



No. 13 of 2018

REPORT OF THE REMUNERATION TRIBUNAL
SALARY SACRIFICE ARRANGEMENTS FOR JUDGES, COURT OFFICERS AND
STATUTORY OFFICERS

INTRODUCTION

1. The Remuneration Tribunal ("the Tribunal") has jurisdiction under section 13 of the *Remuneration Act 1990* ("the Act"), to determine the remuneration payable to judicial officers. The Tribunal has additional jurisdiction, under section 14 of the Act, to determine the remuneration payable to holders of certain other specified statutory offices.
2. This report deals with the salary sacrifice arrangements applicable to Judges, Court Officers and Statutory Officers listed in paragraph 1 of the accompanying Determination.

BACKGROUND

3. On 1 March 2018, the Tribunal received an application from Mr Anthony Mackay of the Office of the Commissioner for Public Sector Employment ("OCPSE") for a review of the salary sacrifice arrangements applicable to the relevant officers.
4. The salary sacrifice provisions for Judges, Court Officers and Statutory Officers were last varied in 2007. On that occasion, the variations were to ensure alignment of the terms of the arrangements with those applicable to public sector employees.

PROCEDURAL HISTORY

5. Section 10(2) of the Act requires that before the Tribunal makes a Determination affecting the remuneration of a particular person, or persons, the Tribunal must allow that person, or persons, a reasonable opportunity to make submissions to the Tribunal.
6. The Tribunal, by letters, invited submissions from the Judicial Remuneration Coordinating Committee ("JRCC"), the Magistrates Association of South Australia ("MASA") and the Statutory Officers to which the accompanying Determination applies. The Tribunal also invited the Honourable Premier ("the Premier") to make submissions in the public interest.
7. Additionally, the Tribunal distributed an email notice of the review to judicial officers and placed a notice of the review on the Tribunal's public website.

SUBMISSIONS

8. The Tribunal received submissions from the OCPSE, the JRCC, the MASA and the Crown Solicitor's Office ("CSO"), on behalf of the Premier. A summary of those submissions is provided as follows:

Mr Anthony Mackay, Office of the Commissioner for Public Sector

- Minor misalignments have been noted regarding the provisions applicable to the relevant officers.
- A review of salary sacrifice arrangements in the public sector undertaken by a consulting firm, on behalf of SA Government, identified the relevant misalignments between the salary sacrifice scheme available to judicial officers and the scheme available to public sector employees.
- A Determination should be made which ensures salary sacrifice arrangements for Judicial Officers are aligned with those applicable to public sector employees.

The Hon Justice Stanley, Judicial Remuneration Coordinating Committee

- It is appropriate that the Tribunal review salary sacrifice arrangements for judicial officers.
- The JRCC agrees with the Premier's submission that the current Determination should be varied to conform to the current arrangements enshrined in the South Australian Government Salary Sacrifice Arrangements ("SAGSSA") Principal Agreement.
- The variation should operate prospectively from the date of any new Determination.
- There is no constitutional or statutory prohibition on the Tribunal making such a Determination in relation to salary sacrifice arrangements for judicial officers.

Magistrate David McLeod, Magistrates Association of South Australia

- MASA supports the submissions of the JRCC in relation to this matter.

Ms Lucy Hodge, the Crown Solicitor's Office, on behalf of the Hon Premier

- It is appropriate and in the public interest to support the Determination being consistent with the SAGSSA Agreement, based upon the presumption that the SAGSSA Agreement is compliant with relevant Federal taxation provisions.
- The current Determination contains references to various judicial and statutory officers which require amendment in line with previous submissions made following the dissolution of the Industrial Relations Commission of South Australia and the expansion of the South Australian Employment Tribunal.

CONSIDERATION

9. On the basis of the material before it, the Tribunal, has concluded that the salary sacrifice arrangements applicable to Judges, Court Officers and Statutory Officers within the scope of application of the accompanying Determination should be brought into alignment with those available to South Australian Public Sector employees, as provided in the South Australian Government Salary Sacrifice Arrangements ("SAGSSA") Principal Agreement.
10. The Tribunal has also considered the submission of the CSO, on behalf of the Hon. Premier in relation to necessary changes to the scope of application of the Tribunal's Determination, arising from the dissolution of the Industrial Relations Commission of South Australia and the expansion of the South Australian Employment Tribunal. The Tribunal has effected those changes in the accompanying Determination.



John Lewin
PRESIDENT



Peter Alexander
MEMBER



Pamela Martin
MEMBER

Dated this 17th day of December 2018