



REMUNERATION TRIBUNAL

Determination 2001/23: Judicial and related offices – remuneration and allowances

This Determination governs remuneration and allowances for the judicial and related offices specified in Table 1. It comprises:

Part A – general;

Part B – remuneration and related matters;

Part C – official travel and related matters; and

Part D - Commonwealth-provided vehicles in respect of Judges.

PART A

GENERAL

Effect of this determination

- A1 This Determination is issued pursuant to the *Remuneration Tribunal Act 1973*, sections 7(3) and 7(4).
- A2 This Determination takes effect on and from 1 October 2001 except where specified otherwise. It revokes and supersedes Determination 2000/13 in full.
- A3 This Determination sets a base level of remuneration and benefits for office holders. Other authorities may prescribe additional remuneration and/or benefits under, for example:
- (a) general Commonwealth laws concerned with employment;
 - (b) the specific Commonwealth Act that establishes an office (if any); and/or
 - (c) the Constitution, which grants certain executive powers to the Governor-General and to Ministers of State.

Administration

- A4 In administering this Determination, authorities:
- (a) shall pay the annual benefits specified in proportion (*pro rata*) to the office holder's period of service during that year;
 - (b) may issue procedural instructions to assist in the interpretation and implementation of this determination;
 - (c) may elect to apply the same instructions as they do for employees, except where those instructions are not in accordance with this determination; and
 - (d) for offices eligible for performance bonuses, should administer the scheme in a manner consistent with the 'Performance Remuneration Guidelines' issued by the Remuneration Tribunal from time to time. A determination

of the Remuneration Tribunal is required to provide agencies with the authority to pay under this scheme.

PART B

REMUNERATION AND RELATED MATTERS

- B1 A person who holds a public office is expected to perform the duties of that office diligently and carefully, and to comply with all lawful instructions given in connection with those duties.
- Responsibilities & remuneration of full-time office***
- B2 A person who holds a full-time office is to devote all of their time, attention and skills to the performance of their duties:
- (a) during normal business hours; and
 - (b) at such other times as may reasonably be necessary to the performance of their duties.
- Base Salary***
- B3 A person who holds a full-time office shall be paid the base salary specified in Table 1.
- Loss of Tenure Loading***
- B4 A person, other than a person whose appointment is one to which subsection 8(2) of the *Administrative Appeals Tribunal Act 1975* applies, who is the holder of the office of Deputy President of the Administrative Appeals Tribunal, Senior Member of the Administrative Appeals Tribunal, President (Non-judicial) of the National Native Title Tribunal, or Deputy President of the National Native Title Tribunal who:
- a) immediately before being appointed to his or her current position was employed by the Commonwealth; and
 - b) under that former employment with the Commonwealth, had preferential rights to take up or return to full-time employment under a law of the Commonwealth at the end of the term of his or her current position; and
 - c) has elected in writing to the Public Service Commissioner to forego those preferential rights;
- is entitled to be paid a loading of 15% of the basic rate of salary each year, from the date that he or she took action to forego those preferential rights.
- Additional Allowances***
- B5 A Judge who also holds any of the following part-time offices shall be provided with an additional expense allowance of \$1,100 a year:
- (a) Aboriginal Land Commissioner;
 - (b) Chairman of the Australian Electoral Commission;
 - (c) Chief Judge of the Supreme Court of Norfolk Island; and
 - (d) other offices as specified in Table 1.
- Responsibilities & remuneration of part-time office***
- B6 A person who holds office on a part-time basis is to work at such times and/or on such duties as directed.

- B7 Notwithstanding any other provision of this determination, a person who holds office on a part-time basis:
- (a) may not be paid more in respect of any financial year than the holder of the equivalent full time office (if any); and
 - (b) is deemed to hold full-time office for the purposes of entitlements other than separation benefits, if paid the same as the equivalent full-time office in any given financial year.

Use of specified rates

- B8 The Commonwealth may elect to pay a person who holds office on a part-time basis a proportion of the salary of the equivalent full-time office (if any), in accordance with the hours worked. Otherwise, the office holder shall be paid the fee specified in Table 1.

Use of daily rates

- B9 A person who is eligible to receive a daily fee may not be paid more than that fee in respect of any one day.
- B10 Where a day includes a formal meeting of the authority and official business (including reasonable preparation time and reasonable travel time other than travel between the person's home and principal place of work) is of:
- (a) three (3) or more hours duration – the full daily fee is payable;
 - (b) two (2) or more (but less than 3) hours duration – three fifths of the daily fee is payable;
 - (c) less than two (2) hours' duration – two fifths of the daily fee is payable.
- B11 On another day or days, where official business is of at least five (5) hours' duration in aggregate – a daily fee is payable.
- B12 The presiding officer or other appropriate authority must certify the nature and duration of work undertaken prior to any payment of fees to a person who holds office on a part-time basis.

Leave

- B13 A person who holds an office other than that of a judge shall be entitled to the following types and amounts of leave of absence:
- (a) any leave credits accrued previously, including under Remuneration Tribunal Determinations 1994/33 and 1991/20;
 - (b) if a full-time office holder:
 - (i) the public holidays observed by the Australian Public Service in the location in which the office is based;
 - (ii) paid annual leave of four (4) weeks per year of service, accruing on 1 January each year;
 - (c) paid long service leave as prescribed under the *Long Service Leave (Commonwealth Employees) Act 1976*;
 - (d) paid and unpaid maternity leave as prescribed under the *Maternity Leave (Commonwealth Employees) Act 1973*; and
 - (e) other paid and unpaid leave, including sick and carers' leave, at the discretion of the Commonwealth.

- B14 A person who holds an office other than that of a judge:
- (a) may elect to take leave on a half-pay basis and/or to cash out up to one week's annual leave per financial year; and
 - (b) shall be paid the balance of their recreation and long service leave on leaving office.

Separation benefits

- B15 A person who holds an office other than that of a judge is not entitled to separation benefits under Clause B17 where:
- (a) the person served the full term of appointment;
 - (b) the person was appointed on a part-time basis and is eligible for a daily fee only;
 - (c) the appointment was terminated prematurely for reasons of unsatisfactory performance; or
 - (d) the appointment was terminated prematurely on account of mental or physical incapacity and the person is entitled to receive invalidity retirement benefits under Commonwealth superannuation legislation.
- B16 Subject to Clause B15, where a person's appointment to a public office is terminated prematurely, the Commonwealth may elect to offer suitable alternative employment (including in a Commonwealth company or authority).
- B17 Where the Commonwealth does not offer alternative employment under Clause B16, the Commonwealth will pay the office holder 1/3 of one month's remuneration per month of service remaining, in lieu of obligations such as provision of notice or payment instead of notice or redundancy pay and subject to:
- (a) a minimum payment of four months' remuneration; and
 - (b) a maximum payment of one year's remuneration.
- B18 Under Clause B17, the Commonwealth may calculate service remaining taking into account any period of continuing Commonwealth service in alternative employment, and may require an office holder to sign a release in return for the payment.
- B19 For the purposes of calculating a separation benefit under Clause B17 in respect of a part-time office holder:
- (a) the reference in Clause B17 to remuneration shall be understood as a reference only to the applicable annual payment and not to include daily fees;
 - (b) the applicable annual payment shall be notionally converted to a monthly figure by dividing it by 12; and
 - (c) no account shall be taken of any period of potential future service in respect of which the office holder has already been, or is to be, paid the applicable annual payment.

- B20 Except in Part D, Federal Magistrates shall be considered Judges for the purposes of this determination, and shall also:
- (a) be entitled to paid annual leave of four (4) weeks per year of service accruing on 1 January each year; and
 - (b) be paid on leaving office as though they were then to take the balance of their recreation leave.

PART C

OFFICIAL TRAVEL AND RELATED MATTERS

- C1 The following provisions of this Determination apply where an office holder travels for official business by scheduled commercial transport and also apply, to the extent possible, where an office holder travels by self-drive vehicle.
- Guidance from the Tribunal* C2 The Tribunal may issue guidance notes from time to time to assist employing bodies to interpret and implement this Determination.
- Definitions* C3 In the following provisions of this Determination:
- 'Business Class'** means a standard of service equivalent to that offered by Qantas Airways Ltd in its Business Class.
- 'employing body'** means the organisation, agency or entity to which the office holder is appointed.
- 'home base'** means the town or city in which the office holder's principal place of residence is located.
- 'official business'** means business pertaining to or required by the duties of the office holder's office.
- 'partner'** means any person who lives with the office holder on a genuine domestic basis as the partner of the office holder.
- 'spouse'** means husband or wife.
- Guiding Principles* C4 Office holders are not expected to gain or lose financially as a result of travelling on official business.
- C5 Office holders must only incur or commit the Commonwealth to meet expenses where funds are lawfully available to do so.
- Private Non-Commercial Accommodation* C6 Where an office holder is accommodated in private, non-commercial accommodation such as the home of a family member or friend, a rate of one third of the specified rate is payable, rounded upwards to the nearest dollar.
- Once-only Entitlement* C7 Where travelling allowance is paid under this Determination, the office holder is not entitled to claim or receive travelling allowance or reimbursement of travelling expenses under any other source or entitlement for the same travel.
- Frequent Flyer Points* C8 Frequent flyer points accrued at the Commonwealth's expense should not be used for private purposes.

- Class of Travel – Upgrades***
- C9 An office holder may upgrade his or her class of travel in order to accompany a person travelling at a higher class of travel where it is demonstrably in the interest of the Commonwealth to do so.
- C10 An office holder who is entitled to travel Economy Class may upgrade to Business Class (for domestic and international travel) where the duration of the flight exceeds five (5) hours.
- Use of Judgement***
- C11 Office holders are expected to have regard to the principle of value for money when travelling at Commonwealth expense. In making travel arrangements, they are to consider:
- (a) the most cost-effective outcome (the “best deal” for the taxpayer);
- (b) the total cost of travel, including the opportunity cost associated with travel times; and
- (c) the need to maintain an appropriate balance between work and home responsibilities.
- Use of preferred providers***
- C12 Office holders are to use their employing body’s travel-related preferred provider arrangements where they exist.
- Compliance with Guidelines***
- C13 Office holders should comply with the travel-related administrative guidelines put in place by each employing body.
- Accompanied Travel***
- C14 An office holder may be entitled to be accompanied by a spouse or partner for purposes relating to official business at Commonwealth expense when travelling within Australia or overseas in accordance with this Determination.
- C15 Accompanied travel may only occur when the office holder’s employing body certifies in writing that it is demonstrably in the interests of the Commonwealth, given the purpose of the travel, for the office holder to be accompanied by their spouse or partner.
- C16 Where a spouse or partner accompanies an office holder, the spouse or partner may travel at the same class of travel as the office holder.

Travel within Australia

- Entitlement***
- C17 Office holders specified in Table 1 are entitled to the travelling allowances for travel on official business within Australia at the Tier which is specified in that Table for those office holders.
- C18 Travelling allowance rate for each Tier of travel is specified in Determination Number 2000/06 as amended from time to time.
- Canberra Allowance***
- C19 Justices of the High Court of Australia (including the Chief Justice) who do not establish their place of residence in Canberra shall be paid \$20,000 a year in lieu of the travelling allowance that would otherwise be payable.

- Self-Drive Vehicles*** C20 The following arrangements apply to the use of vehicles where the office holder is not supplied with a Commonwealth vehicle that can be used for the purposes of the travel.
- C21 An office holder may choose to hire a vehicle or use his or her own vehicle to travel on official business where it is demonstrably in the interest of the Commonwealth to do so. In such circumstances the Commonwealth shall:
- (a) meet the cost of a rental vehicle; or
- (b) pay the private vehicle costs calculated in accordance with Part 3 of Determination Number 2000/06 where a private vehicle is used for the journey.
- C22 These provisions do not apply to any journey commenced from the home base of an office holder where he or she is provided with a Commonwealth vehicle at that home base.

International Travel

- Class of Travel*** C23 Office holders entitled to travelling allowances for travel within Australia at the Tier 1 rate are entitled to First Class international travel.
- C24 Office holders entitled to travelling allowances for travel within Australia at the Tier 2 rate are entitled to Business Class international travel.
- C25 Office holders entitled to travelling allowances for travel within Australia at the Tier 3 rate are entitled to Economy Class international travel, subject to the "Class of Travel – Upgrades" provisions in this Determination.

- Accommodation*** C26 When travelling overseas on official business, an office holder is entitled to accommodation at Commonwealth expense.
- C27 Accommodation should be at a standard reasonably equivalent to that provided for the office holder in Australia.

- Meals and Incidentals*** C28 Rates for meals and incidentals are to be paid in accordance with the overseas meals and incidentals rates published annually by the Australian Taxation Office in its taxation ruling dealing with reasonable travelling allowances amounts (the ATO Ruling).
- C29 For the purpose of this Determination, columns 1, 2 and 3 specified in Schedule 1 of the ATO Ruling shall correspond to Tiers 1, 2 and 3 respectively.

PART D

COMMONWEALTH-PROVIDED VEHICLES IN RESPECT OF JUDGES

- D1 In addition to a Commonwealth car-with-driver service, the Chief Justice of the High Court of Australia is allowed annually, a Commonwealth-provided privately plated vehicle under the Executive Vehicle Scheme ('the EVS') and in accordance with the EVS Guidelines.

- Access to privately plated vehicles*** D2 A Judge, other than the Chief Justice of the High Court of Australia, who has elected for the time being to forego the entitlement, either in the Judge's city of residence or in the city in which the principal registry of the Court is situated, to a regular Commonwealth car-with-driver service, is allowed annually in that city and, as the alternative to that service, a Commonwealth-provided privately plated vehicle under the EVS and in accordance with the EVS Guidelines.
- D3 A Federal Magistrate is allowed annually a Commonwealth-provided privately plated vehicle under the EVS and in accordance with the EVS Guidelines.


- Interpretation*** D4 In this Part:
- (a) The EVS means the scheme for the use of privately plated Commonwealth vehicles administered by the Department of Employment, Workplace Relations and Small Business (DEWRSB) in force from time to time;
- (b) 'EVS Guidelines' means the guidelines in relation to the EVS issued by DEWRSB from time to time that provide the broad framework within which policies relating to the EVS and to the use of privately plated vehicles should be developed by authorities;
- (c) 'Commonwealth car-with-driver service' means the arrangements for the use of a car-with-driver established from time to time by the Attorney-General with the Chief Justice of the High Court of Australia, the Chief Justice of the Federal Court of Australia and the Chief Justice of the Family Court of Australia for Justices or Judges of those Courts; and
- (d) 'principal registry' means -
- (i) in the case of the High Court of Australia, the Registry of the Court;
- (ii) in the case of the Federal Court of Australia, the Principal Registry; and
- (iii) in the case of the Family Court of Australia, the Principal Registry.

- Standard of Vehicle*** D5 For the purpose of this Part, a benchmark standard of privately plated vehicle is Group 3 in the Executive Vehicle Scheme Recommended Retail Price List.

- No cashing-out*** D6 The value of the entitlement allowed under clauses, D1, D2 or D3 may not be taken as cash.

Signed this

31st day of October 2001



Richard G Humphry AO
PRESIDENT



John C Conde AO
MEMBER



Janet E Grieve
MEMBER

TABLE 1 RATES OF REMUNERATION

Effective on and from 1 October 2001 (unless specified otherwise)

Authority	Office	Full-time office base salary	Part-time office fee	Travel Entitlement
High Court of Australia	Chief Justice	\$287,900	-	Tier 1
	Justice	\$261,300	-	Tier 1
	Chief Executive and Principal Registrar	\$166,600	-	Tier 1
Federal Court of Australia	Chief Justice	\$243,800	-	Tier 1
	Judge	\$221,500	-	Tier 1
	Registrar	\$166,600	\$660 a day ¹	Tier 1
	Judicial Registrar	\$160,000	\$660 a day ¹	Tier 1
	Assessor (Full-time)	\$132,900	-	Tier 2
	Assessor (Part-time)	-	\$610 a day	Tier 1
Family Court of Australia	Chief Justice	\$243,800	-	Tier 1
	Deputy Chief Justice	\$228,100	-	Tier 1
	Judge (including judges assigned to the appeal division, judge administrators and senior judges)	\$221,500	-	Tier 1
	Judicial Registrar	\$168,300 ²	\$660 a day ¹	Tier 1
	Chief Executive Officer	\$148,600 ³	-	Tier 1
Federal Magistrates Service	Chief Federal Magistrate	\$185,100	-	Tier 1
	Federal Magistrate	\$160,000	-	Tier 1
	Chief Executive Officer	\$130,600 ⁴	-	Tier 2
Copyright Tribunal	President	\$221,500	no fee payable ⁵	Tier 1
	Deputy President (Judicial)	-	no fee payable	Tier 1
	Deputy President (non-Judicial)	-	\$660 a day ¹	Tier 1
	Member	-	\$660 a day ¹	Tier 1
Australian Competition Tribunal	President	\$221,500	no fee payable ⁵	Tier 1
	Member	-	\$610 a day ⁶	Tier 1
Australian Law Reform Commission	President	\$221,500	no fee payable ⁵	Tier 1
	Deputy President	\$136,600 ⁷	-	Tier 1
	Member (Full-time)	\$126,100 ⁷	-	Tier 2
	Member (Part-time)	-	\$610 a day ⁸	Tier 1
Administrative Appeals Tribunal ⁹	President ¹⁰	\$221,500	no fee payable ⁵	Tier 1
	Deputy President ¹⁰	\$181,600	\$660 a day ¹¹	Tier 1
	Senior Member ¹⁰	\$159,600	\$660 a day ¹¹	Tier 1
	Member ¹⁰	\$133,000	\$610 a day ¹¹	Tier 1
	Registrar ¹²	\$103,500	-	Tier 2
National Native Title Tribunal ¹³	President (Judicial)	\$221,500	-	Tier 1
	President (non-Judicial)	\$192,800	-	Tier 1
	Deputy President	\$181,600	\$660 a day ¹	Tier 1
	Member	\$133,000	\$610 a day ¹	Tier 1
	Registrar ¹²	\$124,200	-	Tier 2

TABLE 1 RATES OF REMUNERATION

Effective on and from 1 October 2001 (unless specified otherwise)

Authority	Office	Full-time office base salary	Part-time office fee	Travel Entitlement
Defence Force Discipline Appeal Tribunal	President	-	-	-
	Member	-	\$520 a day	Tier 1
Federal Police Disciplinary Tribunal	President	-	-	-
	Member	-	\$520 a day	Tier 1

¹ A minimum annual payment of ten times the daily fee applies.

² A person appointed to this office before 10 December 1991 shall accrue annual leave of 6 weeks per year of service.

³ The holder of this office shall be eligible for an annual performance bonus of no more than 15% of base salary. The amount of bonus paid in any year shall be determined by the Remuneration Tribunal taking into account, without limitation, performance criteria established from time to time for this purpose by the Chief Justice of the Family Court of Australia. The eligibility for an annual performance bonus shall apply only in respect of a permanent holder of the office first appointed in or after 2000.

⁴ The holder of this office shall be eligible for an annual performance bonus of no more than 15% of base salary. The amount of bonus paid in any year shall be determined by the Remuneration Tribunal, taking into account, without limitation, performance criteria established from time to time for this purpose by the Chief Federal Magistrate.

⁵ An expense of office allowance of \$1,100 a year is payable to a sitting judge who also holds this office on a part-time basis.

⁶ An additional annual payment of \$13,500 a year applies.

⁷ A person appointed to this office on a full-time basis before 1 October 1999 shall receive an additional payment of \$8,500 a year.

⁸ An additional annual payment of \$12,600 a year applies.

⁹ In keeping with previous practice, the salaries of the following offices have been calculated as a proportion of that of the President: Deputy President (82%), Senior Member (72%) and Member (60%).

¹⁰ In addition to fees specified in Table 1, a part time-member shall be paid a cancellation fee equivalent to 50% of one day's fee for the cancellation of all work on a day with fewer than 5 working days' notice.

¹¹ An additional annual payment of ten times the daily fee applies.

¹² A person appointed to this office on a full-time basis before 1 October 1999 shall receive an additional annual payment of \$5,750 a year.

¹³ In keeping with previous practice, the salaries of the following offices have been calculated as a proportion of that of the President (Judicial): Deputy President (82%) and Members (60%).