



No. 12 of 2022

REPORT OF THE REMUNERATION TRIBUNAL

Application for Overseas Accommodation and Daily Allowance – 2023 Supreme and Federal Court Judges' conference in Christchurch

INTRODUCTION

1. On 29 August 2022, the Remuneration Tribunal (**Tribunal**) received an application from the Judicial Remuneration Coordinating Committee (**JRCC**) asking the Tribunal to make a determination fixing a per diem accommodation and meal allowance for Supreme Court Judges attending the annual Supreme and Federal Court Judges' conference which will be held in January 2023 in Christchurch, New Zealand.
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.
3. As explained in this report, the Tribunal has decided to grant the application. The Tribunal has accordingly issued an accompanying determination, which applies from 29 August 2022 being the date the application was received.

THE REVIEW PROCESS

4. On 20 September 2022, in accordance with sections 10(2) and 10(4) of the *Remuneration Act 1990 (Act)*, the Tribunal wrote to and invited submissions by 17 October 2022 in respect of this application 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 JRCC
 - c. members of the judiciary
5. The Tribunal also placed a notice on its website from 20 September 2022 calling for submissions from affected persons by 17 October 2022.
6. The JRCC provided a written submission on 17 October 2022, on behalf of the Chief Justice, Judges and Masters of the Supreme Court.
7. On 31 October 2022, after an extension was granted, the Premier's representative confirmed that the Premier did not intend to make a submission.

8. No other submissions were received.
9. The Tribunal convened a hearing on this and related matters on 14 November 2022. This hearing was attended by the Honourable Justice Tim Stanley as chair of the JRCC, Magistrate Jay Pandya as President of the Magistrates Association of South Australia, and Ms Carly Cooper from the Crown Solicitor's Office as representative of the Premier.
10. Justice Stanley spoke to the written submissions received from the JRCC. Ms Cooper attended, and confirmed the Premier's instructions.
11. In summary, the JRCC submitted that it seeks:
 - a. for the Tribunal to fix overseas accommodation and daily allowances for Judges and Masters of the Supreme Court attending the Supreme and Federal Court Judges' Conference to be held in Christchurch, New Zealand, from 22 to 25 January 2023
 - b. a determination essentially on the same terms as Determination 13 of 2019, to the effect of entitling a Judge and Master to:
 - i. be provided with accommodation at the State's expense at a standard reasonably equivalent to that provided for the Judge and Master when accommodated outside of Adelaide
 - ii. be paid meal and incidentals in an amount set out in Taxation Determination TD 2022/10 in a daily amount of \$285 payable for a period of six days comprising the outward flight day of 21 January 2023, the conference days, and the return flight day of 26 January 2023.
12. 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 the JRCC.

CONSIDERATION AND CONCLUSION

13. 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.
14. 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 Master in the course of his or her duties as a judicial officer. The Tribunal is satisfied that attendance at the annual Supreme and Federal Court Judges' conference fits this description.
15. 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 entitlements to accommodation for this trip.
16. With respect to accommodation, the Tribunal notes that while it usually would have been appropriate for the State to have booked and paid directly for overseas accommodation, that has probably not occurred in this case as accommodation most likely needed to be booked in advance of the Tribunal deciding this application.

17. Accordingly, the accompanying determination provides for a daily allowance and either reimbursement or direct payment of accommodation expenses as sought.
18. The determination will apply from 29 August 2022 being the date the application was received.



Matthew O'Callaghan
PRESIDENT



Deborah Black
MEMBER



Peter de Cure AM
MEMBER

Dated: 14 December 2022