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NORTHERN TERRITORY OF AUSTRALIA

REMUNERATION TRIBUNAL

REPORT AND DETERMINATION

NO. 1 OF 2016

**ON THE ENTITLEMENTS OF
LOCAL COURT JUDGES**

INTRODUCTION

1. The Tribunal is established by section 17(1) of the *Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act*. Under the Act, the Tribunal may consist of up to three members. There are currently two members.
2. Under that Act, the entitlements of Local Court Judges must be reviewed by the Tribunal at least annually. Reports of the Tribunal, including the resulting determinations, are required to be provided to the Minister, and the Minister must table each report in the Legislative Assembly within 6 sitting days of receipt. Following tabling of the report, the Assembly may pass a resolution disallowing all or part of the determination within 10 sitting days.
3. Section 55(2) of the Local Court Act provides that the salary, allowances and other benefits to which a Local Court Judge is entitled must not be altered to the Judge's detriment during the Judge's term of office.
4. Entitlements were reviewed and last determined on 18 November 2015 and salary entitlements were effective from 1 July 2014.
5. This report completes this review.


CONDUCT OF THE REVIEW

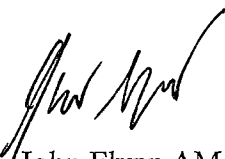
6. The Local Court Judges and relevant Northern Territory Government agencies were made aware of the review by letter. In addition, advertisements were placed in Territory newspapers during July 2016. The letters and advertisements invited submissions to the review.
7. Three written submission were received, one verbal submission was made and the Tribunal also consulted with a number of parties.

REVIEW OF ENTITLEMENTS

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

9. Since Report and Determination of No. 1 of 2008 the Tribunal had, for a variety of reasons, found that it was desirable that there be precise relativity between Local Court Judges' base remuneration and Supreme Judges' base remuneration and determined that the relativity be 75%. This relativity has remained until Determination No. 1 of 2015. The 2015 Report and Determination increased the relativity to 77.25% after consideration of a number of factors, including the level of Judicial Officers' remuneration in other similar jurisdictions. The Report noted that this nexus should be maintained in future Determinations, unless there are unusual circumstances.
10. Northern Territory Supreme Court Judges' remuneration is determined by reference to Federal Court Judges' remuneration and their remuneration has increased by 2% effective from 1 January 2016. The Tribunal is of the view that there are no unusual circumstances and the nexus of 77.25% is still appropriate. Therefore, there will a 2% increase to Local Court Judges' annual salary or allowances for additional duties effective from 1 January 2016.
11. Travelling allowances have been varied to be consistent with levels that are considered to be reasonable by the Australian Taxation Office, the exception being the Perth rate, which is higher and has remained the same because Local Court Judges entitlements must not be altered to their detriment.
12. The Determination continues to provide a subsidised rental, subject to certain conditions, for Local Court Judges who have been directed to relocate to Katherine. The contribution to be paid by a Local Court Judge remains at \$310 per fortnight.
13. A submission was made that the Coroner now a Local Court Judge and Local Court Deputy Chief Judge entitlements' to a car have been to their detriment by Report and Determination No.1 of 2008 which amalgamated their entitlements with other magistrates now being Local Court Judges. A legal opinion has been obtained by the Tribunal which advises that there is no such diminution of entitlement. A further six-cylinder car of quality has been added to the Table of cars available to Local Court Judges and a Holden Calais has been added to the Table for the Local Court Chief Judge.


Michael Martin OAM
Chairperson


John Flynn AM
Member

30 September 2016

NORTHERN TERRITORY OF AUSTRALIA

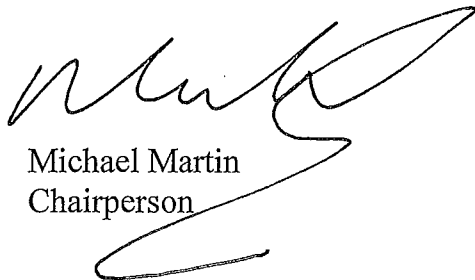
Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act

DETERMINATION OF ENTITLEMENTS OF LOCAL COURT JUDGES

The Remuneration Tribunal:

- (a) under section 7(1) of the *Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act* and with reference to section 43 of the *Interpretation Act*, revokes the determination of salary, allowances and other benefits for Magistrates (now known as Local Court Judges by virtue of section 85 of the *Local Court Act*) dated 18 November 2015; and
- (b) under section 7(1) of the *Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act*, determines the entitlements of Local Court Judges as set out in the Schedule (the "Determination").
- (c) under section 7(1) of the *Assembly Members and Statutory Offices (Remuneration and Other Entitlements) Act*, determines that for the period starting on 1 January 2016 and ending on the day before the date of this Determination, a Local Court Judge is entitled to be paid an amount equal to the difference between the amount payable to a Magistrate in Table 2 of Determination No. 2 of 2015 (being the former Determination) and the amount that would have been payable to a Local Court Judge had this Determination been in operation during that period.

Dated: 30 September 2016



Michael Martin
Chairperson



John Flynn
Member

SCHEDULE

DETERMINATION NO. 1 OF 2016 LOCAL COURT JUDGES

This Determination sets out the entitlements of Local Court Judges appointed under section 53(1) of the Northern Territory Local Court Act

PART 1 – GENERAL

1.1 Definitions: In this Determination:

'**Coroner**' means the Local Court Judge appointed to be the Territory Coroner under the *Coroners Act*;

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

'**Local Court Judge**' means a Judge appointed under section 53(1) of the *Local Court Act*.

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

PART 2 – SALARY AND ALLOWANCES

2.1 Annual salary: The annual salary of a Local Court Judge is specified in Table 1.

Table 1
Annual Salary effective 1 January 2016

Office	Annual Salary
Local Court Chief Judge	\$365,045
Local Court Deputy Chief Judge	\$338,373
Coroner	\$351,707
Local Court Judge	\$325,069

2.2 Allowance for additional duties:

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

2.2.2 Other additional duties: An allowance at a rate equal to 1.75% of the salary of the Local Court Judge is payable:

- (a) for each period that the President of the Mental Health Review Tribunal undertakes administrative responsibilities for the Mental Health Review Tribunal or a Local Court Judge who undertakes the responsibilities under the terms of a written direction from the President of the Tribunal; or
- (b) while the Local Court Judge holds the appointment of managing Local Court Judge for the Work Health Court; or
- (c) while the Local Court Judge has been allocated the role of managing the Youth Justice Court; or
- (d) while the Local Court Judge, not being a Local Court Judge performing special administrative duties under direction of the Chief Judge, holds the appointment of Deputy President of the Northern Territory Civil and Administrative Tribunal.

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

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

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

PART 3 – TRAVEL

- 3.1 Travel on official duty:** For this Part, "travel on official duty" means the following:
- (a) travel while on duty in the Territory;
 - (b) travel to attend a conference mentioned in clause 3.3; and
 - (c) travel for a purpose approved by the Chief Judge and endorsed by the Chief Executive Officer or Minister.
- 3.2 Class of travel:** A Local Court Judge is entitled to travel business class, if available, for travel on official duty by air.
- 3.3 Travel to conference:** Each financial year, a Local Court Judge is entitled to attend:
- (a) one relevant interstate conference, subject to the approval of:
 - (i) for the Chief Judge – the Chief Executive Officer; or
 - (ii) for any other Local Court Judge – the Chief Judge; or
 - (b) one relevant overseas conference, subject to the endorsement of the Chief Judge and the approval of the Minister.
- 3.4 Travelling allowance:** Travelling allowance is payable to a Local Court Judge for travel on official duty.
- 3.5 Rates of travelling allowance within Australia:** The rates of travelling allowance for travel on official duty involving an overnight stay are those specified in Table 3.

Table 3
Daily Rate

Column 1 Location	Column 2 Rate
Darwin	\$464.00
Sydney, Melbourne	\$442.00
Perth	\$492.70

Brisbane	\$434.00
Adelaide	\$386.00
Hobart	\$372.00
Canberra	\$423.00
Other places	\$372.00

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

Table 4
Rate for Meals and Incidentals

Column 1	Column 2 Rate
Breakfast	\$34.00
Lunch	\$48.00
Dinner	\$67.00
Incidentals	\$27.00
Total	\$176.00

- 3.5.2 Meals provided:** If an entity other than the Local Court Judge pays for a meal, the travelling allowance payable must be reduced by the rate specified in column 2 of Table 4 for that meal.

Example:

If a conference provides a dinner, the payment to the Local Court Judge for meals and incidentals for that day must be reduced by the rate specified in column 2 of Table 4 for dinner.

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

- 3.6 Travel not involving overnight stay:** If a Local Court Judge is on circuit duty for 5 hours or more that does not involve an overnight stay, the Local Court Judge is entitled to an allowance at the daily rate of \$45.
- 3.7 Overseas travel:** Rates to be paid in accordance with Australian Government Taxation Office Taxation Determination TD 2016/13 or any subsequent taxation determination made in substitution of that determination.

PART 4 – VEHICLE AND TELEPHONE

- 4.1 Motor vehicle:** A Local Court Judge is entitled to be provided with a 6-cylinder motor vehicle with private number plates for his or her official duties.
- 4.1.1 Vehicle model:** The vehicle provided must be the model indicated in Table 5 or a motor vehicle specified for the purpose of this clause and listed in the Tribunal document “Entitlements of Local Court Judges Vehicles Approved as being of an Equivalent Standard” as in force from time to time.

Table 5

Office	Vehicle Model
Local Court Chief Judge	<ul style="list-style-type: none"> • Holden VF Calais SIDI Sedan • Nissan Murano • KIA Optima.SI • Subaru Outback Premium AWD Station Wagon
Local Court Deputy Chief Judge Coroner Local Court Judge	<ul style="list-style-type: none"> • Holden VF Evoke SIDI Sedan • Honda Accord V6-L Sedan • Hyundai Santa Fe Active 2WD 7 seat Station Wagon • Kia Sportage Platinum AWD Station Wagon • Mazda 6 Sports Hatch • Mazda CX5A Grand Touring AWD Station Wagon • Subaru Forester Premium Station Wagon • Subaru Outback AWD Station Wagon • Toyota Prius Sat Nav & IPA Hybrid Hatch • Toyota RAV4 AWD • Volkswagen Tiguan 103 Station Wagon (Only available to Darwin Local Court Judges)

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

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

- (a) nominate, on a journey by journey basis, another person as the person authorised to use the motor vehicle during the course of that journey; and
- (b) subject to clause 4.1.4 – keep the motor vehicle at his or her residence while it is not in use; and
- (c) use the motor vehicle while on leave in the Territory or elsewhere in Australia if he or she pays for all the fuel used in driving the motor vehicle and all the other costs of running and maintaining the motor vehicle while on leave outside the Territory.

4.1.4 Responsibility of Local Court Judge: A Local Court Judge must:

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

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

- 4.2 Residential telephone:** A Local Court Judge is entitled to be provided with a telephone for his or her residence with the installation and rental costs of the telephone to be paid by the Territory.
- 4.3 Mobile telephone:** A Local Court Judge is entitled to be provided with a smart phone.
- 4.4 Communication allowances:** The quarterly costs of the mobile telephone, residential phone, internet charges and facsimile charges, are to be paid by the Territory up to the maximum quarterly limit of \$1 150.

PART 5 – LEAVE

- 5.1 Application of Part 2 of Public Sector Employment and Management By-laws:** Subject to clause 5.3, Part 2 of the *Public Sector Employment and Management By-laws* as in force from time to time (the "By-laws") apply to a Local Court Judge, with the modifications specified in clause 5.2, as if the Local Court Judge were an employee.
- 5.2 Modifications to By-laws:** Part 2 of the By-laws is applied with the modifications specified in this clause.
- 5.2.1 Recreation leave:** For by-law 4 of the By-laws, "annual credit" is taken to be a period of 6 weeks.
- 5.2.2 Purchase of additional credits:** Local Court Judges may elect to purchase additional leave up to a limit of four weeks per year subject to the following conditions:
- (a) Local Court Judges will have their annual salary (and fortnightly salary payments) reduced accordingly; and
 - (b) purchased leave counts as service for all purposes.
- 5.2.3 Long service leave in lieu:** A Local Court Judge has a special entitlement to a payment in lieu of long service leave on resignation from employment as follows:
- (a) 22.5 calendar days after 7 completed years of service;
 - (b) 45 calendar days after 8 completed years of service;
 - (c) 67.5 calendar days after 9 completed years of service.

Payment under this provision is calculated using the following formula:

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

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

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

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

PART 6 – SUPERANNUATION

6.1 Definitions: For this Part:

'CSS' means the Commonwealth Superannuation Scheme;

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

'NTSSS' means the Northern Territory Supplementary Superannuation Scheme.

6.2 Employer contributions: A Local Court Judge is entitled to employer superannuation contribution as follows:

- (a) if the Local Court Judge is a member of the CSS or a member of the NTGPASS and NTSSS – the contributions required are to be made under the respective scheme;

- (b) in any other case – contributions to a complying superannuation fund chosen by the Local Court Judge at the minimum rate required under the Federal Superannuation Guarantee legislation.

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

PART 7 – RELOCATION EXPENSES

7.1 Application: This Part applies to the following:

- (a) a person who is required to move from another location in order to take up appointment as a Local Court Judge;
- (b) a Local Court Judge who transfers from one location to another.

7.2 Cost of conveyance: The person is entitled to the costs of conveyance of the person, family members and reasonable household furniture and effects to the new location.

7.3 Relocation allowance: A Local Court Judge is entitled to a relocation allowance for a period of six fortnights at the following fortnightly rates:

- (a) Local Court Judge only – \$423;
- (b) Local Court Judge with resident family – \$584.

7.3.1 Resident family: For clause 7.3, the resident family rate is applicable where the employee's spouse, children or any other person who resided with the employee as part of the employee's family prior to relocation, accompanied the employee upon relocation and for whom the cost of that relocation was met by the Territory.

7.4 Relocation allowance where directed to relocate: Where the Local Court Chief Judge has directed a Local Court Judge to relocate to Katherine and that Local Court Judge owns a home in his/her name or as a joint tenant or a tenant in common and where the home has not been let during his/her relocation then the Local Court Judge shall be provided with a three bedroom home at Government expense subject to the Local Court Judge paying a fortnightly rental of \$310 (subject to the Local Court Judge continuing to have an interest in the home and it has not been let). This subclause only applies for the duration of this determination.

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