



No. 8 of 2022

REPORT OF THE REMUNERATION TRIBUNAL

2022 Review of Accommodation and Meal Allowances – Judges, Court Officers and Statutory Officers

INTRODUCTION

1. The Remuneration Tribunal (**Tribunal**) has conducted a review of Determination 15 of 2021¹ which sets accommodation and meal allowances payable to the members of the judiciary and office holders listed in section 13 of the *Remuneration Act 1990 (Act)*, and certain other office holders as conferred under section 14 of the Act.
2. In conducting this review, the Tribunal has also heard and decided on an application from the Judicial Remuneration Coordinating Committee (**JRCC**) which sought the Tribunal to make a determination which restores the half-day accommodation and meal allowance abolished by Determination 13 of 2020.
3. As explained in this report, the Tribunal has decided to increase the rate of the allowances by 2.5% and restore the half-day accommodation allowance. The Tribunal has issued an accompanying determination. The increased allowances apply from 1 January 2023, with the entitlement to the half-day allowance restored from 7 December 2020.

THE REVIEW PROCESS

4. On 20 September 2022, in accordance with sections 10(2) and 10(4) of the Act, the Tribunal wrote to and invited submissions by 17 October 2022 in respect of this review and the associated 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 and relevant office holders
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:
 - a. the Chief Justice, Judges of Appeal, Judges and Masters of the Supreme Court

¹ Accommodation and Meal Allowances – Judges, Court Officers and Statutory Officers.

- b. the Chief Judge, Judges and Masters of the District Court
 - c. the Judges and Magistrates of the South Australian Employment Tribunal
 - d. the Chief Magistrate and the Magistrates of the Magistrates Court
 - e. the State Coroner and Deputy Coroner
 - f. the Commissioners of the Environment, Resources and Development Court, and
 - g. the President and Deputy Presidents of the South Australian Employment Tribunal.
7. The written submissions received from the JRCC were also stated to be made by the Magistrates Association of South Australia (**MASA**) on behalf of the Magistrates of South Australia.
 8. On 31 October 2022, after an extension was granted, the Premier's representative confirmed that the Premier did not intend to make a submission.
 9. No other submissions were received.
 10. 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 MASA, and Ms Carly Cooper from the Crown Solicitor's Office as representative of the Premier.
 11. Justice Stanley and Magistrate Pandya spoke to the written submissions received from the JRCC. Ms Cooper attended, and confirmed that she was not instructed to make any submissions.
 12. In summary:
 - a. the JRCC submitted that the Tribunal should review the amount of the allowances in the usual way and, subject to the application to restore the half-day allowance, otherwise make a determination that reflects the terms of Determination 15 of 2021
 - b. the JRCC and MASA submitted the Tribunal should restore the entitlement to the half-day allowance with effect from 21 November 2019, as the entitlement was removed without notice being given to any persons affected by its removal and without an opportunity for such persons to be heard on its removal. The JRCC and MASA contend that the Tribunal failed to comply with section 10(2) of the Act, and accordingly the Tribunal lacked jurisdiction to abolish the entitlement and should therefore correct this error by way of a fresh determination.

CONSIDERATION AND CONCLUSION

Application to Restore Half-day Allowance

13. Dealing with this application first, the Tribunal has decided to restore the entitlement to a half-day allowance with effect from 7 December 2020. That date reflects the date Determination 13 of 2020 took effect, which is the determination that effectively abolished the half-day allowance.
14. As explained in Report 13 of 2020, Determination 13 of 2020 contained amended definitions and terms with a view to making them clearer. There was no express intention to remove the entitlement to a half-day allowance, and its absence from Determination 13 of 2020 was an oversight. It is therefore proper for this entitlement to be restored with retrospective effect.

Rate of the Allowances

15. The determination under review sets allowances to cover the costs of commercial accommodation and meals associated with official travel by members of the judiciary and other relevant office holders.
16. In considering this matter, the Tribunal has had regard to the following economic data relevant to the costs of commercial accommodation and meals:
- a. The Consumer Price Index (All groups Adelaide) shows the following percentage changes from the corresponding quarters of previous years:
 - i. 3.3% for December 2021
 - ii. 4.7% for March 2022
 - iii. 6.4% for June 2022
 - iv. 8.4% for September 2022.
 - b. As at November 2022 the Reserve Bank of Australia forecast of the Consumer Price Index is:
 - i. 8% for December 2022 quarter
 - ii. 6.3% for June 2023
 - iii. 4.7% for December 2023
 - iv. 4.2% for June 2024
 - v. 3.2% for December 2024.
17. The Tribunal has noted the steps being taken to reduce the current inflationary trend and has adopted a cautionary approach to recognition of inflationary movements.
18. The Tribunal has also had regard to the Australian Taxation Office Taxation Determinations 2021/6 and 2022/10, which respectively set for taxation purposes reasonable accommodation, meal and incidental expenses for the 2021-22 and 2022-23 income years. The Tribunal has noted the following percentage changes between those respective Taxation Determinations, for the highest earners:
- a. 0% increase to accommodation costs for all capital cities, and most country centres
 - b. 1.9% increase to breakfast costs
 - c. 1.8% increase to lunch and dinner costs
 - d. 3.6% increase to incidentals
 - e. overall 0.8% to 1% increase for daily total (which includes accommodation, meals and incidentals)
19. Having regard to these factors, the Tribunal has decided that these allowances should be increased by 2.5%, with effect from 1 January 2023.



Matthew O'Callaghan
PRESIDENT



Deborah Black
MEMBER



Peter de Cure AM
MEMBER

Dated: 14 December 2022