



Australian Capital Territory Remuneration Tribunal

ACT Supreme Court Judicial Positions

Determination 11 of 2023

made under the
Remuneration Tribunal Act 1995, section 10 (Inquiries about holders of certain positions)

ACCOMPANYING STATEMENT

Background

Under section 10 of the *Remuneration Tribunal Act 1995* (the Act), the Remuneration Tribunal (the Tribunal) must inquire into and determine the remuneration, allowances and other entitlements to be paid to the holders of Judicial positions mentioned in Schedule 1 of the Act, including the Chief Justice of the ACT Supreme Court, and Acting Judges. For the Chief Justice, this entitlement is in addition to their entitlements as a resident judge under the *Supreme Court Act 1933*.

Considerations

In October 2023, the Tribunal commenced its Spring Sitting to consider the remuneration, allowances and other entitlements of the following office-holders:

- ACT Magistrates;
- ACT Supreme Court judges;
- ACT Civil and Administrative Tribunal members;
- the ACT Integrity Commission (Integrity Commissioner and Chief Executive Officer);
- the Principal Registrar, Courts and Tribunal;
- the Director of Public Prosecutions;
- part-time Holders of Public Office on Boards, Tribunals and Committees; and
- any other positions that have been referred to the Tribunal for consideration.

The Tribunal advertised its Spring Sitting on its website and in the Canberra Times on 1 September 2023. The Tribunal also wrote to the relevant office-holders inviting submissions.

At its meeting in October 2023, the Tribunal met with the Chief Minister, ACT Government Treasury officials and officials responsible for the Enterprise Agreement bargaining for ACT Public Sector non-executive employees. The Tribunal also met with a number of full-time public office-holders, part-time public office holders and departmental officials.

The briefings provided to the Tribunal by ACT Treasury officials outlined the resilient nature of the Territory's economy. ACT Treasury reported that the Territory continues to experience a tight labour market and wages growth, with wage growth particularly notable in the private sector. ACT Treasury noted that employment growth was stronger than expected in the 2022-23 financial year.

On 2 June 2023 the Fair Work Commission announced a 5.75 per cent increase in all award rates, with an effective 8.6 per cent increase to the minimum wage.¹

The Australian Bureau of Statistics released the Consumer Price Index for the September Quarter on 25 October 2023, which included an increase of 0.8 per cent for the ACT during the September quarter, with a 4.5 per cent increase over the year (September 2022 to September 2023).² The national trimmed mean inflation was 5.2 per cent over the year.³

While the Tribunal noted that cost of living increases have been high, the Tribunal also noted that the consumer price index (CPI) forecast has a descending trend and the increase to remuneration provided in this determination reflects this.

In its deliberations, the Tribunal continued to give considerable weight to community standards and expectations with particular reference to wage growth nationally and locally, and the Territory's tight job market. The Tribunal also continued to give consideration to the importance of the Territory providing competitive and equitable remuneration, allowances and other entitlements so that it can continue to attract and retain high calibre individuals to deliver quality services to the ACT community. In this context, the Tribunal noted the wage policies and remuneration determinations by its Commonwealth and State/Territory counterparts and the significant increase in wage growth in the ACT private sector. The Tribunal also continues to be cognisant of the future compounding effect of not providing increases in remuneration.

The Tribunal received correspondence from Chief Justice McCallum noting the increase to the remuneration of Federal Court Judges, to which the remuneration of ACT Supreme Court Judges is linked under legislation. The correspondence outlined that in the absence of contemplation of reduction in remuneration, allowances or entitlements, the Chief Justice did not seek to put further submissions to the Tribunal.

In making this Determination, the Tribunal took account of the ACT Government's current Enterprise Agreement bargaining context. The Tribunal also had regard to the 2023–24 ACT Budget, released in June 2023 by the Chief Minister in his role as Treasurer, which predicted growth in 2023–24 of 3.75 per cent in wage price index (WPI) and 3.25 per cent in CPI.⁴

The Tribunal considered the national and the local contexts, in particular the anticipated movements in wages locally and nationally and the advice that the current economic circumstances in the Territory are robust.

¹ [Fair Work Commission Decision 2 June 2023](#)

² ACT Treasury, 25 October 2023, CPI – September Quarter 2023
https://www.treasury.act.gov.au/data/assets/pdf_file/0009/399978/CPI.pdf/recache

³ Australian Bureau of Statistics Release 25 October 2023 <https://www.abs.gov.au/statistics/economy/price-indexes-and-inflation/consumer-price-index-australia/latest-release>

⁴ [ACT Budget 2023-2024 Budget Outlook, Chapter 2 Economic Outlook](#), page 17.

Decision

The Tribunal determines to increase the allowance for the position of the Chief Justice of the ACT Supreme Court to \$50,014 per annum continuing the existing relativity of this allowance to salary and noting also the increases in remuneration and entitlements provided to Federal Judicial positions in July 2023 by the Commonwealth Remuneration Tribunal which therefore determines the remuneration provided to ACT Judicial positions.

Following the removal of the position of the Associate Judge from relevant legislation, the Tribunal has removed the Associate Judge from its determinations.

The Tribunal determines to maintain the remuneration for the position of Acting Judge of the ACT Supreme Court, at the rate of 1/230 of the annual remuneration paid to a judge of the ACT Supreme Court per day.

The retrospective application of this Determination to 1 July 2023 does not affect the rights of a person (other than the ACT Government) in a manner prejudicial to that person, nor does it impose any liability on such person.

22 November 2023



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1. Commencement

This instrument is taken to have commenced on 1 July 2023.

2. Remuneration

- 2.1 The benchmark is \$500,140 (being the remuneration payable to a Federal Court Judge and ACT Supreme Court Judge on 1 July 2023).

Chief Justice of the Supreme Court

- 2.2 The Chief Justice of the Supreme Court is entitled to an allowance of \$50,014 per annum in addition to the benchmark.

Acting Judge

- 2.3 If an Acting Judge undertakes judicial duties for 3 hours or more on any given day, they are entitled to the daily remuneration calculated at the rate of 1/230 of the annual remuneration paid, from time to time, to a judge of the ACT Supreme Court.
- 2.4 If an Acting Judge undertakes judicial duties for fewer than 3 hours on any given day, they are entitled to half of the daily remuneration rate.
- 2.5 In any 12-month period, total remuneration paid to an Acting judge must not exceed that paid to a judge of the ACT Supreme Court.
- 2.6 The Chief Justice may include reasonable travelling time other than for travel between the person's home and principal place of work in the number of hours in a given day in which the Chief Justice determines that the Acting Judge has undertaken judicial duties.
- 2.7 **Judicial duties** includes the following:
- court sitting time, as listed by the Chief Justice;
 - preparation, decision writing and judicial education approved by the Chief Justice; and

- reasonable travelling time other than for travel between the person's home and principal place of work.
- 2.8 An Acting Judge is entitled to an allowance in lieu of a vehicle equal to the amount of reimbursement for private vehicle running costs that applies to Federal Court Judges, as determined by the Commonwealth Remuneration Tribunal, from time to time. This allowance is paid pro-rata for the period of the appointment and is not superable.

3. Travelling Allowance for an Acting Judge — within and outside Australia

- 3.1 An Acting Judge of the Supreme Court is entitled to the same travelling allowance provisions as for other ACT Supreme Court Judges (being those of a Judge of the Federal Court of Australia), which are outlined in Commonwealth Remuneration Tribunal Determinations for Judicial and Related Offices, issued from time to time.

4. Employer superannuation contribution – Acting Judge

- 4.1 An Acting Judge of the Supreme Court is only eligible for the employer's superannuation contribution in this determination if their superannuation entitlements are not provided for elsewhere.
- 4.2 Superannuation entitlements for an Acting Judge are consistent with clause D7 in the *ACT Public Sector Administrative and Related Classifications Enterprise Agreement 2023-2026* or its replacement.
- 4.3 The value of the employer's superannuation contribution must not be paid in cash to the person appointed to an office in clause 2 of this Determination.

5. Definitions

- 5.1 In this Determination:

employer means the Australian Capital Territory and includes any person authorised to act on behalf of the Australian Capital Territory.

fringe benefits tax means the tax assessed under the *Fringe Benefits Tax Assessment Act 1986*.

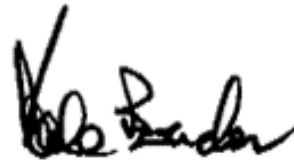
6. Revocation of previous determination

- 6.1 Determination 14 of 2022 is revoked.

Ms Sandra Lambert AM
Chair

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Mr Dale Boucher PSM
Member

A handwritten signature in black ink, appearing to read 'Dale Boucher', with a large, stylized initial 'D'.

Mr Michael Manthorpe PSM FIPAA
Member

A handwritten signature in blue ink, appearing to read 'Michael Manthorpe', with a long horizontal flourish extending to the right.

22 November 2023