



Australian Capital Territory Remuneration Tribunal

ACT Magistrates Court Judicial Positions

Determination 11 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 Magistrate, Magistrates and Special Magistrates.

Remuneration for the Chief Magistrate is currently set at \$309,712 while remuneration for ACT Magistrates is currently set at \$271,923. Special Magistrates are entitled to rates equal to the remuneration paid to a Magistrate but calculated on a daily basis.

In line with recent changes to other administrative aspects of the Tribunal's work, the Tribunal has decided to use a simplified format and terminology in its Determinations. While the presentation and wording are different, the remuneration, allowances and other entitlements provided have changed only as set out below.

Considerations

In making its decision, the Tribunal considered the submission made by the Chief Magistrate. The Tribunal is grateful to the Chief Magistrate for contributing 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 Magistrates Court.

The Tribunal considered that appropriate evidence was presented to establish that there had been an increase in the jurisdiction of the Magistrates Court relative to the Supreme Court that had not previously been recognised. As a result of this and other work value matters the Tribunal decided that the remuneration paid to the Chief Magistrate and Magistrates should be increased by 7%.

In making its decision, the Tribunal was cognisant that on a work values basis, there was a good case for moving towards a closer relativity between the remuneration for the Chief Magistrate and Magistrates and their jurisdictional counterparts.

ACT Remuneration Tribunal
November 2012



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1. Commencement

This instrument commences on 1 November 2012.

2. Remuneration

2.1 Chief Magistrate

The Chief Magistrate is entitled to remuneration of \$331,392 per annum.

2.2 Magistrates

A Magistrate is entitled to remuneration of \$290,958 per annum.

2.3 Special Magistrates

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 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.

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

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. Other Entitlements

3.1 Travel Allowance

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 Taxation Determination 2012/17 – “Income tax: what are the reasonable travel and overtime meal allowance expense amounts for the 2012-13 income year” issued by the Australian Taxation Office and any determination that supersedes Taxation Determination 2012/17. (Current taxation determinations can be viewed under the Law, rulings and policy directory at <http://ato.gov.au>).

Where the cost of accommodation is met, the rate for accommodation in the Determination is not payable. Where the cost of accommodation and any meal is met, the rates for accommodation and that meal in the Determination are not payable. Where the cost of accommodation and all meals are met, only the rate for incidentals in the Determination is payable.

3.2 Salary Packaging

The Chief Magistrate or a Magistrate may elect to take their remuneration mentioned as:

- a) salary; or
- b) a combination of salary and other benefits (a **salary package**).

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.

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.

Salary for superannuation purposes is not affected by salary packaging.

4. Definitions

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*.

5. Revocation of previous determinations

Determination 12 of 2011 and Determination 156 are revoked.

Authorised by:

Anne Cahill Lambert AM, Chair

Colin Adrian, Member

James Smythe, Member

November 2012