

**REPORT**

**and**

**DETERMINATION**

**under**

**SECTION 13**

**of the**

**STATUTORY AND OTHER OFFICES**

**REMUNERATION ACT, 1975**

**JUDGES, MAGISTRATES AND RELATED GROUP**

**31 AUGUST 2000**

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## **JUDGES, MAGISTRATES AND RELATED GROUP**

### **Section 1: Background**

1. Section 13 of the Statutory and Other Offices Remuneration Act 1975, as amended, requires the Statutory and other Offices Remuneration Tribunal, not later than 31 August in each year, to make a determination of the remuneration to be paid to these office holders on and from 1 October in that year. "Remuneration" is defined as salary or allowances paid in money.
2. The Judges Magistrates and Related Group comprises such officers who are listed in the Schedules of the Act and, in addition are defined as judicial officers (within the meaning of the Judicial Officers Act 1986) or offices which the Government considers should belong to that Group. The offices have been grouped together by the Tribunal for remuneration purposes only.
3. For this review the Tribunal has met with other Tribunals both State and Federal to discuss common matters affecting the judiciary. This was in accordance with the consensus reached by the Commonwealth Remuneration Tribunal with State and Territory Tribunals that they should consult on an informal basis before making decisions on judicial salaries.
4. In its determination of 28 August 1999 the Tribunal increased the remuneration of a Supreme Court Judge by 2 percent to \$200,543. The amount of \$10,362 which primarily takes into account that motor vehicles are available to Federal Court Judges at significantly lower rates than those for NSW Supreme Court Judges was maintained, making a total remuneration of \$210,905 per annum.
5. As the table below shows, Federal and State Judges have, since July 1994, received significant real increases in remuneration when compared with the Consumer Price Index and Average Weekly Earnings.

<b>YEAR</b>	<b>Federal Court Judge</b>	<b>NSW Supreme Court Judge</b>	<b>Crown Employees</b>	<b>Consumer Price Index (June Qtr)</b>	<b>Average Weekly Earnings</b>
<b>1994</b>	8.45	8.45	3.00	1.70	4.30
<b>1995</b>	4.00	4.00	3.00	4.50	5.20
<b>1996</b>	4.25	4.25	3.00	3.10	3.80
<b>1997</b>	4.50	5.00	4.00	0.30	4.40
<b>1998</b>	5.50	5.50	7.00	0.70	4.20
<b>1999</b>	4.00	2.00	5.00	1.10	2.10
<b>2000</b>			2.00	3.20	4.60 (May 99 to May 2000)
<b>TOTAL</b>	30.70	29.20	27.00	14.60	28.60

## **Section 2 2000 Review**

### Government Submission

6. The Government has reviewed judicial remuneration around Australia and noted that in most jurisdictions increases of 4 percent were granted in 1999/2000. The Tribunal has also been informed that the Attorney General has recommended maintenance of the 85 percent nexus between State and federal judicial remuneration.
  
7. The Government supports retention of the 85 percent nexus. It notes that the NSW Supreme Court Judges are currently below the nexus and has recommended a 2 percent increase to address this anomaly. The Government has foreshadowed that should the federal Tribunal provide an increase greater than the 2 percent it will issue a special reference to the Tribunal to make a further determination to restore the longstanding relativity.

### Chief Judge of the District Court

8. The Chief Judge of the District Court has again requested that;

*“...the margin of salary paid to Supreme Court Judges and District Court Judges should be decreased in order to reflect inter alia, more adequately the increased work of this Court.”*

9. The Chief Judge also considers that the effectiveness of the District Court to provide speedy and efficient judicial service has been achieved by imposing on the Judges of the Court increases in responsibilities and workloads.

### Magistrates

10. The Chief Magistrate has submitted that the internal salary relativities of the magistracy with the Chief Magistrate’s salary should be re aligned because of varying responsibilities. The Chief Magistrate accepts that if the relativity between the District Court and the Supreme Court is increased then this automatically would be reflected in the remuneration of Magistrates.

## **Section 3 Review of Submissions**

11. The Tribunal met with the Chief Justice of the Supreme Court. The Tribunal also met with the Chief Judge of the District Court and the Chief Magistrate to discuss their submissions.

### District Court

12. The matters previously raised by the Chief Judge of the District Court have been reviewed in light of the additional information that he has provided. The Tribunal is aware that very real efficiencies have been achieved in the District Court at a time when its jurisdiction and its responsibilities were increased.

13. While the Tribunal does note that the Government had provided additional resources to the District Court to assist it to meet the increased demand nevertheless the efficiencies achieved were the result of internal changes in the way cases were conducted.
14. The Tribunal has examined the increase in jurisdiction for the District Court brought about largely by the amendments to the District Court Amendment Act 1997. In particular, the increase in the monetary limit of its jurisdiction from \$250,000 to \$750,000 for personal injury cases and an unlimited amount where injuries occur as a result of motor vehicle accidents has had the effect of the District Court taking over a significant proportion of the Supreme Court's jurisdiction thus freeing the State's highest Court to hear only the most serious cases. The Tribunal has also noted the increases in jurisdiction in criminal matters which have been effected in recent years.
15. The Tribunal has reviewed arrangements of the District Courts throughout Australia and noted that in South Australia, Western Australia and Queensland - States that have similar Court hierarchies to NSW - the Judges of those District Courts receive 90 percent of the remuneration of a Supreme Court Judge. In NSW, which has the largest District Court in Australia and which also has the largest jurisdiction than any other District Court in Australia, District Court Judges currently receive 87 percent of the salary of a Supreme Court Judge.

#### Magistrates

16. The Tribunal has noted previously that there has been some devolution of jurisdiction from the District Court to the Local Court. For this reason the Tribunal will maintain the relativity between the Magistrates and the Judges of the District Court.
17. The Tribunal considers the internal relativities in the Magistracy to be appropriate and will not be changing them on this occasion.

### Acting Judges

18. The Tribunal has reviewed the rates for these offices but considers that there should be no increase in the daily rate on this occasion. The Tribunal will be undertaking a thorough review of these rates as part of the 2001 annual review.

### **Salary relativities between Judges of the Supreme Court and the Federal Court**

19. The Tribunal has noted carefully the comments of the Government and in particular the recommendation by the Attorney General that the 85 percent nexus be retained. The background to this matter is set out hereunder.
20. At the Premier's Conference on 28 June 1990 the Prime Minister and Premiers discussed the salaries of Commonwealth and State Judges and agreed that the question of "leap-frogging" in judicial salaries should be jointly addressed. Arising from this the Chairman of the Commonwealth Remuneration Tribunal met with the Chairmen of the State and Territory Remuneration Tribunals on 23 August 1990, 7 February and 5 July 1991.
21. In these meetings consensus was reached on the following matters: that the Remuneration Tribunals should continue to consult on an informal basis before making decisions on judicial salaries; that salary reviews should take place at or about the same time each year; and that there was a need to avoid the appearance of "leap-frogging". Further, that historical and other material suggested that the salary of a Judge of the Federal Court and a Judge of the State Supreme Court should not exceed 85 per cent of the salary of a Justice of the High Court of Australia. This relativity however, was acceptable only if and whilst the remuneration of a Justice of the High Court of Australia remained at an acceptable level, and that the Remuneration Tribunals should have regard to the base salary plus non financial benefits (such as motor vehicles) when determining judicial remuneration.

22. In the Tribunal's Report of 28 August 1990 at paragraph 4 it was noted that:

*“...a constant factor has been that the remuneration of Judges of the Supreme Court of New South Wales has been somewhat higher than that of Judges of the Federal Court since the latter was first established. The higher remuneration has taken into account the greater benefits received by Judges of the Federal Court.”*

23. The motor vehicle benefit available to Federal Court Judges was considered to be the most significant benefit not available to NSW Judges. As a consequence the Tribunal, in 1990, while adopting the 85 percent nexus determined that to the salary for a NSW Supreme Court Judge an additional amount of \$10,362 would be added to compensate for the motor vehicle discrepancy.

24. This additional amount has been added to the salary of Supreme Court Judges since that time. In 1996 the Tribunal reviewed the amount and found that it was still appropriate for the purpose for which it was originally introduced.

25. In its previous determinations the Tribunal has maintained the allowance at the rate set in 1990. It now considers that this amount should be increased to ensure that New South Wales Judges are placed on a par with Federal and Inter-State Judges. By neutralising the provision of a car a strict comparison can then be made of judicial remuneration across the country. Because the allowance counts for pension purposes the amount carries a discount to the full leasing costs of a vehicle.

## **Section 4 Conclusion**

26. Because of the statutory obligation on the Tribunal to make its report and determination by 31 August each year it does not always have the benefit of knowing the extent of the Federal Tribunal's determination. This can result in different levels of increase being granted which affects the 85 percent relativity between the salaries of judges of the NSW Supreme Court and those of Judges of the High Court. This occurred in 1999 which resulted in the NSW Supreme Court Judges dropping to 83.5 percent of the salary of a High Court Judge. NSW Judges have trailed their federal counterparts for nearly one year.

27. To overcome this ongoing problem the Tribunal requests the Government to consider amending the Act to provide for SOORT determinations to be made annually rather than by a specified date.
28. The Tribunal considers that because of the disadvantage to NSW Judges over the past year the 85 per cent nexus should be restored in this determination. Further, since there has been a general 2 per cent increase to SES and Public Office Holders the Tribunal considers it appropriate that 2 per cent should also be passed to State Judges in this determination.
29. The Government has advised the Tribunal that it will await the Federal Judges' determination and, if necessary, will issue a special reference to the Tribunal to ensure the 85 percent nexus is maintained. The Tribunal supports this approach.
30. The Tribunal, after considering the views of the Assessors, determines that the base rate of remuneration for a Supreme Court Judge should be increased on and from 1 October 2000 by 3.5 percent. The salary of a Judge of the Supreme Court will increase from \$200,543 to \$207,560 per annum. The Tribunal also determines an additional amount of \$13,400 per annum to bring consistency between NSW Judges and Federal and Inter-State Judges in relation to the provision of a motor vehicle.
31. The remuneration of the Heads of Jurisdiction of the Supreme Court, Court of Appeal and Industrial Relations Commission and all other office holders within this Group shall be proportionally increased to maintain existing relationships, as set out in the attached Determination on and from 1 October 2000.
32. The salary difference between the District Court Judges and Supreme Court Judges will be decreased by 1½ percent on and from 1 October 2000 and a further 1½ percent on and from 1 July 2001.
33. The rates for Acting Judges of the Supreme Court and the District Court shall also be as set out in the attached Determination on and from 1 October 2000.



34. Pursuant to Section 13 of the Statutory and Other Offices Remuneration Act 1975, as amended, the Tribunal determines that the remuneration to be paid to the office holders in this Group on and from 1 October 2000 shall be as set out in Annexure and the rates effective on a from 1 July 2001 shall be as set out in Annexure B.

**The Statutory and Other Offices  
Remuneration Tribunal**

**Gerry Gleeson**

Dated: 31 August 2000

**ANNEXURE A**

**DETERMINATION OF THE REMUNERATION OF JUDGES, MAGISTRATES  
AND RELATED GROUP OF OFFICE HOLDERS ON AND FROM 1 OCTOBER  
2000**

	<b>Salary \$ per annum</b>
<b><u>JUDGES</u></b>	
Chief Justice of the Supreme Court	247,255
President of the Court of Appeal	231,520
President of the Industrial Relations Commission	231,520
Judge of the Supreme Court	207,560*
Vice-President of the Industrial Relations Commission	207,560*
Deputy President of the Industrial Relations Commission	207,560*
Judge of the District Court	195,550
Master or acting Master (under the Supreme Court Act 1970)	195,550

**\* An additional amount of \$13,400 to be added to the salary of the office holder to meet motor vehicle costs.**

ANNEXURE A  
(CONT'D)

**DETERMINATION OF THE REMUNERATION OF JUDGES, MAGISTRATES  
AND RELATED GROUP OF OFFICE HOLDERS ON AND FROM 1 OCTOBER  
2000**

	Salary \$ per annum
<b><u>MAGISTRATES</u></b>	
Chief Magistrate	195,550
Deputy Chief Magistrate	165,240
Chairperson of Licensing Court	165,240
State Coroner	165,240
Senior Children's Magistrate	165,240
Chief Industrial Magistrate	159,180
Deputy Chairperson, Licensing Court	159,180
Magistrate	156,440
Chairperson Victims Compensation Tribunal (NOTE 1)	156,440
Children's Magistrate	156,440
Licensing Magistrate	156,440
Deputy State Coroner	156,440

**NOTE 1.** When a more senior Magistrate is appointed to the office then he or she shall retain his or her present salary level.

**DETERMINATION OF THE REMUNERATION OF JUDGES, MAGISTRATES  
AND RELATED GROUP OF OFFICE HOLDERS ON AND FROM 1 OCTOBER  
2000**

	<b>Salary \$ per annum</b>
<b><u>RELATED GROUP</u></b>	
Chairperson, Law Reform Commission	207,560*
Solicitor-General	207,560*
Director of Public Prosecutions	207,560*
Crown Advocate	195,550

**\* An additional amount of \$13,400 to be added to the salary of the office holder to meet motor vehicle costs.**

**ACTING JUDGES**

**Supreme Court**

The following rate shall be paid for each ordinary court working day on which the Acting Judge is occupied in the performance of judicial duties.

Acting Judge of the Supreme Court	\$1,130 per day
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**District Court**

The following rate shall be paid for each ordinary court working day on which the Acting Judge is occupied in the performance of judicial duties as designated by the Chief Judge in the District Court.

Acting Judge of the District Court	\$985 per day
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**The Statutory and Other Offices  
Remuneration Tribunal**

**Gerry Gleeson**  
Dated: 31 August 2000

**ANNEXURE B**

**DETERMINATION OF THE REMUNERATION OF JUDGES, MAGISTRATES  
AND RELATED GROUP OF OFFICE HOLDERS ON AND FROM 1 JULY 2001**

	<b>Salary \$ per annum</b>
<b><u>JUDGES</u></b>	
Chief Justice of the Supreme Court	247,255
President of the Court of Appeal	231,520
President of the Industrial Relations Commission	231,520
Judge of the Supreme Court	207,560*
Vice-President of the Industrial Relations Commission	207,560*
Deputy President of the Industrial Relations Commission	207,560*
Judge of the District Court	198,865
Master or acting Master (under the Supreme Court Act 1970)	198,865

**\* An additional amount of \$13,400 to be added to the salary of the office holder to meet motor vehicle costs.**

**DETERMINATION OF THE REMUNERATION OF JUDGES, MAGISTRATES  
AND RELATED GROUP OF OFFICE HOLDERS ON AND FROM 1 JULY 2001**

	Salary \$ per annum
<b><u>MAGISTRATES</u></b>	
Chief Magistrate	198,865
Deputy Chief Magistrate	168,040
Chairperson of Licensing Court	168,040
State Coroner	168,040
Senior Children's Magistrate	168,040
Chief Industrial Magistrate	161,875
Deputy Chairperson, Licensing Court	161,875
Magistrate	159,090
Chairperson Victims Compensation Tribunal (NOTE 1)	159,090
Children's Magistrate	159,090
Licensing Magistrate	159,090
Deputy State Coroner	159,090

**NOTE 1.** When a more senior Magistrate is appointed to the office then he or she shall retain his or her present salary level.

**DETERMINATION OF THE REMUNERATION OF JUDGES, MAGISTRATES  
AND RELATED GROUP OF OFFICE HOLDERS ON AND FROM 1 JULY 2001**

<b><u>RELATED GROUP</u></b>	<b>Salary \$ per annum</b>
Chairperson, Law Reform Commission	207,560*
Solicitor-General	207,560*
Director of Public Prosecutions	207,560*
Crown Advocate	198,865

**\* An additional amount of \$13,400 to be added to the salary of the office holder to meet motor vehicle costs.**

**ACTING JUDGES**

**Supreme Court**

The following rate shall be paid for each ordinary court working day on which the Acting Judge is occupied in the performance of judicial duties.

Acting Judge of the Supreme Court	\$1,130 per day
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**District Court**

The following rate shall be paid for each ordinary court working day on which the Acting Judge is occupied in the performance of judicial duties as designated by the Chief Judge in the District Court.

Acting Judge of the District Court	\$985 per day
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**The Statutory and Other Offices  
Remuneration Tribunal**

**Gerry Gleeson**  
Dated: 31 August 2000