



**NORTHERN TERRITORY OF AUSTRALIA**  
**REMUNERATION TRIBUNAL**

**REPORT ON**  
**THE ENTITLEMENTS OF MAGISTRATES**  
**AND**  
**DETERMINATION No. 1 of 2015**

## INTRODUCTION

1. The Tribunal is established by section 17(1) of the *Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act*. Under the Act, the Tribunal may consist of up to three members. Until 16 December 2014, the Tribunal consisted of one member, being Mr John Flynn AM. On 17 December 2014, two further members were appointed, being Mr Michael Martin OAM and Mr Frank McGuinness PSM. At the same time, Mr Flynn was appointed Chairperson of the Tribunal.
2. Under that Act, the entitlements of Magistrates must be reviewed by the Tribunal at least annually. Reports of the Tribunal, including the resulting determinations, are required to be provided to the Minister, and the Minister must table each report in the Legislative Assembly within 6 sitting days of receipt. Following tabling of the report, the Assembly may pass a resolution disallowing all or part of the determination within 10 sitting days.
3. Entitlements were reviewed and last determined on 23 April 2014.
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. In addition, advertisements were placed in Territory newspapers during October 2014. The letters and advertisements invited submissions to the review.
6. Two written submissions were received and the Tribunal also consulted with a number of parties.

## REVIEW OF ENTITLEMENTS

7. The Tribunal, in determining salaries paid to Magistrates, adopts two basic principles:
  - a) The amount payable should be sufficient to attract well qualified, competent and able Barristers and Solicitors; and
  - b) The amount payable should be sufficient to adequately pay for the services of Magistrates having regard to judicial salaries paid in Australia and taking into account any special conditions applicable to Magistrates' service in the Northern Territory.

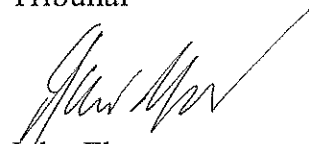
The Tribunal at its last review indicated that it would be appropriate to consider at the next review whether the salary nexus of 75% between Magistrates and Judges was still appropriate. The Chief Magistrates' submission on behalf of all Magistrates at the last review argued that a level of between 77.88% and 81% would be justified given other Australian Magistrates' salaries and the percentage that these salaries represented against Judges' salaries in the same jurisdiction. That relationship varied between 69.29% in Victoria and 79% in the Australian Capital Territory. The current actual salary of Northern Territory Magistrates ranks fourth after the Australian Capital Territory, Queensland and Western Australia. The Tribunal's 2014 report noted that the Tribunal no longer held the view that Northern Territory Magistrates should be the highest paid in Australia. It is noted that the overall jurisdiction of Northern Territory Magistrates ranks second only to the Australian Capital Territory.

The Tribunal is mindful that since 2009 the precise relativity between the salaries of Judges and Magistrates has provided consistency and certainty and has been accepted by all as being reasonable.

The Tribunal has come to the conclusion that there should be a continuing nexus between Judges and Magistrates which should be increased to 77.25%. Such an increase would represent 3% and would be in accordance with Northern Territory Public Service wages policy. This nexus will be maintained in future determinations unless there are unusual circumstances.

8. Travelling allowances have been increased with the exception of the Perth rate which has remained the same. These rates are consistent with levels that are considered reasonable by the Australian Taxation Office.
9. The Determination continues to provide a subsidised rental subject to certain conditions for Magistrates who have been directed to relocate to Katherine. The contribution to be paid by a Magistrate has been increased to \$310 per fortnight in recognition of a recent rental increase in Katherine.
10. The Chairperson of the Lands, Planning and Mining Tribunal is no longer an appointment held by a Magistrate and accordingly the salary for that position has been deleted from the determination.
11. The *Northern Territory Civil and Administrative Tribunal Act 2014* provides that a Magistrate may be appointed as Deputy President of that Tribunal. The Determination has provided an allowance for a Magistrate so appointed. The Determination specifies that the salary of a Magistrate who is performing special administrative duties at the direction of the Chief Magistrate and is appointed a Deputy Chairperson of that Tribunal will be paid the equivalent of the salary of the Deputy Chief Magistrate.

12. It is with regret that it is advised that member Frank McGuinness died on 20 February 2015. This report was completed but not signed before his passing. The members acknowledge his contribution to the work of the Tribunal



John Flynn  
Chairperson  
25 February 2015



Michael Martin  
Member

25/2/2015.

## 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 23 April 2014 (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 2014 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. 1 of 2014 (being the former determination) and the amount that would have been payable to a Magistrate had this Determination been in operation during that period.

Dated: 25 February 2015.

  
John Flynn  
Chairperson

  
Michael Martin  
Member

## SCHEDULE

### DETERMINATION NO. 1 OF 2015 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 2014**

Office	Annual Salary
Chief Magistrate	\$357 887
Deputy Chief Magistrate	\$331 738
Coroner	\$344 811
Stipendiary Magistrate	\$318 695

## 2.2 Allowance for additional duties:

**2.2.1 Alice Springs – special administrative duties:** An allowance at the rate equal to 3% of the salary of a Magistrate is payable to a Magistrate based at Alice Springs who is performing special administrative duties under direction from the Chief Magistrate; however, if that person also holds an appointment as Deputy President of the Northern Territory Civil and Administrative Tribunal, that person shall be paid an annual salary equivalent to that of the Deputy Chief Magistrate.

**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 President of the Mental Health Review Tribunal undertakes administrative responsibilities for the Mental Health Review Tribunal or a Magistrate who undertakes the responsibilities 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; or
- (c) while the Magistrate has been allocated the role of managing the Youth Justice Court; or
- (d) while the Magistrate, not being a Magistrate performing special administrative duties under direction of the Chief Magistrate, holds the appointment of Deputy President of the Northern Territory Civil and Administrative Tribunal.

**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**

<b>Column 1</b> <b>Location</b>	<b>Column 2</b> <b>Rate</b>
Darwin	\$457.00
Sydney, Melbourne	\$435.00
Perth	\$492.70



Brisbane	\$427.00
Adelaide	\$379.00
Hobart	\$365.00
Other places	\$360.00

**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	\$32.00
Lunch	\$46.00
Dinner	\$64.00
Incidentals	\$27.00
Total	\$169.00

**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 column 2 of 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 column 2 of Table 4 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 2014/19 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"> <li>• Nissan Murano</li> <li>• Honda Accord V6-L Sedan</li> <li>• Landrover Freelander 2 HSE Station Wagon</li> <li>• Subaru Outback Premium AWD Station Wagon</li> </ul>
Magistrate	<ul style="list-style-type: none"> <li>• Ford Falcon G6 MKII Ecoboost Sedan</li> <li>• Hyundai Santa Fe Active 2WD 7 seat Station Wagon</li> <li>• Kia Sportage Platinum 4WD Station Wagon</li> <li>• Mazda 6 Sports Hatch</li> <li>• Mazda CX5A Grand Touring AWD Station Wagon</li> <li>• Mitsubishi ASX Aspire 4WD Station Wagon</li> <li>• Subaru Forester Premium Station Wagon</li> <li>• Subaru Outback AWD Station Wagon</li> <li>• Toyota Prius Sat Nav &amp; IPA Hybrid Hatch</li> <li>• Volkswagen Jetta 77TDi Sedan</li> <li>• Volkswagen Passat TDi Station Wagon</li> <li>• Volkswagen Tiguan 103 Station Wagon</li> </ul>

- 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 \$1 150.

## 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 Katherine 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 shall be provided with a three bedroom home at Government expense subject to the Magistrate paying a fortnightly rental of \$310 (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.

**7.5 Relocation leave:** The Chief Magistrate may approve for a Magistrate who relocates but not within the town he or she resides for up to four days paid leave for the purpose of travel, packing and unpacking of effects.