



No. 11 of 2016

DETERMINATION AND REPORT OF THE REMUNERATION TRIBUNAL
ACCOMMODATION AND MEAL ALLOWANCES – JUDICIAL OFFICERS,
COURT OFFICERS AND STATUTORY OFFICERS

SCOPE OF DETERMINATION

The Remuneration Tribunal (“the Tribunal”) is given jurisdiction under section 13 of the *Remuneration Act 1990* (“the Act”), to determine the remuneration payable to judicial officers and certain other court officers. The Tribunal is also given jurisdiction under section 14 of the Act to determine the remuneration payable to holders of certain statutory public offices. The Act defines remuneration as including; salary, allowances, expenses, fees and any other benefit of a pecuniary nature.

This Determination deals with the accommodation and meal allowances payable to judicial officers, certain other court officers, and those statutory officers whose position comes within the ambit of section 14.

Section 8 of the Act requires the Tribunal to sit at least once in each year for the purpose of determining or reviewing previous determinations made under the Act.

A. REPORT

Procedural History

On 20 July 2016 the Courts Administration Authority (“CAA”) wrote to the Tribunal requesting a review of the travelling and accommodation allowances applicable to the judiciary. The Tribunal subsequently wrote to the parties who are subject to this Determination, advising of an annual general review and also that the Tribunal would be considering overseas travelling and accommodation allowances. The closing date for submissions was set at 29 August 2016. After receipt of written submissions, the Tribunal convened in relation to this matter on 7 September 2016.

Submissions

The Judicial Remuneration Coordinating Committee (“JRCC”) submitted that:

- The Tribunal should consider increasing existing rates for travel and accommodation allowances in line with annual adjustments made to those allowances for the South Australian public sector.
- The Tribunal should consider a Determination for official overseas travel by judicial officers in accordance with the approach taken by the Commonwealth Remuneration Tribunal’s Determination affecting Commonwealth judicial officers.

The Crown Solicitor's Office ("CSO") on behalf of the Premier submitted that:

- The Premier supports the submissions of the JRCC; but also submits that in relation to proposal for overseas travelling allowances, additional provisions should be included in the public interest regarding 'general principles', 'no double payment' and 'meals paid for'.

The Courts Administration Authority ("CAA") submitted that:

- The Chief Justice of the Supreme Court will be travelling to Port Moresby, Papua New Guinea and Tanzania in the near future. The CAA submit that the Tribunal should determine that the Chief Justice be entitled to overseas travelling and accommodation allowances as prescribed by the Commonwealth Remuneration Tribunal.

Conclusions

In relation to the accommodation and meal allowances payable to Judges, Court Officers and Statutory Officers that are within the scope of this Determination, the level of the allowances have been varied to reflect the increased costs that have occurred since the Tribunal last adjusted those allowances in Determination 6 of 2015. The Tribunal is satisfied that it is appropriate to adjust the relevant allowances commensurately with the annual adjustment made to accommodation and meal allowances for the South Australian public sector, as per the Commissioner for Public Sector Employment's Determination 3.2, issued and effective from 22 December 2015.

The Tribunal considers that, where international travel is required, it is more appropriate for a Determination in relation to accommodation and meals to be made for the particular circumstances of the relevant travel, which may vary considerably, having regard to the destination and the availability and cost of accommodation and meals. The Tribunal recently made two such Determinations, in relation to travel to Singapore and Papua New Guinea by the Chief Justice. The CAA have advised the Tribunal that the Chief Justice will travel to Tanzania in the near future. The Tribunal will make a Determination in relation to this travel after providing the Chief Justice with an opportunity to make a submission relevant to the specific circumstances of this travel. Should no submission be received, the Tribunal's intention would be to make a Determination in similar terms to Determination 1 of 2016 and Determination 10 of 2016 for the purpose of travel to Singapore and Papua New Guinea.

The Tribunal has given consideration to whether a Determination should be made in relation to class of travel. The Tribunal is not persuaded that the frequency of travel by judicial officers of the state is sufficient to warrant the making of a uniform Determination for the purpose of regulating the class of travel in all circumstances. Moreover, to the knowledge of the Tribunal, the requirement for international travel is unusual. Accordingly, the Tribunal considers that the appropriate class of travel is a matter that may be dealt with conveniently by administrative decision of the appropriate delegate, having regard to all the relevant circumstances of such travel.

B. DETERMINATION

1. Interpretation

"Court Officer" means a Commissioner of the Environment, Resources and Development Court.

"Judge" means any of the following members of the judiciary:
the Chief Justice of the Supreme Court;
Puisne Judges of the Supreme Court;

Masters of the Supreme Court;
the Chief Judge of the District Court;
Judges of the Environment, Resources and Development Court;
Masters of the District Court;
Other District Court Judges;
the Chief Magistrate (as a Judge of the District Court);
the Deputy Chief Magistrate;
Magistrates;
the Supervising Industrial Magistrate;
other Industrial Magistrates;
the State Coroner;
the Deputy State Coroner;
the Senior Judge of the Industrial Relations Court and President of the South Australian Employment Tribunal;
the President of the Industrial Relations Commission and Judge of the Industrial Relations Court;
other Judges of the Industrial Relations Court who hold joint commissions in Fair Work Australia and the Industrial Relations Commission of South Australia.

“Statutory Officer” means any of the following statutory office holders:

Deputy Presidents of the Industrial Relations Commission;
Commissioners of the Industrial Relations Commission;
the Auditor General;
the Electoral Commissioner;
the Deputy Electoral Commissioner; and
the Health and Community Services Complaints Commissioner.

2. **Accommodation and Meal Allowances**

A person who actually incurs expenditure when travelling on official business and which necessitates absence from home overnight shall be paid an allowance as follows:

- 2.1 Within Metropolitan Adelaide as defined by the *Development Act 1993* – at the rate of two hundred and ninety nine dollars (\$299) for each day which involves an overnight absence, for meals and accommodation.
- 2.2 Outside Metropolitan Adelaide as defined by the *Development Act 1993* but within the State – at the rate of two hundred and eighty six dollars (\$286) for each day that involves an overnight absence, for meals and accommodation.
- 2.3 Interstate – at the rate of five hundred and thirty dollars (\$530) for Sydney and four hundred and sixty four dollars (\$464) for cities other than Sydney for each day which involves an overnight absence, for meals and accommodation.
- 2.4 When an additional period of less than 24 hours absence occurs without overnight accommodation consecutive with and immediately following a period of absence in paragraph 2.1, 2.2 or 2.3, then a further payment calculated at the rate of one half of the allowance shall be paid with respect to the excess hours.
- 2.5 Reimbursement is not to be made for lunch during single day absences within South Australia.
- 2.6 Employees who travel interstate and return on the same day may be reimbursed for lunch on the basis of actual expenditure up to twenty-three dollars and seventy cents (\$23.70).

3. **Date of Operation**

The allowances prescribed in Clause 2 of this Determination shall operate on and from 27 September 2016, and supersede those prescribed in previous Determinations covering persons whose office is listed herein.



John Lewin
PRESIDENT



Peter Alexander
MEMBER



Pamela Martin
MEMBER

Dated this 27th day of September 2016