



Remuneration Tribunal

Judicial Remuneration

Salaries payable to the Chief Judge and Judges of the Federal Circuit Court

STATEMENT

The Tribunal has determined remuneration for judicial offices in the Federal Magistrates Court (or Service as it was originally known) from its inception in 2000. The remuneration determined for the Chief Federal Magistrate and Federal Magistrates was last adjusted in the Tribunal's annual remuneration review from 1 July 2012 and has carried over to the new Federal Circuit Court, applying currently to the Chief Judge and other Judges.

The Tribunal has been considering the matter of judicial salary in this Court over a number of years. The Court lodged a lengthy and detailed submission, prepared by the Hon B C Hungerford QC, in March 2007, in which it submitted that remuneration in the Court was aligned wrongly in comparison to the other federal courts.

That submission pointed to issues such as that the Court normally had concurrent jurisdiction with the superior (Federal and Family) courts and thus had overlapping activities; that the Court should be aligned to state intermediate courts (such as the District or County Courts) rather than to state magistrates courts and that over the life of the Court the level of work required had increased "as to the nature of the work, skill and responsibility required".

Rather than settling separately a view on the Court's submission at that time, the Tribunal commenced a review of the federal courts generally, a process communicated to the chief judicial officers of the various federal courts in May 2007. That review was completed in 2009 and found increases in work value for judicial offices across the federal court structure.

While the subject of remuneration relativities between the Federal Magistrates Court and the superior courts was considered, no change to relativities was made because of uncertainty over the Federal Magistrates Court position within the overall federal courts structure.

Concurrent with the Tribunal's review, an inquiry into court structure, commissioned by the Australian Government, was conducted by Mr Des Semple. Having considered Mr Semple's findings, the Government announced its intention to abolish the Federal Magistrates Court as a separate entity and to move its functions, and its judicial officers, into Divisions of the Federal and Family Courts. The Tribunal understands that this remained Government policy until 2012 when the then Attorney-General, the Hon Nicola Roxon MP, announced that the Federal Magistrates Court would remain a separate entity. It was announced that the court would become the Federal Circuit Court, that officers of the Court would enjoy the title of "judge" and that their superannuation arrangements would be unchanged from those of the (former) Federal Magistrates Court. In other words, judges of the Federal Circuit Court do not have access to the judicial pension arrangements of the other federal courts.

The uncertainty surrounding the future structure of the Federal Magistrates Court meant that the Tribunal could not finalise its considerations on remuneration in that Court. However, throughout this period, Federal Magistrates Court salaries were increased by similar percentage increases to those determined by the Tribunal for the other federal courts.

With the recent passage and proclamation of the *Federal Circuit Court of Australia Legislation Amendment Act 2012* and associated amending legislation, the Tribunal has finalised its considerations relating to the re-alignment in remuneration between this Court and the other federal courts.

When the Tribunal first looked at this matter in 2007 it was concerned that there was a significant crossover of work between the Family Court and the Federal Magistrates Court, noting that the majority of the workload of the latter is in the family law area. The Tribunal enquired whether workload that perhaps should have been handled at the Magistrates Court level was being handled by the Family Court and whether the level of complexity of the caseload handled in the Magistrates Court had increased or was the more complex caseload being handled elsewhere.

However, with case handling agreements between those two Courts, and the streamlining of administrative procedures in the Federal Circuit Court and the Family Court into a single structure, the Tribunal now accepts that matters are being handled in the appropriate courts and that there has been a consequent increase in the complexity of matters being handled in the Federal Circuit Court.

In determining remuneration for the Federal Circuit Court, submissions over the years have suggested an alignment of the Federal Circuit Court (or its predecessor, the Federal Magistrates Court) with certain levels in the state court structure, or with a fixed relativity to other courts in the federal structure. The Tribunal sets remuneration for an office after considering relevant information, including the remuneration of like offices or of other offices in a similar field of endeavour, and prefers not to set remuneration for one office as a percentage of that of another office.

In its Report following its review of full-time offices¹, the Tribunal made some comments on the challenges of assessing remuneration and has now assessed that the increases in work value in the Federal Circuit Court warrant an increase in remuneration in that Court.

For the Chief Judge, the Tribunal has determined a salary of \$402,880. For Judges of the Federal Circuit Court, the Tribunal has determined a salary of \$340,000. The Tribunal has determined that these rates should apply from 1 May 2013.

This decision affects the Federal Circuit Court only and there is not intended to be any flow on to the salaries of any other judicial offices.

Remuneration Tribunal
20 May 2013

¹ http://www.remtribunal.gov.au/__data/assets/pdf_file/0015/12741/Remuneration-of-Full-Time-Public-Offices-Report-17.12.2012.pdf