



No. 4 of 2022

## REPORT OF THE REMUNERATION TRIBUNAL

### Overseas Accommodation and Daily Allowance International Bar Association Annual Conference – Justice Livesey

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#### INTRODUCTION

1. On 19 September 2022, the Remuneration Tribunal (**Tribunal**) received an application and submission from the Honourable Justice Mark Livesey, President of the Court of Appeal of the Supreme Court of South Australia. Justice Livesey asked the Tribunal to make a Determination setting an overseas accommodation and daily allowance for his attendance at the International Bar Association Annual Conference being held in Miami from 30 October to 4 November 2022.
2. This specific Determination has been sought, as the Tribunal's existing Determination for the payment of accommodation and meal allowances does not cover international travel. In recent years, the Tribunal's practice has been to instead make specific Determinations for international travel, the last one being Determination 13 of 2019.

#### THE REVIEW PROCESS

3. Section 10(2) of the *Remuneration Act 1990* (**Act**) provides that prior to the making of a Determination, the Tribunal must allow an affected person, or persons of an affected class, a reasonable opportunity to make submissions orally or in writing to the Tribunal.
4. Section 10(4) of the Act provides that the Honourable Premier of South, as the Minister responsible for the Act may intervene, personally or by counsel or other representative, in proceedings before the Tribunal for the purpose of introducing evidence, or making submissions, on any question relevant to the public interest.
5. On 20 September 2022, the Tribunal wrote to the Premier and the Judicial Remuneration Coordinating Committee (**JRCC**), to invite submissions by 17 October 2022 on this application.
6. The Tribunal also advertised its intention to consider this application on its website from 20 September 2022. Submissions were also invited by 17 October 2022.
7. On 17 October 2022, the JRCC provided a submission stating that it supported the application.
8. The Premier's representative was provided an extension until 31 October 2022 to provide any submissions. On 25 October 2022, the Premier's representative confirmed that the Premier did not intend to provide any submissions in respect of this application.

9. As indicated, Justice Livesey provided a submission with his application. In summary, Justice Livesey explained that:
- the Chief Justice of the Supreme Court of South Australia has approved his attendance at the conference
  - the conference is for 6 days, but may be extended to 7 days
  - he is seeking a daily allowance for a period of 9 days, comprising the outward flight day (1 day claimed), the conference days (6 days claimed), and return flight days (2 days claimed)
  - consistent with the *Commonwealth Remuneration Tribunal (Official Travel) Determination 2019*, he seeks a daily allowance set by reference to the most recent Australian Taxation Office determination (TD 2022/10) concerning reasonable meals and incidentals, and reimbursement for accommodation which is of a standard reasonably equivalent to that provided to him in Australia for official duties
  - as his salary is above \$237,531, the relevant daily allowance for the United States of America is A\$355
  - he intends to book a room at one of the conference hotels at a cost of USD\$341 per night
10. The Tribunal has observed that the *Commonwealth Remuneration Tribunal (Official Travel) Determination 2019* has since been replaced by the *Commonwealth Remuneration Tribunal (Official Travel) Determination 2022*. That updated version refers to the current Australian Taxation Office determination (TD 2022/10) identified by Justice Livesey.

## **CONSIDERATION AND CONCLUSION**

11. The Tribunal has previously dealt with requests made for the determination of overseas travel entitlements according to the unique circumstances of each instance of travel, so that any Determination made by the Tribunal is limited in effect to each such circumstance. In the Tribunal's view, that approach continues to be appropriate, given that the necessity for judicial officers to travel internationally in the course of their official duties is infrequent.
12. The Tribunal considers that accommodation and daily allowance provisions are appropriately payable in circumstances whereby there is an official requirement for international travel by a Judge or Magistrate in the course of his or her duties as a judicial officer. The Tribunal is satisfied that Justice Livesey's attendance at the International Bar Association Annual Conference fits this description, noting the Chief Justice's approval of his attendance.
13. The Tribunal is also satisfied that the *Commonwealth Remuneration Tribunal (Official Travel) Determination 2022* sets a reasonable basis for determining an appropriate overseas daily allowance for meals and incidentals and entitlement to accommodation for this trip.
14. With respect to accommodation, the Tribunal notes that while it usually would have been appropriate for the State to have booked and paid direct for the accommodation, that was not possible given no Determination of the Tribunal had been made by the time accommodation needed to be booked. Therefore in the circumstances it is appropriate for Justice Livesey to be reimbursed for his conference accommodation, provided it was of a standard reasonably equivalent to that provided to him in Australia for official duties.
15. Accordingly, the accompanying Determination provides for a daily allowance and reimbursement of accommodation expenses as sought.

**OPERATIVE DATE**

16. The accompanying Determination will operate from 19 September 2022, being the date the application was received.



Matthew O'Callaghan  
**PRESIDENT**



Deborah Black  
**MEMBER**



Peter de Cure AM  
**MEMBER**

Dated this 28th day of October 2022