and Related Classifications Enterprise Agreement 2013-2017*.

Finally, the Tribunal noted that:

* Determination 2014/18 of the Australian Government Remuneration Tribunal for Judicial and Related Offices provided no increase in remuneration for those positions;
* Determination 2015/10 of the Australian Government Remuneration Tribunal for Judicial and Related Offices was made on 31 March 2015 and deferred a review of those positions for later in 2015; and
* On 21 September 2015, the Australian Government Remuneration Tribunal decided to commence its review on Judicial and Related Offices.

**Decision**

The Tribunal determined to defer a determination of remuneration and allowances in relation to ACT Supreme Court Judicial positions (with the exception of the President of the Court of Appeal) pending the outcome of the Australian Government Remuneration Tribunal’s review of Judicial and Related Offices.

The Tribunal decided not to determine remuneration for the President of the Court of Appeals as the position has been abolished.

ACT Remuneration Tribunal

October 2015

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## 1. Commencement

This instrument commences on 25 September 2015.

## 2. Remuneration

The benchmark is $412,550 (being the remuneration payable to a Federal Court Judge and ACT Supreme Court Judge on 1 November 2014).

## *2.1 Chief Justice of the Supreme Court*

The Chief Justice of the Supreme Court is entitled to an allowance of $41,255 per annum in addition to the benchmark.

## *2.2 Associate Judge of the ACT Supreme Court*

The Associate Judge of the Supreme Court is entitled to remuneration of $356,856 per annum.

## *2.3 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 Associate Judge

* 1. The Associate Judge may elect to take remuneration mentioned as:
     1. salary; or
     2. a combination of salary and other benefits (a ***salary package***).

3.2 Salary packaging must be consistent with:

* + 1. taxation laws and guidelines issued by the Australian Taxation Office; and
    2. any salary packaging policy and/or procedures issued for the ACT Public Service, 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.

* 1. Salary for superannuation purposes is not affected by salary packaging.

## 4. Travelling Allowance for the Associate Judge —within Australia

4.1 If the Associate Judge undertakes official travel within Australia, the employer will pay a travelling allowance of:

1. 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
2. If the cost of accommodation is met—$85 for each overnight stay; or
3. If the cost of accommodation and one meal is met—$70 for each overnight stay; or
4. If the cost of accommodation and all meals is met—$55 for each overnight stay; or
5. $55 for travel that involves an absence from home of at least 10 hours, but does not involve an overnight stay; or
6. $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 Associate Judge’s spouse to accompany the Associate Judge, the additional accommodation cost of a double room over a single room will paid by the employer.

## 5. Travelling Allowance for the Associate Judge —outside Australia

5.1 If the Associate Judge 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

Determination 8 of 2014 is revoked.

Anne Cahill Lambert AM

Chair .................................................................

Dr Colin Adrian

Member .................................................................

James Smythe PSM

Member .................................................................

October 2015