



NORTHERN TERRITORY OF AUSTRALIA

REMUNERATION TRIBUNAL

**REPORT ON THE ENTITLEMENTS OF
MAGISTRATES**

AND

DETERMINATION No. 1 of 2012

INTRODUCTION

1. The Tribunal is established by section 17(1) of the *Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act*.
2. Under that Act, the entitlements of Magistrates must be reviewed by the Tribunal at least annually. Tribunal reports, including the resulting determinations, are to be tabled in the Legislative Assembly within 6 sitting days of their being received by the Minister. The Assembly may disapprove all or part of the determinations by a resolution passed within the next 10 sitting days.
3. Entitlements were reviewed and last determined on 11 November 2011.
4. This report completes this review.

CONDUCT OF THE REVIEW

5. The Magistrates and relevant Northern Territory Government agencies were made aware of the review by letter and advertisements were placed in the Territory newspapers during March 2012. Submissions were invited.
6. There were three written responses and the Tribunal also consulted with a number of parties.

REVIEW - REMUNERATION

7. The Tribunal in its Report and Determination No. 1 of 2008 noted that for a variety of reasons there can be, and that it is desirable that there be, precise relativity between Magistrates' base remuneration and Judges' base remuneration and proposed a relativity of 75%, that is, that the base salary of a Northern Territory Magistrate be 75% of that of the base salary of a Northern Territory Supreme Court Judge. Determination No. 1 of 2009, No. 1 of 2010, No. 1 of 2011 and No. 2 of 2011 increased Magistrates' base remuneration in conformity with this relativity.
8. Since the last review, Supreme Court Judges' base salaries were increased by 3%, effective from 1 July 2011.
9. In accordance with the Tribunal's views on relativity, the base remuneration of Magistrates is increased by 3% effective from 1 July 2011. Other salaries and allowances for additional duties are similarly increased by 3% from 1 July 2011.

10. A submission was made that “official duty” travel should be clarified. The reason given for the need to clarify “official duty” travel is whether business class or economy class airfares should be provided for travel. The Tribunal considered the determination to be quite clear and that there is no need for clarification.
11. Clause 3.1 has been amended to read “... approved by the Chief Magistrate and endorsed by the Chief Executive or the Minister”. Magistrates are under the direction of the Chief Magistrate other than for judicial discretion and therefore any travel during their employment should be approved by the Chief Magistrate, and for budgetary purposes endorsed by the Chief Executive Officer or Minister.
12. The mobile phone provision has been simplified to read “smart phone” which the Tribunal understands to mean that the mobile phones provided will be at least of the same standard but probably better than the existing entitlement.
13. Clause 5.1 will be modified to refer to the By-Laws “as in force from time to time” noting the legislative requirement that any such amendment is not to be in detriment of the Magistrates. (section 6(2) of the *Magistrates Act*).
14. A new subclause has been added to “relocation expenses” which will only operate until the next determination. The Chief Magistrate has the power to direct a Magistrate to relocate to another location to perform his/her duties. This can cause financial hardship in relation to accommodation expenses in cases where the Magistrate, at the time of being directed to relocate, owns a home in the Territory at his/her current location. The provision only applies to a Magistrate who either owns a home in his/her name or as a joint tenant or a tenant in common and where the home has not been let during his/her relocation.



John Flynn
Tribunal Member
23 April 2012

NORTHERN TERRITORY OF AUSTRALIA

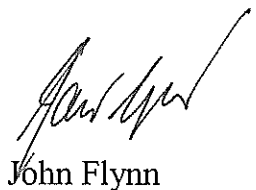
*Assembly Members and Statutory Officers
(Remuneration and Other Entitlements) Act*

DETERMINATION OF ENTITLEMENTS OF MAGISTRATES

The Remuneration Tribunal:

- (a) under section 7(1) of the *Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act* and with reference to section 43 of the *Interpretation Act*, revokes the determination of salary, allowances and other benefits for Magistrates dated 10 November 2011 (the “former determination”); and
- (b) under section 7(1) of the *Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act*, determines the entitlements of Magistrates as set out in the Schedule (the “Determination”); and
- (c) under section 7(1) of the *Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act*, determines that for the period starting on 1 July 2011 and ending on the day before the date of this Determination, a Magistrate is entitled to be paid an amount equal to the difference between the amount payable to a Magistrate in Table 2 of Determination No. 2 of 2011 (being the former determination) and the amount that would have been payable to a Magistrate had this Determination been in operation during that period.

23 April 2012



John Flynn
Member of the Remuneration Tribunal

SCHEDULE

DETERMINATION NO. 1 OF 2012 MAGISTRATES

This Determination sets out the entitlements of Magistrates appointed under section 4(3) of the Northern Territory *Magistrates Act*

PART 1 – GENERAL

1.1 Definitions: In this Determination:

'**Coroner**' means the Magistrate appointed to be the Territory Coroner under the *Coroners Act*;

'**employee**' means an employee within the meaning of the *Public Sector Employment and Management Act*;

'**Magistrate**' means a Magistrate appointed under section 4(3) of the *Magistrates Act*.

1.2 Secondment to a Court in a State or another Territory: If a Magistrate is seconded to a Court in a State or another Territory, all or any of the allowances and other benefits (other than salary and superannuation) provided for by this Determination may be varied or replaced to match the allowances and other benefits payable in that State or Territory, subject to the agreement of the Minister and the relevant minister of the State or Territory.

PART 2 – SALARY AND ALLOWANCES

2.1 **Annual salary:** The annual salary of a Magistrate is specified in Table 1.

Table 1
Annual Salary effective 1 July 2011

Office	Annual Salary
Chief Magistrate	\$329 437
Deputy Chief Magistrate	\$ 305 366
Coroner	\$ 317 400
Stipendiary Magistrate	\$293 342
Chairperson, Lands, Planning and Mining Tribunal	\$305 366

2.2 **Allowance for additional duties:**

2.2.1 **Alice Springs – special administrative duties:** If a Magistrate based at Alice Springs is performing special administrative duties under direction from the Chief Magistrate, an allowance at the rate of \$8 586 per annum is payable.

2.2.2 **Other additional duties:** An allowance at a rate equal to 1.75% of the salary of the Magistrate is payable:

- (a) for each period that the Magistrate undertakes administrative responsibilities for the Mental Health Review Tribunal under the terms of a written direction from the President of the Tribunal; or
- (b) while the Magistrate holds the appointment of managing magistrate for the Work Health Court.

2.3 Northern Territory Allowance: A Magistrate with at least one dependant is entitled to an allowance for being a resident of the Territory at the rate of \$960 per annum.

2.3.1 Dependant: For this clause '**dependant**' means:

- (a) a Magistrate's spouse, or any child under the age of 18 years, who permanently resides with the Magistrate and who is not in receipt of income in excess of the weekly minimum adult wage (including any Northern Territory Allowance and district allowance); or
- (b) any other person or category of person approved by the Remuneration Tribunal for the purpose of the allowance and listed in the Tribunal document "Magistrates Entitlements: Persons Approved for the Definition of '**dependant**'" as in force from time to time.

PART 3 – TRAVEL

3.1 Travel on official duty: For this Part, "travel on official duty" means the following:

- (a) travel while on duty in the Territory;
- (b) travel to attend a conference mentioned in clause 3.3; and
- (c) travel for a purpose approved by the Chief Magistrate and endorsed by the Chief Executive Officer or Minister

3.2 Class of travel: A Magistrate is entitled to travel business class, if available, for travel on official duty by air.

3.3 Travel to conference: Each financial year, a Magistrate is entitled to attend:

- (a) one relevant interstate conference, subject to the approval of:
 - (i) for the Chief Magistrate – the Chief Executive Officer; or
 - (ii) for any other Magistrate – the Chief Magistrate; or
- (b) one relevant overseas conference, subject to the endorsement of the Chief Magistrate and the approval of the Minister.

3.4 Travelling allowance: Travelling allowance is payable to a Magistrate for travel on official duty.

3.5 Rates of travelling allowance within Australia: The rates of travelling allowance for travel on official duty involving an overnight stay are those specified in Table 3.

**Table 3
Daily Rate**

Column 1	Column 2
Location	Rate
Sydney, Melbourne	\$423.00
Perth	\$433.00
Brisbane	\$394.00
Adelaide	\$367.00
Hobart	\$353.00
Other places	\$348.00

3.5.1 Rate for meals and incidentals only: If an entity other than the Magistrate pays for accommodation, the amount of travelling allowance payable for each day is the total amount specified in column 2 of Table 4.

**Table 4
Rate for Meals
And Incidentals**

Column 1	Column 2 Rate
Breakfast	\$30.00
Lunch	\$43.00
Dinner	\$60.00
Incidentals	\$25.00
Total	\$158.00

3.5.2 Meals provided: If an entity other than the Magistrate pays for a meal, the travelling allowance payable must be reduced by the rate specified in Table 4 for that meal.

Example:

If a conference provides a dinner, the payment to the Magistrate for meals and incidentals for that day must be reduced by the rate specified in Table 3 for dinner.

3.5.3 Non-commercial accommodation: If the Magistrate is accommodated in private non-commercial accommodation (such as the home of a family member or friend), the daily rate of travelling allowance is one third of the rate that would otherwise be payable under clause 3.5 rounded up to the nearest dollar.

3.6 Travel not involving overnight stay: If a Magistrate is on circuit duty for 5 hours or more that does not involve an overnight stay, the Magistrate is entitled to an allowance at the daily rate of \$45.

3.7 Overseas travel: Rates to be paid in accordance with Australian Government Taxation Office Taxation Determination TD 2011/17 or any subsequent taxation determination made in substitution of that determination.

PART 4 – VEHICLE AND TELEPHONE

4.1 Motor vehicle: A Magistrate is entitled to be provided with a 6-cylinder motor vehicle with private number plates for his or her official duties.

4.1.1 Vehicle model: The vehicle provided must be the model indicated in Table 5 or a motor vehicle specified for the purpose of this clause and listed in the Tribunal document “Magistrates Entitlements: Vehicles Approved as being of an Equivalent Standard” as in force from time to time.

Table 5

Office	Vehicle Model
Chief Magistrate	<ul style="list-style-type: none"> • Toyota Prius Itech Hybrid I-Tech Sedan Petrol Auto • Holden Calais
Magistrate	<ul style="list-style-type: none"> • Falcon G6 • Holden Berlina • Toyota Prodigy • Toyota Prius • Holden Captiva CX SUV 7 • Honda Accord VTI-L Sedan Petrol Auto • Toyota Camry Hybrid Luxury

4.1.2 Running costs: The costs of owning the vehicle and of running and maintaining it in the Territory are to be paid by the Territory.

4.1.3 Private use of vehicle: A Magistrate is entitled to reasonable private use of the motor vehicle when it is not needed or not likely to be needed for official purposes and may:

- (a) nominate, on a journey by journey basis, another person as the person authorised to use the motor vehicle during the course of that journey; and
- (b) subject to clause 4.1.4 – keep the motor vehicle at his or her residence while it is not in use; and

- (c) use the motor vehicle while on leave in the Territory or elsewhere in Australia if he or she pays for all the fuel used in driving the motor vehicle and all the other costs of running and maintaining the motor vehicle while on leave outside the Territory.

4.1.4 Responsibility of Magistrate: A Magistrate must:

- (a) ensure that when the motor vehicle is being used for private purposes, it is used properly and in accordance with this clause; and
- (b) ensure that any credit card given to him or her by the Territory to pay the running costs of the motor vehicle is used properly for that purpose; and
- (c) comply with the operating guidelines (if any) of NT Fleet relating to the motor vehicle; and
- (d) be responsible for the due preservation of the motor vehicle and account for any undue damage to it; and
- (e) comply with the directions (if any) of the Chief Magistrate or a person acting under the authority of the Chief Magistrate that relate to parking the motor vehicle and access to and use of the motor vehicle for official purposes by other persons while the motor vehicle is not in use (including while the Magistrate is on leave).

4.1.5 Accidents involving vehicle: Any provisions in force in the Agency at the date of the making of this Determination relating to accidents involving departmental vehicles apply to a Magistrate as if the Magistrate were an employee of the Agency.

4.2 Residential telephone: A Magistrate is entitled to be provided with a telephone for his or her residence with the installation and rental costs of the telephone to be paid by the Territory.

4.3 Mobile telephone: A Magistrate is entitled to be provided with a smart phone.

4.4 Communication allowances: The quarterly costs of the mobile telephone, residential phone, internet charges and facsimile charges, are to be paid by the Territory up to the maximum quarterly limit of \$1 000.

PART 5 – LEAVE

5.1 Application of Part 2 of Public Sector Employment and Management By-laws: Subject to clause 5.3, Part 2 of the *Public Sector Employment and Management By-laws* as in force from time to time (the "By-laws") apply to a Magistrate, with the modifications specified in clause 5.2, as if the Magistrate were an employee.

5.2 Modifications to By-laws: Part 2 of the By-laws is applied with the modifications specified in this clause.

5.2.1 Recreation leave: For by-law 4 of the By-laws, "annual credit" is taken to be a period of 6 weeks.

5.2.2 Purchase of additional credits: Magistrates may elect to purchase additional leave up to a limit of four weeks per year subject to the following conditions:

- (a) Magistrates will have their annual salary (and fortnightly salary payments) reduced accordingly; and
- (b) purchased leave counts as service for all purposes.

5.2.3 Long service leave in lieu: A Magistrate has a special entitlement to a payment in lieu of long service leave on resignation from employment as follows:

- (a) 22.5 calendar days after 7 completed years of service;
- (b) 45 calendar days after 8 completed years of service;
- (c) 67.5 calendar days after 9 completed years of service.

Payment under this provision is calculated using the following formula:

$$\frac{\text{Calendar days}}{30} \times \frac{\text{annual salary}}{12}$$

5.2.4 Terminology: The terminology of Part 2 of the By-laws is modified as follows:

- (a) a reference to the Agency is taken to be a reference to the Local Court;
- (b) a reference to Chief Executive Officer is taken to be a reference to:
 - (i) for the Chief Magistrate – the Chief Executive Officer; and
 - (ii) for any other Magistrate – the Chief Magistrate; and
- (c) a reference to an employee is taken to be a reference to a Magistrate.

5.3 Determination prevails: If there is a conflict between a provision of this Determination and a provision of the By-laws as applied by this Part, the provision of this Determination prevails and, to the extent of the inconsistency, the provision of the By-laws has no effect in relation to the accrual or utilisation of leave by a Magistrate.

PART 6 – SUPERANNUATION

6.1 Definitions: For this Part:

'CSS' means the Commonwealth Superannuation Scheme;

'NTGPASS' means the Northern Territory Government and Public Authorities Superannuation Scheme;

'NTSSS' means the Northern Territory Supplementary Superannuation Scheme.

6.2 Employer contributions: A Magistrate is entitled to employer superannuation contribution as follows:

- (a) if the Magistrate is a member of the CSS or a member of the NTGPASS and NTSSS – the contributions required to be made under the respective scheme;
- (b) in any other case – contributions to a complying superannuation fund chosen by the Magistrate at the minimum rate required under the Federal Superannuation Guarantee legislation.

- 6.3 Employee contributions:** A Magistrate may elect to have up to 50% of salary payable to him or her under clause 2.1 paid into a superannuation scheme nominated by the Magistrate.

PART 7 – RELOCATION EXPENSES

- 7.1 Application:** This Part applies to the following:
- (a) a person who is required to move from another location in order to take up appointment as a Magistrate;
 - (b) a Magistrate who transfers from one location to another.
- 7.2 Cost of conveyance:** The person is entitled to the costs of conveyance of the person, family members and reasonable household furniture and effects to the new location.
- 7.3 Relocation allowance:** A Magistrate is entitled to a relocation allowance for a period of six fortnights at the following fortnightly rates:
- (a) Magistrate only – \$423;
 - (b) Magistrate with resident family – \$584.
- 7.3.1 Resident family:** For clause 7.3, the resident family rate is applicable where the employee's spouse, children or any other person who resided with the employee as part of the employee's family prior to relocation, accompanied the employee upon relocation and for whom the cost of that relocation was met by the Territory.
- 7.4 Relocation allowance where directed to relocate:** Where the Chief Magistrate has directed a Magistrate to relocate to another location and that Magistrate owns a home in his/her name or as a joint tenant or a tenant in common and where the home has not been let during his/her relocation then the Magistrate is entitled to be paid an allowance of \$423 per fortnight for the period of relocation subject to the Magistrate continuing to have an interest in the home and it has not been let. This subclause only applies for the duration of this determination.