



Australian Capital Territory Remuneration Tribunal

ACT Supreme Court Judicial Positions

Determination 8 of 2016

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 5 of 2016 (commenced 1 January 2016)

On 9 December 2015 the Australian Government Remuneration Tribunal issued Determination 2015/18 relating to Judicial and Related Offices. This Determination increases the basic remuneration for Supreme Court Judicial positions to \$420,810. The Tribunal also received correspondence from the Chief Justice of the ACT Supreme Court dated 15 December 2015 regarding these changes.

The Tribunal determined to maintain an allowance of 10% of the benchmark salary (federal court judge) for the Chief Justice, which commenced on 1 January 2016. It also adjusted the remuneration for other judicial positions.

Considerations for the 2016 review

The Tribunal's 2016 review of remuneration and entitlements for ACT Supreme Court judicial positions was advertised in August 2016. All relevant stakeholders, including occupants of each position under review, received advice about the Tribunal's review.

Meetings of the Tribunal were held during November 2016 and this determination sets out the Tribunal's decision following the review.

In considering remuneration and entitlements for judicial positions in the ACT Supreme Court, the Tribunal noted:

- the government submission provided by the Chief Minister;

- the submission provided by the Chief Justice of the ACT Supreme Court; and
- information provided by officials of the Justice and Community Safety Directorate.

The Tribunal was mindful of the economic and financial considerations facing the ACT as articulated in the Chief Minister's submission. ACT Treasury provided a comprehensive briefing to the Tribunal on the prevailing economic circumstances for 2016 and forecasts for the coming years.

The Tribunal was also mindful that the Australian Government Remuneration Tribunal expects to finalise its annual review into judicial positions by the end of 2016.

The tribunal noted that whilst the term 'resident judge' is used in the Chief Justice's submission; recent determinations issued by the Australian Government Remuneration Tribunal refer only to 'Judges'. The Tribunal clarified their intent to mirror the nomenclature used in recent Australian Government Remuneration Tribunal determinations.

Decision

The Tribunal determined there would be no change to remuneration for ACT Supreme Court judges at this time, pending information from the Australian Government Remuneration Tribunal on its annual review.

It also determined that the Associate Judge would be entitled to travelling allowance that is the same as that available to a Judge of the Federal Court of Australia, details of which are issued by the Australian Government Remuneration Tribunal Determination 2016/07.

ACT Remuneration Tribunal

December 2016



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1. Commencement

This instrument commences 1 November 2016.

2. Remuneration

The benchmark \$420,810 (being the remuneration payable to a Federal Court Judge and ACT Supreme Court Judge on 1 January 2016).

2.1 Chief Justice of the Supreme Court

The Chief Justice of the Supreme Court is entitled to an allowance of \$42,081 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 \$378,729 per annum.

The Associate Judge of the Supreme Court is entitled to the travelling allowance rate applicable to a resident Judge of the Federal Court of Australia as per relevant Australian Government Remuneration Tribunal Determinations issued from time to time.

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

3.1 The Associate Judge may elect to take 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:

- 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.

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 Associate Judge —within Australia

4.1 If the Associate Judge 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; or
- 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 Associate Judge's spouse to accompany the Associate Judge, the additional accommodation cost of a double room over a single room will be 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

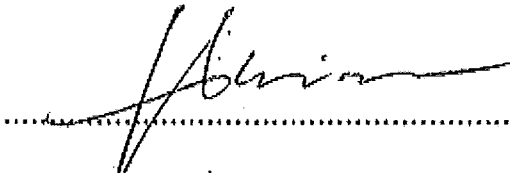
Determination 5 of 2016 is revoked.

Anne Cahill Lambert AM
Chair



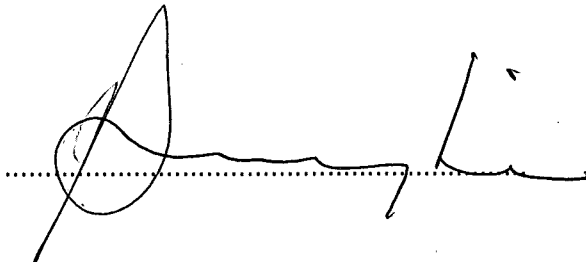
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Dr Colin Adrian
Member



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James Smythe PSM
Member



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/ December 2016