



No. 12 of 2023

REPORT OF THE REMUNERATION TRIBUNAL

2023 Review of Berri Country Magistrate Housing Allowance

INTRODUCTION

1. The Remuneration Tribunal (**Tribunal**) has conducted a review of Determination 1 of 2021 which sets a housing allowance for the Berri Country Magistrate.
2. As explained in this report, the Tribunal has decided to revoke Determination 1 of 2021.

THE REVIEW PROCESS

3. On 31 August 2023, in accordance with sections 10(2) and 10(4) of the *Remuneration Act 1990* (SA) (**Act**), the Tribunal wrote to and invited submissions by 15 September 2023 in respect of this review from:
 - a. the Honourable Premier of South Australia – as the Minister responsible for the Act who may make submissions or introduce evidence in the public interest
 - b. the Judicial Remuneration Coordinating Committee (**JRCC**)
 - c. the Magistrates Association of South Australia (**MASA**)
 - d. members of the judiciary and relevant office holders
4. The Tribunal also placed a notice on its website from 31 August 2023 seeking submissions from affected persons by 15 September 2023.
5. In addition, on 4 September 2023 the Tribunal wrote to the President of MASA to draw their attention to paragraphs 10-12 in Report 11 of 2022, which provided as follows:

“10. The Tribunal has been advised that Magistrate Deland has since retired, and the CAA has advised the current Berri Country Resident Magistrate is making use of the traditional arrangements for Resident Magistrates which involves the CAA providing accommodation at the country court locations. The Tribunal notes that Resident Magistrates at Mount Gambier and Port Augusta are also provided with CAA funded accommodation, and no determination of the Tribunal allows them to receive an allowance similar to that set by Determination 1 of 2021.

11. In these circumstances, the Tribunal is of the view that Determination 1 of 2021 should be revoked, bearing in mind that it would be open to a future Resident Magistrate to apply to the Tribunal to make a new determination on similar terms as Determination 1 of 2021.

12. The Tribunal however has decided to defer making a final decision on this topic under next year's review, in order to afford Magistrates the opportunity to comment on the necessity for the determination to continue."

6. The President of MASA noted the Tribunal's correspondence on the same day.
7. On 14 September 2023, the JRCC provided a written submission advising that no determination need be made and that the circumstances that justified the grant of an allowance previously no longer exist.
8. On 25 September 2023, after an extension was granted, the Premier's representative confirmed that the Premier did not intend to make a submission.

CONSIDERATION AND CONCLUSION

9. The Tribunal notes that Determination 1 of 2021 was made following application by the then Berri Country Resident Magistrate. It appears to the Tribunal that the circumstances and reasons for granting the allowance in Determination 1 of 2021 no longer exist and, as such, the current determination of the Tribunal is redundant.
10. The Tribunal has accordingly determined to revoke Determination 1 of 2021, noting that ad hoc applications may be made to the Tribunal at any time seeking an allowance and that the Tribunal will consider the grounds for such application if and when made.



Matthew O'Callaghan
PRESIDENT



Deborah Black
MEMBER



Peter de Cure AM
MEMBER

Dated: 5 December 2023