



Australian Capital Territory Remuneration Tribunal

## **ACT Magistrates Court Judicial Positions**

### **Determination 12 of 2023**

made under the

**Remuneration Tribunal Act 1995, section 10 (Inquiries about holders of certain positions)**

## **ACCOMPANYING STATEMENT**

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### **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 to the Act, including the Chief Magistrate, Magistrates and Special Magistrates.

### **Considerations**

In October 2023, the Tribunal commenced its Spring Sitting to consider the remuneration, allowances and other entitlements of the following office-holders:

- ACT Magistrates;
- ACT Supreme Court judges;
- ACT Civil and Administrative Tribunal members;
- the ACT Integrity Commission (Integrity Commissioner and Chief Executive Officer);
- the Principal Registrar, Courts and Tribunal;
- the Director of Public Prosecutions;
- part-time Holders of Public Office on Boards, Tribunals and Committees; and
- any other positions that have been referred to the Tribunal for consideration.

The Tribunal advertised its Spring Sitting on its website and in the Canberra Times on 1 September 2023. The Tribunal also wrote to the relevant office-holders inviting submissions.

At its meeting in October 2023, the Tribunal met with the Chief Minister, ACT Government Treasury officials and officials responsible for the Enterprise Agreement bargaining for ACT Public Sector non-executive employees. The Tribunal also met with a number of full-time public office-holders, part-time public office holders and departmental officials.

The briefings provided to the Tribunal by ACT Treasury officials outlined the resilient nature of the Territory's economy. ACT Treasury reported that the Territory continues to experience a tight labour market and wages growth, with wage growth particularly notable

in the private sector. ACT Treasury noted that employment growth was stronger than expected in the 2022-23 financial year.

On 2 June 2023 the Fair Work Commission announced a 5.75 per cent increase in all award rates, with an effective 8.6 per cent increase to the minimum wage.<sup>1</sup>

The Australian Bureau of Statistics released the Consumer Price Index for the September Quarter on 25 October 2023, which included an increase of 0.8 per cent for the ACT during the September quarter, with a 4.5 per cent increase over the year (September 2022 to September 2023).<sup>2</sup> The national trimmed mean inflation was 5.2 per cent over the year.<sup>3</sup>

While the Tribunal noted that cost of living increases have been high, the Tribunal also noted that the consumer price index (CPI) forecast has a descending trend and the increase to remuneration provided in this determination reflects this.

In its deliberations, the Tribunal continued to give considerable weight to community standards and expectations with particular reference to wage growth nationally and locally, and the Territory's tight job market. The Tribunal also continued to give consideration to the importance of the Territory providing competitive and equitable remuneration, allowances and other entitlements so that it can continue to attract and retain high calibre individuals to deliver quality services to the ACT community. In this context, the Tribunal noted the wage policies and remuneration determinations by its Commonwealth and State/Territory counterparts and the significant increase in wage growth in the ACT private sector. The Tribunal also continues to be cognisant of the future compounding effect of not providing increases in remuneration.

The Tribunal received correspondence from Chief Magistrate Walker requesting that an increase in remuneration be reflective of the consumer price index.

In making this Determination, the Tribunal took account of the ACT Government's current Enterprise Agreement bargaining context. The Tribunal also had regard to the 2023–24 ACT Budget, released in June 2023 by the Chief Minister in his role as Treasurer, which predicted growth in 2023–24 of 3.75 per cent in wage price index (WPI) and 3.25 per cent in CPI.<sup>4</sup>

The Tribunal considered the national and the local contexts, in particular the anticipated movements in wages locally and nationally and the advice that the current economic circumstances in the Territory are robust. It therefore decided that an increase to remuneration of 3.5 per cent is a measured response given the current circumstances.

## **Decision**

The Tribunal determines to increase remuneration by 3.5 per cent for ACT Magistrates Court judicial positions, with effect from 1 November 2023.

The retrospective application of this Determination to 1 November 2023 does not affect the rights of a person (other than the ACT Government) in a manner prejudicial to that person, nor does it impose any liability on such person.

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<sup>1</sup> [Fair Work Commission Decision 2 June 2023](#)

<sup>2</sup> ACT Treasury, 25 October 2023, CPI – September Quarter 2023  
[https://www.treasury.act.gov.au/data/assets/pdf\\_file/0009/399978/CPI.pdf/\\_recache](https://www.treasury.act.gov.au/data/assets/pdf_file/0009/399978/CPI.pdf/_recache)

<sup>3</sup> Australian Bureau of Statistics Release 25 October 2023 <https://www.abs.gov.au/statistics/economy/price-indexes-and-inflation/consumer-price-index-australia/latest-release>

<sup>4</sup> [ACT Budget 2023-2024 Budget Outlook, Chapter 2 Economic Outlook](#), page 17.

22 November 2023



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#### 1. Commencement

This instrument is taken to have commenced on 1 November 2023.

#### 2. Remuneration

##### *Chief Magistrate*

2.1 The Chief Magistrate is entitled to remuneration of \$460,166 per annum.

##### *Magistrates*

2.2 A Magistrate is entitled to remuneration of \$404,008 per annum.

2.3 Additional salary of \$7,500 per annum is payable to the Chief Magistrate and Magistrates. This salary is to be paid on a pro rata basis for a magistrate working on a part-time basis.

##### *Special Magistrates*

2.3 If a Special Magistrate undertakes judicial duties for 3 hours or more on any given day, they are entitled to the daily remuneration calculated at the rate of 1/230 of the annual remuneration paid to a Magistrate. When determining whether the Special Magistrate has been engaged for 3 hours or more the Chief Magistrate may include reasonable travelling time.

2.4 If a Special Magistrate undertakes judicial duties for less than 3 hours, they are entitled to three fifths of the daily remuneration rate.

2.5 **Judicial duties** includes the following:

- court sitting time, as listed by the Chief Magistrate;
- preparation, decision writing and judicial education approved by the Chief Magistrate;
- reasonable travelling time other than for travel between the person's home and principal place of work.

### *Special Magistrate - Northern Territory*

- 2.6 No remuneration is payable to a Special Magistrate if they are a Magistrate under the Magistrates Act (NT) and they are already entitled to remuneration determined under the laws of the Northern Territory.

### *Part-time work*

- 2.7 For a magistrate working on a part-time basis in accordance with section 7C of the *Magistrates Act 1930*, the remuneration, allowances and entitlements for the Magistrate are to be paid on a pro rata basis in accordance with the proportion of full-time hours worked.
- 2.8 For the purposes of clause 2.4, 'remuneration, allowances and entitlements' does not include any pro-rata business support entitlements, official travel entitlements, training and development entitlements and relocation and security assistance entitlements prescribed under the *Magistrates Court (Conditions of Appointment) Decision 2019*, NI2019-262, or its replacement, made under section 7C of the Magistrates Court Act, or travel allowance under this Determination. The full-time rates of these entitlements are provided to part-time Magistrates.

## **3. Travel Allowance**

- 3.1 For travel on official business the Chief Magistrate or a Magistrate is entitled to the reasonable amounts for daily travel allowance expenses according to salary levels and destinations specified in Australian Taxation Office – [Taxation Determination 2023/3 Income tax: what are the reasonable travel and overtime meal allowance expense amounts for the 2023-24 income year?](#) or its replacement.
- 3.2 Where the cost of accommodation is met by the employer or another organisation, the rate for accommodation in the Australian Taxation Office Determination is not payable. Where the cost of accommodation and any meal is met by the employer or another organisation, the rates for accommodation and that meal in the Australian Taxation Office Determination are not payable.
- 3.3 Where the cost of accommodation and all meals are met by the employer or another organisation, only the rate for incidentals in the Australian Taxation Determination is payable.

## **4. Salary Packaging**

- 4.1 A person appointed to an office listed in clause 2 of this Determination may elect to take their remuneration mentioned as:
- a) salary; or
  - b) a combination of salary and other benefits (a **salary package**).
- 4.2 Salary packaging must be consistent with:
- c) taxation laws and guidelines issued by the Australian Taxation Office; and
  - d) 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.

4.3 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.

4.4 Salary for superannuation purposes is not affected by salary packaging.

## 5. Other entitlements

5.1 Other entitlements such as vehicle, parking, official travel and leave arrangements are outlined in the *Magistrates Court (Conditions of Appointment) Decision 2019*, NI2019-262, or its replacement.

## 6. Employer's superannuation contribution

6.1 A person, appointed to an office mentioned in clause 2 of this Determination, is only eligible for the employer's superannuation contribution in this determination if their superannuation entitlements are not provided for elsewhere.

6.2 Superannuation entitlements for a person appointed to an office listed in clause 2 of this Determination are consistent with clause D7 in the *ACT Public Sector Administrative and Related Classifications Enterprise Agreement 2023-2026* or its replacement.

6.3 The value of the employer's superannuation contribution must not be paid in cash to the person appointed to an office mentioned in clause 2 of this Determination.

## 7. Definitions

7.1 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*.

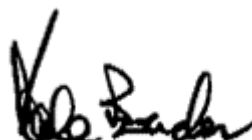
## 8. Revocation of previous determination

Determination 7 of 2022 is revoked.

Ms Sandra Lambert AM  
Chair



Mr Dale Boucher PSM  
Member



Mr Michael Manthorpe PSM FIPAA  
Member

A handwritten signature in blue ink, appearing to be 'M. Manthorpe', written on a light-colored background.

22 November 2023