



Australian Capital Territory Remuneration Tribunal

ACT Magistrates Court Judicial Positions

Determination 17 of 2017

made under the
Remuneration Tribunal Act 1995, section 10 (Inquiries about holders of certain positions)

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 Magistrate, Magistrates and Special Magistrates.

Considerations

The Tribunal's 2017 review of remuneration and entitlements for the ACT Magistrates Court was advertised in September 2017. The Chief Magistrate provided a submission to the review.

The Tribunal met on 25-26 October 2017 and this determination sets out the Tribunal's decision following the review. The Chief Magistrate and Magistrate Theakston appeared before the Tribunal at this hearing.

In considering remuneration and allowances for the ACT Magistrates Court, the Tribunal noted the Government Submission provided by the Chief Minister and discussions with the Justice and Community Safety Directorate. Treasury officials provided a comprehensive briefing to the Tribunal on the prevailing economic circumstances for 2017 and forecasts for the coming years.

Decision

The Tribunal decided that an increase of approximately 3% in remuneration will be granted to ACT Magistrates Court judicial positions. The Tribunal has also decided to maintain the same relativity between the Magistrates, Special Magistrates and the Chief Magistrate.

November 2017



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1. Commencement

This instrument commences on 1 November 2017.

2. Remuneration

2.1 Chief Magistrate

The Chief Magistrate is entitled to remuneration of \$403,653 per annum.

2.2 Magistrates

A Magistrate is entitled to remuneration of \$354,407 per annum.

2.3 Special Magistrates

- a) If a Special Magistrate sits for 3 hours or more on any given day, they are entitled to daily remuneration calculated at the rate of $\frac{1}{230}$ of the 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.
- b) Where a Special Magistrate sits for less than 3 hours, they are entitled to three fifths of the daily remuneration rate.

2.4 Special Magistrate - Northern Territory

- a) 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.

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 Determination 2017/19 ***'What are the reasonable travel and overtime meal allowance expense amounts for the 2017-18 income year?'*** or its replacement. (Current taxation determinations can be viewed under the Law, rulings and policy directory at <http://ato.gov.au>)
- 3.2 Where the cost of accommodation is met by the employer or another organisation, the rate for accommodation in the Australian Taxation 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 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 2009*, NI2009-644.

6. Employer's superannuation contribution

- 6.1 A person, appointed to an office 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 For a person, appointed to an office in clause 2 of this Determination, who is a member of the Commonwealth Superannuation Scheme (CSS) or Public Sector Superannuation (PSS) Scheme:
- (a) the person's annual rate of remuneration for the purposes of the scheme is the base remuneration as provided in clause 2 of this Determination;
 - (b) the value attributed to the employer's superannuation contribution is taken to be a notional 16% of the person's base remuneration.
- 6.3 For a person, appointed to an office in clause 2 of this Determination, who is not currently a member of the CSS or PSS but was a member of the PSS Accumulation Plan (PSSap) until it closed to the Territory on 30 June 2006, and has maintained continuous employment with the Territory:
- (a) the value of the employer's superannuation contribution is a notional 16% of the base remuneration as provided in clause 2 of this Determination; and
 - (b) the employer will contribute that amount to an agreed superannuation fund nominated by the person appointed to an office in clause 2 of this Determination.
- 6.4 For a person, appointed to an office in clause 2 of this Determination, who is a member of any other superannuation fund, the employer's superannuation contribution is to be made at a rate no less than the Employer Superannuation Guarantee Charge Percentage as provided by the *Superannuation Guarantee (Administration) Act 1992*.
- 6.5 For 2016-17 onwards, the Territory's enhanced minimum employer superannuation contribution is 10.5%.
- 6.6 In respect of a person appointed to an office in clause 2 of this Determination, who are not CSS or PSS members or appointed to or engaged by the Territory before 30 June 2006 and maintained continuous employment with the Territory:
- if the person contributes 3% or more of their base remuneration component to an agreed superannuation fund in the form of employee contributions, the Territory will contribute an additional 1% employer superannuation contribution above the amount indicated in clause 6.5.
- 6.7 The value of the employer's superannuation contribution must not be paid in cash to the person appointed to an office in clause 2 of this Determination.

7. Definitions

7.1 In this Determination:

agreed superannuation fund means a fund complying with the requirements of:

- the *Income Tax Assessment Act 1936* (Cth); and
- the *Superannuation Industry (Supervision) Act 1993* (Cth).

CSS means the Commonwealth Superannuation Scheme.

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*.

PSS means the Public Sector Superannuation Scheme.
PSSap means the PSS Accumulation Plan.

8. Revocation of previous determinations

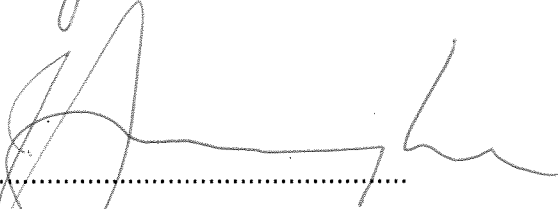
Determination 9 of 2016 is revoked.

Dr Colin Adrian
Chair



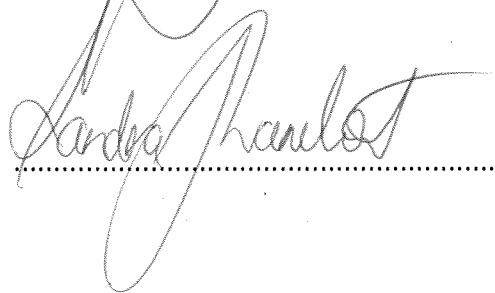
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Mr James Smythe PSM
Member



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Ms Sandra Lambert AM
Member



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November 2017