



REMUNERATION TRIBUNAL

Statement on 2001 Review of Judicial and related offices' remuneration

This Statement provides advice on the outcome of the Tribunal's annual review of the remuneration of Judicial and related offices, as required under sub-sections 7(3) and 7(4) of the *Remuneration Tribunal Act 1973*.

It covers Determination 2001/23, which takes effect on and from 1 October 2001.

Judicial offices

The Tribunal has determined an average increase of 4.0% for judicial office holders with effect from 1 October 2001. The Tribunal last determined a pay rise for these offices with effect from 1 October 2000, when it granted a 4.6% increase.

In making its decision in the current review, the Tribunal consulted with stakeholders including:

- the Commonwealth Government;
- the four Courts of the Federal jurisdiction;
- a number of individual office holders affected by the determination;
- State and Territory remuneration tribunals with responsibilities for judicial salaries in other jurisdictions; and
- some State Bar Associations.

In considering overall levels of remuneration, the Tribunal's deliberations are guided by five considerations. These considerations were first identified in a major review of judicial remuneration in 1994, and the Tribunal believes they remain relevant. They are:

- **Judicial Independence:** In considering issues such as the level and appropriateness of remuneration, the tribunal is mindful of the need to preserve the principle of judicial independence in the federal justice system.
- **Recruitment and Retention:** Judicial remuneration should be sufficient to attract and retain people appropriately qualified to serve as judges. The Tribunal found no evidence of difficulty in either recruiting or retaining Judges since its 2000 review, noting that 11 appointments were made to the Federal and Family Courts and the Federal Magistrates Service in that period.
- **Workload and Related Factors:** in providing salary increases to judicial office holders, the Tribunal looks at factors such as the workloads being dealt with by the courts and how these may have varied from previous periods or may be expected to vary in the future. Any efficiency initiatives taken by the courts may also be relevant.

During the course of the 2001 review, the Courts have reported implementing the following measures to improve efficiency:

- the Federal Court of Australia reports further development in its use of E-technology in filing and handling of court documentation. This has delivered savings in time and cost and resulted in improved case management;
 - the Family Court of Australia reports further systems development and implementation of strategies to improve performance, including pre-trial management and case conference, development of partnerships with community organisations and research to address the increasing number of self-represented litigants; and
 - the Federal Magistrates Service, in its first year of operation, has handled a large number of family law actions together with administrative law, bankruptcy, human rights and trade practices matters. The arrangement, whereby the Service shares jurisdiction with the Federal and Family Courts is working well, and has resulted in a substantial transfer of less complex matters from those Courts, leading to greater efficiency and flexibility in the Federal justice system.
- **Remuneration comparisons:** The relativities of remuneration between judicial and related office holders within the federal jurisdiction and relativities between federal and other jurisdictions are considered. The Tribunal also takes into account remuneration levels in the corporate and government sectors and compares these to the remuneration arrangements applying to judicial and related office holders. As a reference point, it also has regard to increases in incomes reported throughout Australia for advocates at the Bar (where this information is available).

There is an informal agreement between Federal and State Attorneys-General that the rate of base salary for State Supreme Court Judges will be fixed up to a maximum of 85% of that paid to High Court Judges. That agreement has generally been maintained and was endorsed by the 2000 meeting of the Judicial Remuneration Co-ordination Group.

- **Economic Circumstances:** Remuneration growth as measured by indices such as the Wage Cost Index (WCI), along with broader economic indicators, provides a barometer of remuneration growth in the general community. Wages growth as measured by the WCI increased by 3.7% in the year to June 2001. Federal wage agreements concluded in the December, March and June 2001 quarters paid an Average Annualised Wage increase of 3.7%. Private sector executive earnings were reported as growing 4.4% in terms of base salary in that period.

In this context, a 4.0% increase for Judges from 1 October 2001 is consistent with the trends for executive and community wage outcomes.

In its 2001 review of judicial and related offices, the Tribunal received a number of submissions on broader issues surrounding judicial independence and total remuneration. Submissions were also made on the relativities of remuneration between judicial office holders within the federal jurisdiction and relativities between federal and other jurisdictions. The Tribunal will consider these issues in the major review of Judicial and related offices which is currently under way.

Related offices

The Tribunal has continued the practice of reviewing the remuneration of related offices - such as registrars, Chief Executives of the courts, and offices within Tribunals - at the same time as that of judges.

The Tribunal has determined an average increase of 4.0% for these related offices, with effect from 1 October 2001. The Tribunal last determined an adjustment for all but one of these offices with effect from 1 October 2000.

For Judicial Registrars in the Family Court, the Tribunal has also determined a 4.0% adjustment to preserve the existing positioning of the office in the Family Court structure. The Tribunal plans to examine in detail the relativities between all judicial and related positions in the major review.

General measures

The entitlement to loss-of-tenure allowance for certain office holders who elect to forgo all preferential rights of employment under a Commonwealth Act was set out in Clause B4 of Determinations 1999/13 and 2000/13. The provision was introduced into the judicial determination in 1999 when the Tribunal took the opportunity to streamline its operations by transferring a number of related court and tribunal offices from the full-time office holders' determination, along with certain terms and conditions applicable to those offices. The entitlement was intended to apply only to the holders of those offices.

Following advice that the provision, in its previous form, could have wider application, the Tribunal has amended Clause B4 to ensure that eligibility for the loading is confined to those offices for which it was originally intended.

Future directions

The Tribunal has commenced a major review of judicial and related offices' remuneration. It last conducted a single comprehensive examination of these offices in 1994. Another is timely in the light of major changes to the Federal justice system that have occurred with the introduction of the Federal Magistrates Service.

The Tribunal issued a discussion paper in July 2001 to canvass various issues, approaches and options for consideration in the review. The Inquiry was advertised in major newspapers in August. Submissions from interested organisations and individuals were sought.

In conducting its review, the Tribunal will consider issues including:

- the relativities of remuneration for judicial and related office holders within the federal jurisdiction and relativities between the federal and other jurisdictions;
- the appropriateness of a total remuneration approach to judicial offices; and
- the linkage between productivity, performance and remuneration of judicial and related offices.

More information

Determination 2001/23 will be tabled in Parliament, as required by sub-section 7(7) of the *Remuneration Tribunal Act 1973*. It will also be made available on the Remuneration Tribunal's Web-site: <http://www.remtribunal.gov.au>. The web-site contains current determinations for all offices within the Tribunal's determining jurisdiction, along with many useful links and other resources, including a copy of the Discussion Paper for the major review.