

The following Report and Determination of the Statutory and Other Offices Remuneration Tribunal was disallowed by resolution of the Legislative Assembly on Tuesday 12 November 2013, pursuant to section 19A of the *Statutory and Other Offices Remuneration Act 1975*. . The effect of the disallowance is that the Tribunal's previous year's determinations of 9 November 2012 continue in effect. However, from 1 October 2013 up to the date of disallowance (being 12 November 2013), remuneration will be paid in accordance with the disallowed 2013 determinations. The 2012 determinations (below) will apply from 12 November 2013.

REPORT

and

DETERMINATION

under

SECTION 13

of the

STATUTORY AND OTHER OFFICES

REMUNERATION ACT, 1975

JUDGES AND MAGISTRATES GROUP

27 September 2013

[NSW Remuneration Tribunals Website](#)

DISALLOWED

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Section 1.....	2
Introduction	2
Background	2
2012 Review.....	3
Section 2.....	5
Amendments to the Statutory and Other Offices Remuneration Act 1975	5
Changes to the Superannuation Guarantee Contribution.....	10
Submissions.....	12
Government Submission.....	15
2013 Review.....	17
Other matters	25
Workers Compensation Commission, President	25
Conveyance Allowance	25
2014 Review.....	25
Section 4.....	27
Conclusion.....	27
Determination No 1	28
Determination No 2	29
Determination No 3	30
Determination No 4	30
Determination No 5	31
Report and Determination on Travel Allowances for NSW Judges and Magistrates	32
Section 1.....	32
Background	32
Section 2.....	32
2013 Review.....	32
Section 3.....	33
Principles Adopted.....	33
Section 4.....	33
Conclusion.....	33
Determination No 7	34

Section 1

Introduction

Mr Ken Baxter was appointed to the role of Assessor to the Tribunal (pursuant to section 7(1)(b) of the *Statutory and Other Offices Remuneration Act 1975* (the SOOR Act)) for a term of up to three years commencing 20 March 2013.

Background

1. Section 13 of the SOOR Act requires the Statutory and Other Offices Remuneration Tribunal (the Tribunal), each year, to make a determination on the remuneration to be paid to office holders on and from 1 October in that year. "Remuneration" is defined in Section 10A as salary or allowances payable in money.
2. A principal feature of remuneration for Judges has been the Agreement between Federal and State Governments, reached in 1989, on the relativities between the remuneration of State Supreme Court Judges and Federal Court Judges with the remuneration of a Justice of the High Court. This Agreement provided 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. The Tribunal had consistently held that this relativity remains acceptable only if and whilst the remuneration of a Justice of the High Court of Australia remains at an appropriate level, and that the Tribunal should have regard to the base salary plus non financial benefits (such as motor vehicles) when determining judicial remuneration.
3. Since that Agreement was reached the New South Wales Tribunal has maintained the remuneration of a State Supreme Court Judge at approximately 85 per cent of the remuneration of a Justice of the High Court

Judges and Magistrates Group

2012 Review

4. For the 2012 review the Tribunal, as is the usual practice, invited submissions from office holders. Office holders in the Judges and Magistrates Group were also asked to make comment on the Commonwealth Remuneration Tribunal's proposal that Supreme Court salaries in NSW be linked to the Federal Court rather than to High Court salaries.
5. In respect of the Commonwealth Remuneration Tribunal's proposal, the Tribunal found that such an arrangement may require legislative change and unless and until such a change is made the Tribunal will continue to implement the existing intergovernmental agreement, whereby the salary of 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.
6. The Tribunal also had regard to the Government submission which expressed the view that the NSW Government Wages Policy should also apply to judicial office holders. The Government was also of the view that the Nexus between the NSW judiciary and its Federal counterparts should only be maintained provided that any increases above 2.5 per cent are offset by "achieved savings".
7. The Tribunal noted that amendments to the SOOR Act requiring the Tribunal to give effect to the same public sector wages cap that binds the Industrial Relations Commission explicitly excluded Judicial officers as defined by the *Judicial officer Act 1986*. Also, that in making those amendments the Government, as outlined in the then Minister's second reading speech, expressed the view that there should be broad consistency of pay between Federal and State judiciaries and that relativities should be maintained. While the Tribunal acknowledged the Government's view that the NSW Government Wages Policy should now apply to judicial office holders, the Tribunal found good reason for maintaining relativities between Federal and State jurisdictions:

"The reason for maintaining those relativities has not changed; potential appointees to the Supreme Court are drawn from the same pool of qualified persons as are potential appointees to the Federal Court, and it is in the interests of the State of New South Wales that the best available people will accept appointment to the Supreme Court."
8. The Tribunal determined an increase of 3 per cent would apply to the salary of a Judge of the Supreme Court, an increase equivalent to that provided by the Commonwealth

Judges and Magistrates Group

Remuneration Tribunal to federal judicial office holders in July 2012. This increase would also apply to those judicial officers whose remuneration is linked by legislation to the remuneration of a Judge of the Supreme Court.

9. The Tribunal also reviewed the internal relativities within the Judges and Magistrates Group. The Tribunal noted that since 1975, the salaries of judicial officers in NSW have been set by the Tribunal as a percentage of the salary of a Supreme Court Judge or other judicial office holder, with reviews and adjustments from time to time. The Tribunal having regard to the economic climate, the need for fiscal restraint, and the effectiveness of the Government's implementation of its wages policy across the whole of the public sector, determined that increases for judicial officers other than the Supreme Court (and legislatively related judicial officers) would be restricted to 2.5 per cent. The Tribunal found that a determination to limit judicial officer increases to 2.5 per cent would open a slight relativity gap of less than 0.5 per cent.
10. In doing so the Tribunal noted that immediately the current climate of fiscal restraint is relaxed to any extent it would consider restoring the relativities which existed prior to the 2012 determination. The Tribunal would also consider restoring other long-standing relativities within the former Judges, Magistrates and Related Group which were altered in 2011 by the Section 6AA legislation, if legislation did not prohibit the Tribunal from doing so.
11. The Tribunal also noted that the Government indicated its intention to provide assistance to the Tribunal to develop a methodology to assess employee-related cost savings which may justify a "general increase" above 2.5 per cent in appropriate circumstances. While the Tribunal was not bound by the Government's wages policy in respect of the 2.5 per cent wages cap for judicial officers, it noted that any such methodology may assist the Tribunal to assess savings relating to the employee-related costs of judicial officers.

Section 2

Amendments to the Statutory and Other Offices Remuneration Act 1975

12. On 22 May 2013 the Parliament passed amendments to the SOOR Act which required the Tribunal, when making determinations under Part 3 of the Act, to give effect to any policy concerning the remuneration of office holders as declared by the regulations, rather than those policies that the Industrial Relations Commission is required to give effect to under section 146C of the *Industrial Relations Act 1996* (the IR Act). In addition, any policy concerning the remuneration of office holders as declared by the regulations would now also extend to judicial office holders, who previously had been excluded under the SOOR Act. The new provision commenced on 1 July 2013.
13. New section 6AB of the SOOR Act applies to the Tribunal's determinations in respect of office holders in the Judges and Magistrates Group, the Court and Related Offices Group and the Public Office Holders Group:

6AB Tribunal to give effect to declared government policy on remuneration of office holders under Part 3

- 1) *This section applies to the determination under Part 3 (Remuneration of office holders (other than chief executive or senior executive office holders)) of any alteration in the remuneration to be paid to office holders within the meaning of that Part.*
- 2) *The Tribunal must, when making a determination to which this section applies, give effect to any policy concerning the remuneration of office holders:*
 - (a) that is declared by the regulations to be an aspect of government policy that is required to be given effect to by the Tribunal, and*
 - (b) that applies to the matter to which the determination relates.*
- 3) *Any such regulation may declare a policy by setting out the policy in the regulation or by adopting a policy set out in a relevant document referred to in the regulation.*

Judges and Magistrates Group

- 4) *This section extends to any inquiries that are pending in the Tribunal on the commencement of this section. A regulation made under this section extends to any inquiries that are pending in the Tribunal on the commencement of the regulation, unless the regulation otherwise provides.*
- 5) *This section has effect despite any other provisions of this Act (other than section 16(6) and 21) or any other Act.*

14. The Government's decision to extend the wages cap to Judicial officers was outlined by the Hon Mike Baird MP (Treasurer and Minister for Industrial Relations) in the Treasurer's second reading speech: Legislative Assembly, Parliamentary Debates (Hansard), 21 February 2013 at p. 17862 on the amendments to the Act where he stated;

"In recent times judicial salary increases have significantly outpaced those of all other public sector officers. Since 2011, the Industrial Relations Commission and the Statutory and Other Offices Remuneration Tribunal [SOORT] have been required to apply the wages policy to salary determinations for the public service and certain statutory office holders, while an absolute cap of 2.5 per cent applies to increases of remuneration for members of Parliament, mayors and local councillors. Currently, however, the Statutory and Other Offices Remuneration Tribunal is not required to apply the wages policy when it determines the remuneration of judicial officers. It is appropriate to extend the wages policy to judicial officers who are also paid from the public purse and, therefore, to require the Statutory and Other Offices Remuneration Tribunal to apply the wages policy when it determines the remuneration of judicial officers. The bill will enable this to be done. The bill will amend the Statutory and Other Offices Remuneration Act 1975 to require the Statutory and Other Offices Remuneration Tribunal to give effect to any policy concerning the remuneration of office holders declared by the regulations when making certain determinations under part 3 of the Act regarding the remuneration of judicial and other office holders. A regulation is being prepared to declare the wages policy for this purpose. This will mean that, like public service and statutory office holders, the Statutory and Other Offices Remuneration Tribunal will only be able to award increases in remuneration for a judicial officer that increase certain costs by more than 2.5 per cent per annum, if sufficient savings for the judicial officer have been achieved to offset the increased cost

The Government supports an independent judiciary, and this bill does not affect their independence. I note that the Statutory and Other Offices Remuneration Tribunal is already required to apply the wages policy to other independent office holders, such as the Ombudsman and the Director of Public Prosecutions. In addition, the bill will maintain existing requirements to ensure that the Statutory and Other Offices

Judges and Magistrates Group

Remuneration Tribunal cannot reduce the rate at which remuneration is paid to a judicial officer and cannot make a determination that applies differently to two or more persons holding the same judicial office. Given the pressures on the State's budget, it is fair then to extend the wages policy to judicial officers. It is important that persons paid from the public purse be subject to the wages policy in order to deliver fair wage increases while also ensuring that the State's budget can be brought under control to facilitate the delivery of infrastructure and services."

15. Government policy concerning the remuneration of office holders to which Part 3 of the SOOR Act applies is declared in the *Statutory and Other Offices Remuneration (Judicial and Other Office Holders) Regulation 2013* (the SOOR Regulation 2013).

5 *Paramount policy*

It is declared that equal remuneration for men and women doing work of equal or comparable value is a paramount policy.

6 *Other policies*

1) *The following policies are also declared, but are subject to compliance with the declared paramount policy:*

(a) *an office holder may be awarded increases in remuneration that do not increase the officer-related costs for the office holder by more than 2.5% per annum,*

(b) *increases in remuneration that increase the officer-related costs for the office holder by more than 2.5% per annum can be awarded, but only if sufficient officer-related cost savings for the office holder have been achieved to fully offset the increased officer-related costs.*

2) *For the purposes of subclause (1) (b):*

(a) *whether relevant officer-related cost savings have been achieved is to be determined by the Tribunal, and*

(b) *the office, organisation or other agency for which the office holder is to be treated as belonging in connection with the relevant officer-related cost savings (the relevant agency for an office holder) is also to be determined by the Tribunal, and*

(c) *increases may be awarded before the relevant officer-related cost savings have been achieved, but are not payable until they are achieved, and*

(d) *the full officer-related cost savings are not required to be awarded as increases in remuneration.*

3) *For the avoidance of doubt, the Tribunal may take into account any additional functions conferred or imposed on the office held by an office holder in determining the remuneration of the officer holder. However, any such additional functions cannot be used as a basis for awarding an office holder an increase in remuneration that increases the officer-related costs*

Judges and Magistrates Group

for the office holder by more than 2.5% per annum without offsetting relevant officer-related cost savings.

7 *Meaning of “officer-related cost savings”*

- 1) *For the purposes of this Regulation, officer-related cost savings for an office holder are savings:*
 - a) *that are identified in the determination of the Tribunal that relies on those savings, and*
 - b) *that involve any or all of the following:*
 - (i) *savings resulting from a change in the work practices, terms of appointment, employment entitlements or personal appointment benefits of the office holder (other than savings from a reduction of the kind referred to in paragraph (c) (i)),*
 - (ii) *savings resulting from structural changes to the relevant agency for the office holder, but only if the office holder managed the implementation of the whole or any part of those changes or participated in or otherwise contributed to those savings (whether directly or indirectly),*
 - (iii) *savings resulting from changes to the work practices of the relevant agency for the office holder, or persons working for that agency, but only if the office holder managed the implementation of the whole or any part of those changes or participated in or otherwise contributed to those savings (whether directly or indirectly), and*
 - c) *that are not achieved by a reduction in any of the following:*
 - (i) *an amount payable or provided as a term of the appointment, or as an employment entitlement or personal appointment benefit, of the office holder if legislation requires that amount (or at least that amount) to be paid or provided to the office holder in connection with the officer’s appointment,*
 - (ii) *employment entitlements of any other persons working (whether as an employee or as an officer holder) in the same relevant agency for the office holder, and*
 - d) *that are not existing savings (as defined in subclause (2)), and*
 - e) *that are additional to whole of Government savings measures (such as efficiency dividends).*
- 2) *Savings are existing savings:*
 - a) *if and to the extent that:*
 - (i) *the savings have been identified in a determination of the Tribunal made under the Act before the relevant policy application day for the office holder concerned, and*
 - (ii) *the savings have been relied on by that determination and the remuneration specified in the determination has been paid (whether or not the savings have been achieved and whether or not they were or are achieved during the term of the determination), or*
 - b) *if and to the extent that:*

Judges and Magistrates Group

- (i) *the savings have been identified in an industrial instrument of the Industrial Relations Commission made before the commencement of the Industrial Relations (Public Sector Conditions of Employment) Regulation 2011 (or in an agreement contemplated by such an instrument), and*
- (ii) *the savings have been relied on by that instrument (whether or not the savings have been achieved and whether or not they were or are achieved during the term of the instrument).*

3) *In this clause:*

relevant policy application day for an office holder means:

- a) in the case of a judicial officer within the meaning of the Judicial Officers Act 1986—the day on which this Regulation commenced, and*
- b) in any other case—27 June 2011 (being the day on which the Parliamentary, Local Council and Public Sector Executives Remuneration Legislation Amendment Act 2011 commenced).*

16. In accordance with the SOOR Regulation 2013 any increase the Tribunal may determine in excess of 2.5 per cent, be it a general increase available to all office holders, or an increase provided to an individual office holder or group of office holders based on changes in work value, can only be paid if sufficient officer-related cost savings for the office holder have been achieved to fully offset the increased officer-related costs resulting from increased payment.

17. These new arrangements do not apply to determinations under PART 3A -remuneration packages for chief executive and senior executive office holders. For those determinations the Tribunal will continue to be required to give effect to the same policies on increases in remuneration as those that the Industrial Relations Commission is required to give effect to under section 146C of the IR Act.

Judges and Magistrates Group

Changes to the Superannuation Guarantee Contribution

18. The Superannuation Guarantee Contribution (SGC) – made in compliance with the *Superannuation Guarantee (Administration) Act 1992 (C'wth)* – was increased by 0.25 per cent with effect from 1 July 2013.

19. The SOOR Regulation 2013, which was first published on 21 June 2013, outlined the declared government policy on remuneration of office holders under Part 3. In accordance with Clause 6:

6 Other policies

(1) The following policies are also declared, but are subject to compliance with the declared paramount policy:

(a) an office holder may be awarded increases in remuneration that do not increase the officer-related costs for the office holder by more than 2.5% per annum,

(b) increases in remuneration that increase the officer-related costs for the office holder by more than 2.5% per annum can be awarded, but only if sufficient officer-related cost savings for the office holder have been achieved to fully offset the increase.

20. The policy, as drafted at the time, reflected the intent of the original *Industrial Relations (Public Sector Conditions of Employment) Regulation 2011* (the IR Regulation 2011) which continues to apply to the SES determination, and previously applied to the Tribunal's determinations pursuant to section 6AA, with the exception of Judicial Office Holders.

21. In May 2013 the Government advised that it was its intention that the SGC increase be funded from within the existing wages cap of 2.5 per cent. The Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales, who had filed applications to vary the salaries of certain public sector awards by 2.5 per cent, opposed the SGC being funded from the existing wages cap of 2.5 per cent. This issue was referred to a Full Bench of the Industrial Relations Commission of New South Wales for determination.

22. In its decision made on 25 June 2013, the Full Bench found that the increases in remuneration or other conditions of employment, referred to in clause 6(1)(a) of the IR

Judges and Magistrates Group

Regulation 2011, are only those increases resulting from an award or order made or varied by the Commission either by consent or in arbitration proceedings: *Re Crown Employees Wages Staff (Rates of Pay) Award 2011 & Ors* [2013] NSWIRComm 53.

23. Subsequent to the decision of the Full Bench on 28 June 2013 the Government amended the IR Regulation 2011 to make clear the Government's public sector policies for the purposes of section 146 of the IR Act, and clarify the application of those policies in relation to the impact of increases in superannuation employment benefits.

24. Clause 6 (1)(a) of the IR Regulation 2011 as amended provided;

"...Other policies

(1) The following policies are also declared, but are subject to compliance with the declared paramount policies:

(a) Public sector employees may be awarded increases in remuneration or other conditions of employment, but only if employee-related costs in respect of those employees are not increased by more than 2.5% per annum as a result of the increases awarded and of any new or increased superannuation employment benefits provided (or to be provided) to the employees since their remuneration or other conditions of employment were last determined."

25. Clause 8 of the IR Regulation 2011, as amended, provided;

"... Meaning of employee-related costs

(1) For the purposes of this Regulation, employee-related costs are the costs to the employer of the employment of public sector employees, being costs related to the salary, wages, allowances and other remuneration payable to the employees and the superannuation and other personal employment benefits payable to or in respect of the employees.

(2) In subsection (1), superannuation benefits include any payments by the employer to a superannuation fund of an employee as a consequence of the enactment of or amendments to the Superannuation Guarantee (Administration) Act 1992 of the Commonwealth or the State Authorities Non-contributory Superannuation Act 1987."

26. The effect of the amendments to the IR Regulation 2011 was that SGC increases were to be funded from within the existing wages cap of 2.5 per cent. These arrangements

Judges and Magistrates Group

applied to the Tribunal's determinations pursuant to Part 3A, the SES, and all other public sector employees and office holders subject to the IR Regulation, including Members of Parliament.

27. To ensure the same conditions applied to the Tribunal's determination pursuant to Part 3 of the SOOR Act - being the Judges and Magistrates, Court and Related Officers and Public Office Holders - the Government also amended the SOOR Regulation 2013 on 9 August 2013 to re-declare the Government's policies the Tribunal is required to give effect to when determining the remuneration of office holders. The re-declaration clarified the application of those policies in relation to the impact of the increases in superannuation employment benefits and followed the similar re-declaration in relation to public sector remuneration made by the IR Regulation 2011.
28. The amendments to the IR Regulation 2011, which clarified the application of the policies articulated in the IR Regulation 2011 in relation to the impact of increases in superannuation employment benefits, were disallowed by the Legislative Council on 21 August 2013. This had the effect of restoring the original *Industrial Relations (Public Sector Conditions of Employment) Regulation 2011* immediately.
29. Similarly on 22 August 2013, the *Statutory and Other Offices Remuneration (Judicial and Other Office Holders) Amendment Regulation 2013*, which applied to those determinations of the Tribunal pursuant to Part 3A of the SOOR Act, was also disallowed by the Legislative Council. This had the effect of restoring the original *Statutory and Other Offices Remuneration (Judicial and Other Office Holders) Regulation 2013* immediately.

Submissions

30. As is the usual practice, prior to the Tribunal making her Reports and Determinations, the Tribunal invited submissions from office holders. For the 2013 review office holders in the Judges and Magistrates Group were advised that if they wished to submit that an increase in excess of 2.5 per cent was warranted, it would be necessary for such office holder or group of office holders to identify and propose to the Tribunal the officer-related cost savings which it or they intend to achieve.

Judges and Magistrates Group

31. As part of the current review the Tribunal received six submissions from offices within the Judges and Magistrates Group. The Tribunal also met with Judges of the Supreme Court, the President of the Industrial Relations Commission and the Chief Judge of the District Court. Once again the Tribunal thanks the office holders for their time and the effort they have put in to the current review.
32. Submissions have generally supported retaining the nexus between a Judge of the Supreme Court and the salary payable to a Justice of the High Court of Australia, and increasing the conveyance and travelling allowances.
33. The submissions have also requested that the Tribunal defer finalisation of its determination until after the Commonwealth Remuneration Tribunal's 2013 review of judicial salaries has been concluded.
34. On 25 July 2013 the Commonwealth Remuneration Tribunal determined that Holders of Public Office, including Judges and Related Offices, would receive a remuneration increase of 2.4 per cent with effect from 1 July 2013. In making those determinations the Commonwealth Remuneration Tribunal noted, in its 2013 Review of Remuneration for Holders of Public Office Statement, that:

"The Tribunal will monitor remuneration outcomes in the coming months and will make a further assessment of the situation in December 2013 when the Tribunal expects to have finalised its review of remuneration in its part-time office jurisdiction and of some office holders. If the Tribunal decides that a further general increase is required before 1 July 2014, it will make an appropriate determination."

35. The submission from the Supreme Court Judges also addresses the policy as articulated in the Regulation and suggests

"12. It is respectfully submitted that the Tribunal's approach may be based on a misapprehension of the Regulation and warrants further consideration".

36. The Regulation defines officer related costs as follows:

officer-related costs for an office holder are the costs to the State of the appointment of the office holder, being costs related to each of the following:

- (a) the remuneration payable to the office holder,
- (b) the employment entitlements of the office holder,
- (c) the personal appointment benefits of the office holder.

Judges and Magistrates Group

37. The submission from the Supreme Court Judges notes that:

“14 The “costs to the State” that are “related to” the office holder’s remuneration, employment entitlements and personal appointment benefits, will no doubt vary depending upon numerous matters including the financial reporting responsibilities of the relevant agencies and the way in which any increase in remuneration is structured. It is not presently possible to identify the limit of the increase in remuneration that would result in an increase in officer related costs for the office holder by more than 2.5 per cent per annum. These are matters that may require further submissions in due course.”

38. The Supreme Court Judges also submit that the relativities established by the intergovernmental agreement, “the nexus”, remain relevant. In particular, that judicial remuneration in NSW should remain competitive in order to attract and retain Judges.

“38 The pool from which recent appointments to the Federal Court have been made, the ranks of the Judges of the Supreme Courts of Victoria and South Australia, underscores the ongoing importance of timely and adequate adjustments of judicial salaries in this State to prevent a diminution in the available pool of candidates for appointment and indeed a leakage to other jurisdictions.”

39. The Supreme Court Judges also seek an adjustment in the conveyance allowance and request that the commencement date for determinations be changed to 1 July, instead of 1 October.

40. Submissions received from the Chief Judge of the District Court, the Chief Judge of the Land and Environment Court and the President of the Industrial Relations Commission support the views expressed in the Supreme Court submission.

41. The President of the Industrial Relations Commission also requested that the historical nexus which existed between the judicial and non-judicial members of the Commission be restored.

42. The Chief Judge of the District Court provided the Tribunal with details of costs savings achieved by the District Court in the past 12 months. The submission advised that the District Court has assumed additional responsibilities, but there has been no appointment of extra judges to undertake this work. In addition, the number of District Court Judges decreased by one in 2012/13 and is expected to decrease by a further one in 2013/14 and again in 2014/15.

Judges and Magistrates Group

43. In addition, in response to the Tribunal's 2012 determination, which reduced the ratio of the salary of District Court Judges to Supreme Court Judges from 90% to 89.56%, the Chief Judge also requested that the relativities should be restored because of both extra work absorbed by the District Court and the demonstrated efficiency and cost effectiveness in the operations of the Court.
44. The Chief Magistrate's submission has acknowledged that the Tribunal is constrained in the breadth of its deliberations by section 6AB of its governing legislation. The Chief Magistrate has highlighted the difficulty in valuing the work of a magistrate. In particular, the work undertaken by the Local Courts and any savings resulting from that work being applied to "officer savings" referred to in the Regulation. The Chief Magistrate has also advised that the Magistracy has contributed over the years to mitigating the rising cost of criminal and civil litigation. Savings have been achieved through a combination of legislative change, Practice Notes and the use of technology. These and other initiatives represent recurrent savings in the administration of justice and contribute to the Court's demonstrated capacity to streamline court procedures. The Court's success in managing caseloads has been noted by the Productivity Commission which for 10 successive years identified the NSW Local Courts as the best performing Court against time standards within the Commonwealth. The Chief Magistrate has advised:

"I accept and understand the difficulty for the Tribunal in assessing individual work value for the judiciary in a hierarchical structure, it cannot be said that the magistracy has not made its presence felt in the areas of innovation and achievement over the years."

45. The President of the Workers Compensation Commission has again requested that the remuneration payable to the President of the WCC should continue to be linked to that of a Supreme Court Judge. This position is consistent with the Tribunal's determination of 2012.

Government Submission

46. The Government submission was received on 22 August 2013 and, in respect of the Judges and Magistrate Group, reflects the views of the former Director General of the

Judges and Magistrates Group

Department of Attorney General and Justice. As articulated in the Government's submission to the Tribunal:

"The Department (Attorney General and Justice) notes that since the commencement on 1 July 2013 of the Statutory and Other Offices Remuneration Amendment (Judicial and Other Office Holders) Act 2013, SOORT is now required to give effect to declared Government policy concerning the remuneration of office holders, including judicial office holders. In effect this limits remuneration increases to 2.5 per cent, unless sufficient officer-related cost savings for the officer have been achieved to fully offset increased officer-related costs above 2.5 per cent.

However the Department advises that within the bounds of this limitation, they continue to support the nexus with Federal Court judges and Supreme Court judges. The Department notes that while the Commonwealth Remuneration Tribunal has recently awarded Federal judicial officers a remuneration increase of 2.4 per cent, this is subject to further assessment in December 2013, with the possibility of another increase prior to 1 July 2014...

...Consistent with advice given in previous years, the Department is of the view that the internal relativities maintained between judges and magistrates up to 2012 remain appropriate, regardless of whether there have been any changes in the productivity of particular courts. The Department notes that the internal relativity between Supreme Court judges and District Court judges was changed by the Tribunal in 2012, although the Tribunal noted it would consider restoring the internal relativity in the future.

The Department also advised that the Tribunal should consider the increase in the compulsory superannuation guarantee rate from 9 per cent to 9.25 per cent in relation to acting judges who are not entitled to a pension under the Judges' Pension Act 1953, as necessary.

The Superannuation Guarantee Contribution (SGC) was increased by 0.25 per cent with effect from 1 July 2013, in accordance with the Superannuation Guarantee (Administration) Act 1992 (C'wth). As the SGC is not payable in respect of those judicial officers who are entitled to a pension under the Judges' Pension Act 1953, they will not receive the 0.25 per cent SGC increase separately to any increases determined by the Tribunal. However, other judicial officers including magistrates (other than the Chief Magistrate), acting Supreme Court and District Court judges (not otherwise already in receipt of a judges pension) and judges who do not end up being eligible for a judges pension (because they do not meet the criteria, for instance if they retire before 60) will receive the 0.25 per cent SCG increase separately to any remuneration increases determined by the Tribunal.

Differences in superannuation entitlements notwithstanding, under section 16(6) of the SOOR Act 1975, the Tribunal cannot make a determination that applies differently between two or more persons holding the same office, for those offices listed in Schedule 1 of the SOOR Act 1975. Schedule 1 includes the offices in the Judges and Magistrates Group.

Judges and Magistrates Group

Magistrates, the Deputy President of the Industrial Relations Commission (not being a judicial member), and Commissioners, Industrial Relations Commission are currently entitled to leave loading on the same basis as employees of the NSW Public Service. Although superannuation is not payable on leave loading, the difference of 0.25 per cent on the capped leave loading amount is negligible and should not affect the determinations of the Tribunal in respect of this Group”.

47. Given the issues outlined above, the Government submission proposed that the Tribunal should approve an increase of 2.4 per cent for judicial officers who are entitled to a pension under the *Judges’ Pension Act 1953* and an increase of 2.15 per cent for judicial officers who are not entitled to a pension under the *Judges’ Pension Act 1953*.
48. Following the disallowance of the SOOR Amendment Regulation, the Tribunal received a supplementary submission from the Secretary of The Treasury, Mr Philip Gaetjens. The Supplementary submission notes that:

“Notwithstanding the disallowance, the Government intends to ensure the 2.5 per cent remuneration policy requirement is met and is currently considering options available to it.”

2013 Review

49. The written and oral submissions raised a number of matters which required further clarification. In reviewing these matters the Tribunal is grateful for reasoning received from the Supreme Court and advice received from the Crown Solicitor’s Office.
50. In respect of a general increase, judicial office holders have supported retaining the nexus between a Judge of the Supreme Court and the salary payable to a Justice of the High Court of Australia. The Commonwealth Remuneration Tribunal determined that holders of public office, which includes judicial office holders, would receive an increase of 2.4 per cent with effect from 1 July 2013. In making that determination the Commonwealth Remuneration Tribunal noted that it intends to review the economic and wage data available at the end of the calendar year, as well as forecasts, to assess whether any further increase should be determined before the next scheduled annual adjustment on 1 July 2014.
51. As the Commonwealth Remuneration Tribunal has indicated that it may undertake a further review, which may or may not alter the existing determination, the submissions

Judges and Magistrates Group

have requested that the Tribunal make an “initial” determination of 2.4 per cent with effect from 1 October 2013 to reflect the Commonwealth Remuneration Tribunal’s current determination and to maintain the nexus, and for the Tribunal to make a further and final determination after the completion of the Commonwealth Remuneration Tribunal’s review if that review determines a further increase.

52. The Government submission also supported an increase of 2.4 per cent but it did not propose that the Tribunal delay making its determination to have regard to the outcome of any further Commonwealth Remuneration Tribunal review.
53. The Tribunal sought advice as to whether, in making its determinations under section 13 and section 24C of the SOOR Act, it may vary a determination after it has been made, or whether it may issue both an “interim” and a subsequent determination during the period from 1 October to 30 September the following year. The request for advice related to substantial variations and not minor amendments to correct or to clarify the terms of the original determination.
54. The Tribunal has been advised that it has no power to make a variation to a determination made under sections 13 or 24C of the SOOR Act. In his advice of 11 September 2013 the Acting Crown Solicitor, Mr Peter Anet, advised that the Tribunal does not have the power to make a variation to a determination made under section 13 or 24C of the SOOR Act.

“3.7 The Act expressly provides that a determination (which includes a determination made under s. 13) may be altered by the Tribunal, where the Minister so directs pursuant to s. 14. Section 15 authorises the Tribunal to make a determination as to whether any determination already made should be altered.

3.8 Section 24D provides (in terms similar to s. 14) for the alteration of a determination of the remuneration packages for executive office holders under s.24C where the Minister so directs.

3.9 The fact that ss. 14, 15 and 23D specify particular circumstances in which a determination made under s. 13 or s. 24C can be altered is in my view indicative of a legislative “intention” contrary to the application of a more general, and apparently unconfined, power to amend or repeal an order under s. 43(2) of the Interpretation Act 1987.

Judges and Magistrates Group

3.10 *This conclusion is in my view made plain by the terms of ss. 20 and 24J of the SOOR Act, which provide for the operation of determinations made by the Tribunal. The effect of s. 20 is that a determination made under s. 13 (the report of which is published in the Gazette under s. 19 (1)) shall:*

- (i) subject to the Act, come into force, or be deemed to have come into force, on 1 October in the year in which it is made (s. 20(1)(b));*
- (ii) subject to the Act, remain in force until and including 30 September next (year) following the day on which it comes into force (s. 20(2)); and*
- (iii) have effect subject to any alteration made to it by a determination that was made under section 14 or 15 and that is in force (ss. 20(2B); 20(3)),*

Similarly, the effect of s.24J is that a determination made under s.24C ("Annual Determinations") shall, subject to Part 3A of the Act:

- (i) come into force, or be deemed to have come into force, on 1 October in the year in which it is made (s. 24J(1)(b));*
- (ii) continue in force until and including 30 September next (year) following the day on which it comes into force (s.24J(2)); and*
- (iii) have effect subject to any determination made under s. 24D and that is in force.*

3.11 *The Act therefore expressly provides for certain specified circumstances in which a determination under s. 13 or s.24C may be varied, and also that a determination under ss. 13 and 24C shall (subject to any alteration in the specified circumstances) remain in force for one year, In my view these specific provisions plainly demonstrate a contrary intention so as to exclude the operation of s. 43(2) of the Interpretation Act In this context I do not think that Parliament could be taken to have "intended" that the Tribunal could, at its general discretion, amend or repeal its determinations under s, 13 or s. 24C from time to time as the Tribunal thought fit*

3.12 *I would add that, in case I am wrong about the application of s.43(2) of the Interpretation Ad, and that s. 48 were to apply instead, I would reach the same conclusion as to a contrary intention".*

55. The Tribunal's 2014 annual determination is expected to take effect from 1 July 2014, assuming that the Government's proposed changes to the SOOR Act will be enacted. Consequently- the Tribunal will commence its 2014 determination earlier than previously it has done. That process will commence at approximately the same time as the Commonwealth Remuneration Tribunal will commence its proposed review. On that basis the Tribunal does not intend to defer the making of the 2013 determination. As the

Judges and Magistrates Group

Tribunal is advised it is unable to make an interim determination and then a subsequent determination the 2013 determination will be made having regard to the information currently before the Tribunal. Should circumstances change in any significant way, it would be open to the Premier to request that the Tribunal make a special determination (pursuant to section 14(1)) to alter this determination.

56. In undertaking the 2013 review the Tribunal advised office holders that it would consider a general increase for all judicial offices of up to or, if warranted, above 2.5 per cent. It would also consider requests from individual office holders or groups of office holders for increases above 2.5 per cent based on work value assessment. Office holders were advised that in both instances, any increase in excess of 2.5 per cent could only be paid if sufficient officer-related cost savings for the office holder had been achieved or were expected to be achieved, to fully offset the increased officer-related costs resulting from the increased payment.
57. Office holders were advised that, should any office holder or group of office holders wish to submit that an increase in excess of 2.5 per cent was warranted, it would be necessary for such office holder or group of office holders to identify and propose to the Tribunal the "officer-related cost savings" (as defined) which it or they intended to achieve. In due course the Tribunal would be responsible for determining whether or not those savings had been achieved.
58. The submission from the Chief Justice of the Supreme Court has questioned the Tribunal's assumptions as to the meaning of "officer-related costs". The Acting Crown Solicitor, in his advice of 11 September 2013, has agreed with that submission and has advised that it would be open to the Tribunal to determine an increase in remuneration of more than 2.5 per cent that does not cause more than a 2.5 per cent per annum in officer-related costs.
59. The Regulation defines officer related costs as follows:
- officer-related costs** for an office holder are the costs to the State of the appointment of the office holder, being costs related to each of the following:*
- (a) the remuneration payable to the office holder,*
 - (b) the employment entitlements of the office holder,*

Judges and Magistrates Group

(c) the personal appointment benefits of the office holder.

60. Under the current arrangements the Tribunal only determines the salary, conveyance allowance and travelling allowances for officers in the Judges and Magistrates Group. Information on the employment entitlements and personal appointment benefits provided to individual judicial office holders, or to groups of office holders, has not been made available to the Tribunal.

61. To make an assessment of whether an increase in remuneration of more than 2.5 per cent would result in an increase in officer-related costs of more or less than 2.5 per cent would require an assessment of all officer-related costs.

62. The Acting Crown Solicitor has noted that:

“4.18 ...s. 6AB of the Act, in requiring the Tribunal to give effect to the policy declared by the regulations, is subject to s. 16(6) of the Act, which provides that, in relation to the offices specified in Schedule 1 (which includes judicial officers), a determination may not apply differently between two or more persons holding the same office.

4.19 In my view, in relation to these judicial officers, the “officer-related costs for the office holder” (and “officer-related costs savings” if appropriate) could only be determined on an average or aggregate basis for all judicial officers holding the same office. This construction (which might be supported on the basis that the singular includes the plural in the absence of any contrary intention) appears to be the only way in which clauses 6 and 7 can be given effect to for Schedule 1 office holders without infringing s. 16(6) of the Act.”

63. The Tribunal has not been asked to consider an increase, either a general increase or an increase based on work value assessment, in excess of 2.5 per cent. Consequently the Tribunal is not presently required to come to a concluded view on how officer-related costs and officer-related cost saving would be calculated for the purposes of determining any increase in remuneration of more than 2.5 per cent. The Tribunal will consider these matters further before calling for submissions for the 2014 annual review.

Judges and Magistrates Group

64. The Tribunal has consistently supported maintaining the 85 per cent nexus between the salary of a Supreme Court Judge and the salary of a High Court Judge. As outlined in the 2012 report and determination:

"34 The reason for maintaining those relativities has not changed: potential appointees to the Supreme Court are drawn from the same pool of qualified persons as are potential appointees to the Federal Court, and it is in the interests of the State of New South Wales that the best available people will accept appointment to the Supreme Court."

65. The Government submission has advised it also continues to support the nexus and has recommended an increase of 2.4 per cent which is equivalent to the increase the Commonwealth Remuneration Tribunal has awarded Federal judicial officers. For 2013 the retention of the nexus is possible as the recommended increase is below 2.5 per cent. Should the Commonwealth Remuneration Tribunal, at any stage, determine an increase of more than 2.5 percent, retention of the nexus will only be possible if judicial office holders can find sufficient officer-related cost savings sufficient to fund any additional increase.

66. The Government's decision to extend the wages cap to judicial officers, effectively limiting increases in remuneration to 2.5 per cent unless sufficient officer-related savings can be found to offset any additional increase, would appear to contravene the long-standing intergovernmental agreement in relation to salary relativities between judicial office holders in NSW and the Federal Courts. Should the Government intend that the Tribunal no longer have regard to the long standing intergovernmental agreement, referred to as the nexus, and now having regard to the requirements of the SOOR Act and SOOR Regulation 2013, the Tribunal would appreciate clarification of the Government's position in relation to this matter. That clarification should be provided in the Government's submission to the Tribunal for the 2014 annual review.

67. In determining the general increase the Tribunal has had regard to the submissions received, the key economic indicators, the salary relativity with Commonwealth judicial office holders, and the impact of the amendments to the SOOR Act and the introduction of the SOOR Regulation 2013.

68. While the submissions have only requested an increase of 2.4 per cent, that request would appear to be based on an expectation that the Commonwealth Remuneration

Judges and Magistrates Group

Tribunal may, before making its annual determination for 2014, provide a further increase to Federal judicial office holders, and that the Tribunal could reflect any such further increase in another or an amended determination.

69. Should the Commonwealth Remuneration Tribunal award Federal office holders a further increase, the Tribunal is advised it will not be able to make a new or alter its existing determination without a special reference from the Premier. Further should the increase be more than 2.5 per cent judicial office holders would be required to make sufficient officer-related cost savings to fund the additional increase.
70. The Tribunal finds that the amendments to the SOOR Act and the new SOOR Regulation 2013 will make it difficult for office holders, and in particular groups of office holders, to demonstrate that sufficient officer-related cost savings can be achieved to justify and increase of more than 2.5 per cent.
71. As it is open to the Tribunal to determine an increase of 2.5 per cent, without the need for office holders to demonstrate officer-related cost savings, the Tribunal finds that the maximum increase is appropriate and so determines.
72. A 2.5 per cent increase will result in a NSW supreme court judge receiving a salary which is \$330 more than that of a Federal Court Judge. However, the increase in NSW will not take effect until 1 October 2013 and the annual salary is not expected to exceed that of a federal court judge.
73. An increase of 2.5 per cent is warranted having regard to the significant role judicial office holders undertake in the State's justice system, including but not limited to, their achievements in delivering reforms and initiatives which have demonstrated productivity improvements. Those achievements are highlighted in the Australian Productivity Commission's Report on Government Services 2013 which, in related to the NSW Courts, states:

“ NSW continues to improve its performance. The NSW Supreme Court reduced the percentage of civil appeal matters older than 12 and 24 months. District Court civil and criminal non-appeal 12 months backlogs declined. The Local and Children's Courts continued the excellent level of backlog performance for criminal matters achieved over the last two years. The Coroner's Court also continued the outstanding performance from last year, reducing by more than fifty per cent the percentage of

Judges and Magistrates Group

matters older than 12 months. Overall clearance rates for all NSW Courts improved, with all NSW Courts achieving clearance rates in excess of 100 per cent. This is exceptional achievement, indicating the high level of efficiency within NSW Courts.

NSW continued to utilise technology to improve its quality of services. In 2011-12 over 63,000 videoconferencing sessions were held, and \$1.35 million was invested in remote witness facilities. The Multi-Court Remote Monitoring pilot program was launched, allowing up to four courts to be monitored simultaneously by one person, generating both productivity savings and opportunity for improvements in service delivery.”

(Productivity Commission Report on Government Services 2013 Volume 1, Part C, Chapter 7 Courts.)

74. The 2.5 per cent will apply to all office holders in the Judges and Magistrates Group.
75. The Tribunal’s 2012 determination, as a result of the Tribunal’s decision to award an increase of 3 per cent to Judges of the Supreme Court (and legislatively related judicial officers) and 2.5 per cent to other office holders, broke several long-standing salary relativities within the Judges and Magistrates Group.
76. While the Tribunal was not bound to the wages cap when making determinations for judicial office holders, the decision to limit the increase for some office holders to 2.5 per cent was made having regard to the current economic climate and the need for fiscal restraint, and the effectiveness of the Government’s implementation of its wages policy across the whole of the public sector. The Government has now formalised its position in regard to wages policy through amendments to the SOOR Act and the introduction of the SOOR Regulation 2013.
77. The decision to limit judicial officer increases to 2.5 per cent, except for the Supreme Court (and legislatively related judicial officers), was in no way intended to imply that the Tribunal considered that the role and standing of those offices had diminished in any way.
78. As outlined in the Tribunal’s 2012 determination as soon as the current climate of fiscal restraint is relaxed to any extent, and if the legislation does not prohibit the Tribunal from doing so, the Tribunal will immediately consider restoring the original relativities between office holders within this group and with those that existed with certain office holders in the Court and Related Officer Group

Judges and Magistrates Group

Other matters

Workers Compensation Commission, President

79. The office of President, Workers Compensation Commission is not defined as a “judicial officer” in accordance with the *Judicial Officers Act 1986*. This is anomalous as the *Workplace Injury Management and Workers Compensation Act 1998* stipulates that to be eligible for appointment as President the person must be a Judge of a Court of Record, ie a judicial officer.

80. On that basis the Tribunal continues to include the office of President of the Workers Compensation Commission in the Judges and Magistrates Determination for the purpose of determining the remuneration for this office.

Conveyance Allowance

81. The Tribunal has undertaken a review of the conveyance allowance. In determining the quantum of this allowance the Tribunal applies the average of leasing, on road and running costs for a range of vehicles leased by NSW Judges and Magistrates.

82. Analysis has shown that there has been no substantial change in the total costs for leasing the sample motor vehicles over the last 12 months and consequently the Allowance will not be increased at this time.

2014 Review

83. The *Government Sector Employment Act 2013* (the GSE Act) was assented to on 25 June 2013 and reflects and builds on the Government’s reform program for the public sector. The GSE Act provides a new and simpler statutory framework devoted solely to NSW Government sector employment and workforce management.

84. All determinations of the Tribunal will apply from 1 July each year once the GSE Act commences. The SOOR Act will be amended upon proclamation of the GSE Act. Clause 7 of Schedule 6 of the GSE Act will amend section 13 of the SOOR Act to change the commencement date of the Tribunal’s annual determinations from 1 October to 1 July.

Judges and Magistrates Group

Section 17 of the SOOR Act will also be amended to allow the Tribunal to commence its inquiries on 1 January instead of 1 April.

85. On that basis the Tribunal will commence the 2014 annual review earlier than usual (but not before 1 January) to ensure sufficient time is available to complete the determinations on or as close to 1 July 2014 as possible.

Disallowed

Section 4

Conclusion

86. The amendments to the SOOR Act (Section 6AB) and the introduction of the *Statutory and Other Offices Remuneration (Judicial and Other Office Holders) Regulation 2013* have had a further impact on the way this Tribunal makes its determinations. It is the obligation of the Tribunal to undertake its duties consistent with the legislation. On that basis the Tribunal, after considering the views of the Assessors, considers that an increase of 2.5 per cent is appropriate and so determines. The new rates are as set out in Determinations Nos 1-5.

87. The Tribunal has also made a Report and Determination on Travel Allowances for NSW Judges and Magistrates. The Report and Determination are as set out in Determination No 6.

The Statutory and Other Offices Remuneration Tribunal

(signed)

Helen Wright

Dated: 27 September 2013

Judges and Magistrates Group

Determination No 1

Determination of the Remuneration for Judicial Officers as defined in the *Judicial Officers Act 1986* being judicial officers of the Supreme Court and judicial officers linked by legislation to the remuneration of the Supreme Court Effective on and from 1 October 2013

Position	Salary per annum	Conveyance Allowance (1)
Chief Justice of the Supreme Court	\$462,020	\$22,550
President of the Court of Appeal	\$432,620	\$22,550
President of the Industrial Relations Commission	\$432,620	\$22,550
Chief Judge of the Land and Environment Court	\$432,620	\$22,550
Judge of the Supreme Court	\$412,880	\$22,550
Vice-President of the Industrial Relations Commission	\$412,880	\$22,550
Judge of the Land and Environment Court	\$412,880	\$22,550
Deputy President of the Industrial Relations Commission (being a judicial member)	\$412,880	\$22,550

Note 1 The Conveyance Allowance determined here shall not count towards pension or for superannuation purposes

Judges and Magistrates Group

Determination No 2

Determination of the Remuneration for Judicial Officers as defined in the *Judicial Officers Act 1986* but not referred to in Determination 1 Effective on and from 1 October 2013

Position	Salary per annum	Conveyance Allowance (1)
Deputy President of the Industrial Relations Commission (not being a judicial member)	\$410,880	\$22,550
Judge of the District Court	\$369,790	\$20,330
Associate Judge or acting Associate Judge (under the Supreme Court Act 1970)	\$369,790	\$20,330
Chief Magistrate	\$369,790	\$20,330
Deputy Chief Magistrate	\$312,470	\$16,235
State Coroner	\$312,470	\$16,235
Chief Industrial Magistrate	\$301,010	\$16,235
Magistrate	\$295,830	\$16,235
Chairperson Victims Compensation Tribunal (NOTE 2)	\$295,830	\$16,235
Children's Magistrate	\$295,830	\$16,235
Deputy State Coroner	\$295,830	\$16,235
Commissioner Industrial Relations Commission	\$271,180	\$16,235

Note 1 The Conveyance Allowance determined here shall not count towards pension or for superannuation purposes

Note 2 When a more senior Magistrate is appointed to the office then he or she shall retain his or her present salary level.

Judges and Magistrates Group

Determination No 3

Determination of the Remuneration to be Paid to the President of the Workers Compensation Commission (Pursuant To Section 369 of the *Workplace Injury Management And Workers Compensation Act 1988*) Effective on and from 1 October 2013

Position	Salary per annum	Conveyance Allowance (1)
President, Workers Compensation Commission	\$412,880	\$22,550

Note 1 The Conveyance Allowance determined here shall not count towards pension or for superannuation purposes

Determination No 4

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 \$1,790 per day

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 \$1,600 per day

Judges and Magistrates Group

Determination No 5

Annual Leave Loading Of Judges, Magistrates and Related Group Effective on and From 1 October 2013

Leave Loading

An annual leave loading shall be payable on the same terms and conditions as are applicable to officers and employees of the Public Service of New South Wales, as set out in Section 6-15.11 to 6-15.16 of the Personnel Handbook, to each of the following office holders:

- Magistrates
- Deputy President of the Industrial Relations Commission (not being a judicial member)
- Commissioners, Industrial Relations Commission

The Statutory and Other Offices Remuneration Tribunal

(signed)

Helen Wright
Dated: 27 September 2013

Report and Determination on Travel Allowances for NSW Judges and Magistrates

Section 1

Background

1. 'Remuneration' is defined in the SOOR Act, as salary and allowances payable to office holders. Judges and magistrates are holders of offices specified in Schedule 1 of the Act.

2. 'Allowance' is defined as follows:

allowance does not include a travelling or subsistence allowance, but includes a travelling or subsistence allowance for travel within Australia by the holder of an office specified in Schedule 1 who is:

a Judge or Acting Judge of a court, or

any other judicial officer (within the meaning of the Judicial Officers Act 1986) nominated by the Minister by notice in writing to the Tribunal for the purposes of this definition.

3. The Tribunal in this determination will be setting rates for overnight stays in capital cities, for overnight stays in areas other than capital cities and meal rates for day or part of day absences from headquarters. The Tribunal has also determined the conditions upon which the rates are to be paid.

Section 2

2013 Review

4. Historically the Tribunal has regard to movements in the travel rates as adopted for the NSW Public Sector generally. These rates are based on the reasonable travel allowances as determined by the Australian Taxation Office (ATO). The ATO has made a new determination for 2013 (TD 2013/16) and these rates will be adopted for the NSW Public Sector. On that basis the Tribunal has determined the rates that are based on ATO TD 2013/16.

Judges and Magistrates Group

Section 3

Principles Adopted

5. In making its determinations on travel allowance rates the Tribunal has adopted a number of guiding principles as set out hereunder.
 - (a) Travelling allowances are intended to meet the costs necessarily incurred by Judges and Magistrates who are required to travel away from home/place of work on official business. Such costs include accommodation, meals and incidental expenses.
 - (b) Allowances are provided to ensure that an officer is not financially disadvantaged as a result of having to travel on official business.
 - (c) Office holders are not expected to gain or lose financially as a result of travelling on official business.
 - (d) Where an office holder is accommodated in private, non-commercial accommodation such as the home of a family member or friend, a rate of one third of the specified rate is payable, rounded upwards to the nearest dollar.

Section 4

Conclusion

6. In making its determination the Tribunal has had regard to the current travel allowance rates contained in Taxation Ruling 2013/16. Non metropolitan accommodation rates and meal rates have also been adjusted as set out in the Determination.
7. After reviewing the survey of intra state accommodation and meal costs, the Tribunal makes the following determination (Determination No 7) effective on and from 1 October 2013.

Statutory and Other Offices Remuneration Tribunal

(signed)

Helen Wright

Dated: 27 September 2013

Judges and Magistrates Group

Determination No 7

Travel Allowances for Judges and Magistrates Effective on and From 1 October 2013

Pursuant to section 13 of the SOOR Act the Tribunal determines that the travel allowances for Judges and Magistrates will be as follows effective on and from 1 October 2013.

A. Travel necessitating an overnight stay

Travel Allowances

Capital City Rates	
Adelaide	\$375.70
Brisbane	\$418.70
Canberra	\$412.70
Hobart	\$361.70
Perth	\$492.70
Darwin	\$450.70
Melbourne, Sydney	\$431.70
Newcastle and Wollongong	\$356.70
Other Areas	\$356.70

Conditions

General conditions are to be as determined from time to time by the Attorney General.

- In addition the following specific conditions will apply.

The full daily travel allowance rate is to be paid only where the judge/magistrate stays overnight at commercial accommodation. Where the judge/magistrate stays overnight at non commercial accommodation then one third of the daily rate is to be paid.

Judges and Magistrates Group

- Where travel is for a period in excess of 24 hours then meal expenses for the final part day are to be paid.

B. Travel not involving an overnight stay

Meal Allowances for travel NOT involving an overnight stay

Breakfast	\$24.90
Lunch	\$28.00
Dinner	\$47.75

Statutory and Other Offices

Remuneration Tribunal

(signed)

Helen Wright

Dated: 27 September 2013

Disallowed