



# THE SOUTH AUSTRALIAN GOVERNMENT GAZETTE

PUBLISHED BY AUTHORITY

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ADELAIDE, THURSDAY, 22 DECEMBER 2022

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All instruments appearing in this gazette are to be considered official, and obeyed as such

# RULES OF COURT

SUPREME COURT ACT 1935  
 DISTRICT COURT ACT 1991  
 ENVIRONMENT, RESOURCES AND DEVELOPMENT COURT ACT 1993  
 MAGISTRATES COURT ACT 1991  
 YOUTH COURT ACT 1993  
 SOUTH AUSTRALIA

## *Joint Criminal (No 1) Amending Rules 2022*

By virtue and in pursuance of the *Supreme Court Act 1935*, the *District Court Act 1991*, the *Environment, Resources and Development Court Act 1993*, the *Magistrates Court Act 1991* and the *Youth Court Act 1993*, and all other enabling powers, we, the Chief Justice of the Supreme Court, the Chief Judge of the District Court, the Senior Judge of the Environment, Resources and Development Court, the Chief Magistrate of the Magistrates Court, and the Judge of the Youth Court make the following Joint Criminal (No 1) Amending Rules 2022.

1. These Rules may be cited as the *Joint Criminal (No 1) Amending Rules 2022*.
2. The *Joint Criminal Rules 2022* are amended as set out below.
3. The amendments made by these rules come into effect on the later of—
  - (a) Tuesday 3 January 2023; or
  - (b) the date of their publication in the Gazette.
4. In Rule 2.1(1) the definition of *sensitive material* is amended to substitute “section 67H” for “section 67I”.
5. In Rule 2.1(1) the definition of *charge determination appearance* is amended to substitute “tried” for “tied”.
6. Rule 28.11(2) paragraphs (a) to (e) are amended to substitute the word “Principal Registrar or the Court” for the words “Principal Registrar” at every instance.
7. Rule 28.11(4) is amended to delete the second instance of the word “section”.
8. A new subrule 153.1(4) is inserted immediately after subrule 153.1(3) as follows:
  - (4) A bond or guarantee governed by this rule may be acknowledged by the defendant before a witness who is a judicial officer, a Registrar of the Court, or a Justice of the Peace.
9. Subrule 190.2(1) is amended to insert the words “appellate proceeding” following the words “hearing of an”.
10. Subrule 190.2(1)(c) is amended to substitute “Form 187” for “Form 102” and to substitute “Form 188” for “Form 103”.
11. Subrule 195.5(2) and Subrule 195.5(3) are amended to substitute “Form 187” for “Form 102”.
12. Rule 195.6 appearing under Chapter 9, Part 4, Division 4, Subdivision 4 is renumbered as 195.7.
13. **Division 12 – Hearing and determination of appellate proceedings** under Chapter 9, Part 4 is renumbered as Division 13.
14. The current Schedule 1 will be renumbered as subrule (1) and the following is inserted:
  - “(1) The Lower Courts Criminal costs scale in respect of work done from the commencement date to 31 December 2022 is set out in the following tables.”
15. A new subrule (2) is added to Schedule 1 as follows:
  - “(2) The Lower Courts Criminal costs scale in respect of work done on or after 3 January 2023 is set out in the following tables.”

### Notes:

- 1 This cost scale is intended for use in making orders as between party and party.
- 2 The fees set out in items 1 and 2 are intended to cover all necessary attendances and preparatory work for a trial (other than attendance at a pre-trial conference). Where an attendance is unnecessary as a result of default by one or other party, an order should be sought and made at that hearing. The fee set out in item 4 or 5 should be used for that purpose.

No.	Item	Represented by solicitor	Represented by non-legally qualified person
1	Instructions, including all preparation for trial and attendances up to, but not including attendance at a Pre-Trial Conference	\$1,210	\$310
2	All aspects not otherwise specified from Pre-Trial Conference to Trial, including proofing witnesses, advice or evidence and law (solicitor and counsel) and delivering brief to counsel.	\$1,210	\$220
3	Attendance at pre-trial conference	\$330	\$80
4	Attendance at hearing (see note 2 above)	\$120	\$40
5	Attendance where detailed argument is necessary (see note 2 above)	\$20	\$50

6	Arranging attendance of witnesses (including issue and service of summons if necessary) - per witness	\$110	
<b>Counsel fees</b>			
7	Fee on brief, to include attendance for plea or withdrawal (if separate counsel briefed)	\$1,100	\$280
8	Each day	\$1,650	\$410

<b>Witness fees</b>	
Professional scientific or other expert witnesses per day	\$1,100 or such amount ordered by the Court
Other adult person per day	\$400
Persons under 18 years of age per day	\$170
Travel expenses	Where the witness is normally resident more than 50 km from the trial Court at the rate of 95 cents per km or the least expensive return air fare whichever is the lesser or the cheapest combination of both.
Accommodation expenses	In the discretion of the taxing officer where the witness is required to be absent from the witness's normal place of residence overnight for accommodation and sustenance per night \$320 or such larger amounts allowed by the Court at the time of or before judgment.
Photocopying	72 cents per page
ISD calls	The actual cost.
Expert Reports	\$1,100 or such other amount ordered by the Court
Other	All Court fees, search fees, and other fees and payments to the extent to which they have been properly and reasonably incurred and paid; but excluding the usual and incidental expenses and overheads of a legal practice and in particular excluding postage, telephone charges (non STD) and courier expenses.
<p><b>NOTE:</b></p> <p>A. If a witness is released before or is required to first attend after the luncheon break on any day, half a day will be allowed.</p> <p>B. Fees for non-legally qualified people are for attendances only.</p> <p>C. The costs allowed in this scale do not include Goods and Services Tax (GST) which is to be added except in the following circumstances:</p> <p>The GST should not be included in a claim for costs in a party/party Bill of Costs if the receiving party is able to obtain an input tax credit. If the receiving party is able to obtain an input tax credit for a proportion of GST only, only the portion which is not eligible for credit should be claimed in the party/party bill.</p>	

16. In Schedule 2, Form 181e is deleted and substituted as follows:

Form 181e

<p><b>To be inserted by Court</b></p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
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<p><b>Hearing Date and Time:</b></p> <p><b>Hearing Location:</b></p>
--

**NOTICE OF REVIEW – BAIL REVIEW**  
*Bail Act 1985 s 14; Service and Execution of Process Act 1992 s 86 (Cth)*

SUPREMECOURT OF SOUTH AUSTRALIA  
 CRIMINAL JURISDICTION

[*FULL NAME*]  
**Appellant**

v

[*FULL NAME*]  
**Respondent**

<b>Appellant</b>				
	<b>Party title</b>	<b>Full name of party</b>		
Name of law firm/office				
<i>If applicable</i>	<b>Law firm/office</b>	<b>Responsible Solicitor</b>		
Name of authorised officer				
<i>If body corporate and no law firm/office</i>	<b>Full name</b>			
Address for service	<b>Street Address (including unit or level number and name of property if required)</b>			
	<b>City/town/suburb</b>	<b>State</b>	<b>Postcode</b>	<b>Country</b>
	<b>Email address</b>			

Phone Details	
	Type (eg. Home; work; mobile) - Number

<b>Respondent</b>	Full Name		
Address	Street Address (including unit or level number and name of property if required)		
	City/town/suburb	State	Postcode
	Country		
	Email address		
Phone Details	Type (eg. Home; work; mobile) - Number		Another number

**Review details**

The Appellant applies to the Supreme Court for review of bail decision identified below.

This application for review is made under

- section 14(2)(a) of the *Bail Act 1985* review of bail authority decision
- section 86 of the *Service and Execution of Process Act 1992 (Cth)* review in relation to extradition proceedings
- [other – specify legislative provision]

**Bail decision subject of review**

Date of bail decision: [date]

Court or other bail authority: [name]

Judicial Officer or individual decision maker: [title and name]

Case number of Court or other bail authority: [number]

Relevant terms of bail decision: [terms]

following line only displayed if application under section 86 of the *Service and Execution of Process Act 1992 (Cth)*

Warrant issued by: [name].

**Grounds of Review**

This Application is made on the grounds set out in

- the accompanying affidavit sworn by [name] on [date].
- a supporting affidavit which will be filed as soon as practicable.

Following box only displayed if application is by a defendant or youth

**Hearing of review**

The Appellant is in custody: [*yes/no*]. Select one

Complete the following if appellant is in custody

At the hearing of the bail review, the Appellant wishes to:

- be present in person.
- appear by audiovisual link.
- not appear.

Reasons why Appellant wishes to be present in person: [*reasons*]. audiovisual link is the usual form of appearance at a hearing of a bail review for persons in custody. Special reasons need to be given for the Court to direct personal attendance

**Accompanying documents**

Accompanying this Application is a:

- Supporting Affidavit mandatory unless urgency requires filing the application without a supporting affidavit in which event one must be filed as soon as practicable
- Information containing charges subject of bail decision exhibited to supporting affidavit
- Record of reasons of bail authority exhibited to supporting affidavit
- If other additional document(s) please list them below:

**To the Parties: WARNING**

This Application will be considered at the hearing at the date and time set out at the top of this document.

You **must** attend the hearing. If you do not do so, the Court may proceed in your absence and orders may be made **finally determining** this proceeding without further warning.

**Service**

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.

17. In Schedule 2, Form 173– Record of Outcome is deleted and substituted as follows:  
Form 173

**To be inserted by Court**

Case Number:

Date Signed:

FDN:

**RECORD OF OUTCOME**

[*SUPREME/DISTRICT/MAGISTRATES/YOUTH/ENVIRONMENT RESOURCES AND DEVELOPMENT*] Select one  
COURT OF SOUTH AUSTRALIA  
CRIMINAL JURISDICTION

[*FULL NAME*]  
**Informant/Applicant**

v

[*FULL NAME*]  
**Defendant/Youth/Respondent**

**Introduction****Hearing**

Hearing Location: [suburb]  
[Hearing date] [Listed starting time]

Hearing type:

Supreme and District Court only

[Actual hearing start time] - [Actual hearing end time]

[Presiding Officer]

**Appearances**

[Informant/Applicant Appearance Information]  
[Defendant/Youth/Respondent Appearance Information]

**Remarks**

[Notes]

**Order**

**Date of Order:** [date]

**Terms of Order**

It is ordered that:  
Orders in separately numbered paragraphs.

1.

**Authentication**

.....  
Signature of Judicial Officer  
[title and name]

18. In Schedule 2, Form 29– Request to Minister for Foreign Affairs to Refuse to Issue Australian Passport is deleted and substituted as follows:

Form 29

**To be inserted by Court**

Case Number:

Date Filed:

FDN:

**REQUEST TO MINISTER FOR FOREIGN AFFAIRS TO REFUSE TO  
ISSUE AUSTRALIAN PASSPORT**

*Australian Passports Act 2005 (Cth) s 12*

[*SUPREME/DISTRICT/MAGISTRATES/YOUTH*] Select one COURT OF SOUTH AUSTRALIA  
CRIMINAL JURISDICTION

[*FULL NAME*]  
**Informant/R**

**v**

[*FULL NAME*]  
**Defendant/Youth**

<b>To Minister for Foreign Affairs</b>				
Minister for Foreign Affairs	Adelaide Passport Office			
Address	GPO Box 907			
	Street Address (including unit or level number and name of property if required)			
	Adelaide	SA	5082	AUSTRALIA
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	08 8403 4858			
	Type (eg. home; work; mobile) – Number			

<b>[The] [Defendant/Youth] [name]</b>				
Defendant/Youth	Full Name			
Address	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Date of Birth and Licence number	Date of Birth	Driver's Licence No		
Phone Details	Type (eg. home; work; mobile) – Number	Another number		

### Refusal Request

I am a competent authority because I have responsibility for, or powers, functions or duties in relation to the order forming grounds for this request.

As a competent authority for the purposes of section 12 of the *Australian Passports Act 2005* (Cth), I hereby request the Minister for Foreign Affairs to refuse issue of an Australian passport to the [Defendant/Youth] who is a person who is prevented from travelling internationally by force of a condition of a [Home Detention Order/Intensive Correction Order/Suspended Sentenced Bond/Good Behaviour Bond/Obligation/Bail Agreement/Recognisance Release Order/Recognisance Order] made by [Court] on [date].

### Grounds for refusal

1. A bail agreement has been entered by the [Defendant/Youth] requiring them to surrender their passport to the Registrar of the Court and not to apply for a new passport and not to approach any point of international departure.

- 2. A [*Home Detention/Intensive Correction/ Suspended Sentenced Bond/Good Behaviour Bond/Obligation/ Recognisance Release/Recognisance*] Order was made by the Court requiring the [*Defendant/Youth*] to surrender their passport to the Registrar of the Court and not to apply for a new passport and not to approach any point of international departure.
- 3. [*other*].

**if known, provision for multiple Details of current passport (Australian or foreign) of the person**

Country of issue: [*country*]

Passport number: [*number*]

Place of Birth: [*as described on passport*]

Sex: [*as described on passport*]

This Passport shall be held in the safe custody of the Registrar of [*Court*] at [*location*]

[*other*]

Australian Customs Service is requested to raise a border control alert (PACE) at Australian ports of departure.

**Accompanying Documents**

Accompanying this Application is a:

- Home Detention Order mandatory if applicable
- Intensive Correction Order mandatory if applicable
- Suspended Sentence Bond Order
- Good Behaviour Bond Order
- Obligation
- Bail Agreement mandatory if applicable
- Recognisance Release Order mandatory if applicable
- Recognisance Order mandatory if applicable
- [*optional*]

.....  
 Certified by Court Officer  
 [*title and name*] located at;  
 [*address of the requesting Court*]  
 [*telephone contact no.*]

In accordance with the *Supreme Court Act 1935*, the *District Court Act 1991*, the *Environment, Resources and Development Court Act 1993*, the *Magistrates Court Act 1991* and the *Youth Court Act 1993*, and all other enabling powers, the *Joint Criminal (No 1) Amending Rules 2022* have been made—

- as rules of the Supreme Court by 3 or more Judges of the Supreme Court; and
- as rules of the District Court by the Chief Judge and 2 or more other Judges of that Court; and
- as rules of the Magistrates Court by the Chief Magistrate and 2 or more other Magistrates; and
- as rules of the Environment, Resources and Development Court by the Senior Judge and 1 other Judge; and
- as rules of the Youth Court by the Judge and the Magistrates who are members of the principal judiciary of that Court, and such rules will apply to and in relation to the Court in accordance with their terms.

Dated: 13 December 2022

CHIEF JUSTICE KOURAKIS  
CHIEF JUDGE EVANS  
SENIOR JUDGE EVANS  
CHIEF MAGISTRATE HRIBAL  
JUDGE ELDRIDGE

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SUPREME COURT ACT 1935  
DISTRICT COURT ACT 1991  
MAGISTRATES COURT ACT 1991  
SOUTH AUSTRALIA

*Uniform Civil (No 8) Amending Rules 2022*

By virtue and in pursuance of the *Supreme Court Act 1935*, the *District Court Act 1991* and the *Magistrates Court Act 1991*, and all other enabling powers, we, the Chief Justice of the Supreme Court, the Chief Judge of the District Court and the Chief Magistrate of the Magistrates Court, make the following Uniform Civil (No 8) Amending Rules 2022.

1. These Rules may be cited as the *Uniform Civil (No 8) Amending Rules 2022*.
2. The *Uniform Civil Rules 2020* are amended as set out below.
3. The amendments made by these rules come into effect on the later of—
  - (a) Tuesday 3 January 2023; or
  - (b) the date of their publication in the Gazette.
4. In these Rules, the **commencement date** means the date on which these rules come into effect under rule 3.
5. A new rule 102.0 is inserted immediately before rule 102.1 as follows:
 

**“102.0 – Management of interlocutory applications**

  - (1) Except in the case of an urgent or ex parte application, before making an interlocutory application, the parties must have endeavoured to resolve the issues the subject of the interlocutory application.
  - (2) In all cases the parties and their representatives must:
    - (a) seek to resolve interlocutory issues on the papers and by consent wherever possible;
    - (b) consider whether the expense and potential delay of making an interlocutory application is genuinely in that party’s interests and proportionate to the issues and amounts of money in dispute;
    - (c) make any necessary interlocutory application as soon as practicable to minimise overall delay;
    - (d) once an application has been made, continue efforts to resolve the issues in dispute; and
    - (e) avoid taking an aggressive, uncooperative or pedantic approach to interlocutory issues.

The Court may make an adverse costs order if a party or party’s representatives do not comply with this rule.”
6. A new subrule 313.1(3) is inserted immediately after subrule 313.1(2) as follows:
 

“(3) An eligible proceeding may be assigned to the Commercial list by the Chief Judge or Managing Judge.”
7. Rule 313.2 is deleted and substituted as follows:
 

**“313.2 – Management of proceedings**

  - (1) A proceeding in the Commercial List may be case managed by a Master or Judge as directed by the Chief Judge or managing Judge.
  - (2) A proceeding in the Commercial List will be governed generally by the following principles:
    - (a) The proceeding will be actively managed by the Court with the aim of getting the matter ready for and listed for trial at the earliest practical possibility. Matters may be listed for trial before interlocutory steps are finalised.
    - (b) The parties, Masters, Judges, and Registrars will seek to achieve the aim of facilitating the just, efficient, timely and cost-effective resolution of the real issues in dispute in a proceeding.
    - (c) Trials will be allocated to an appropriate judicial officer.
    - (d) The Court will take into account on any application for adjournment of a trial date that an aim of the Commercial List is the expeditious and cost-effective resolution of disputes.”
8. Subrule 116.1(2)(a) is amended to substitute the word “discover” for the word “disclose”.
9. Subrule 151.8(1)(c) is amended to insert the word “Commercial” after the words “proceedings in the” and before the words “Dust Diseases”.
10. Subrule 141.2(1) is deleted and substituted as follows:
 

“(1) Subject to rule 141.1(1), an applicant may discontinue an action against a respondent or interested party at any time without leave of the Court—

  - (a) if the originating process has not been served on any other party and no other party to the action has an address for service— by filing a notice of discontinuance in the prescribed form; or

**Prescribed form—**  
Form 125 Notice of Discontinuance

  - (b) if the other party to the action has signed a notice of and consent to the discontinuance in the prescribed form— by filing a notice of and consent to discontinuance in the prescribed form.

**Prescribed form—**  
Form 126 Notice of and Consent to Discontinuance”
11. Schedule 6 Part 2 is amended as follows:
  - a) subrule 3(1) is amended to substitute “(5)” for “(4)”.
  - b) subrule 3(2) is amended to substitute “(5)” for “(4)”.
  - c) subrule 3(3) is amended to substitute “(5)” for “(4)”.

- d) existing subrule 3(4) is renumbered as 3(5) and the words “(1), (2) and (3)” are replaced with “(1), (2), (3) and (4)”.
12. In Schedule 6 Part 2, a new subrule 3(4) is inserted as follows:  
 “(4) Subject to subrule (5), the Higher Courts costs scale in respect of work done from on or after 1 January 2023 is set out in the following table.”

<b>Higher Courts costs scale</b>		
<b>Item</b>	<b>Description</b>	<b>Amount</b>
<b>Documents</b>		
1	Drawing any document of importance, other than documents mentioned under item 2, 10 or 11 (including original and the lawyer’s file copy).	\$40.10—for each ¼ page.
2	Drawing proofs, indices, formal lists, extracts from other documents, lists of authorities, or other formal documents (including original and the lawyer’s file copy).	\$20.32—for each ¼ page.
3	Engrossing documents, when copying or scanning is not appropriate (including original and the lawyer’s file copy).	\$5.88—for each ¼ page.
4	Perusing documents (including electronic documents).	a range between \$2.95 and \$11.50—for each ¼ page.
5	Examining documents (including electronic documents), when a perusal is not justified.	\$0.74—for each ¼ page.
6	Documents produced by copying or scanning, or receiving emails, faxes or any other electronic transmissions.	\$0.43—for each sheet.
<b>Attendances and Communications</b>		
7	Attendances and oral communications, whether personal or by electronic communication, including attendances to swear or take affidavits.	Either: (a) for each 6 minute unit by a lawyer involving skill—\$42.77; (b) for each 6 minute unit by a lawyer not involving skill—\$25.66; (c) for each 6 minute unit by a non-lawyer employed or engaged by a lawyer—\$20.32; or (d) for arranging appointments, including all work involved—\$28.87 per person.
8	Attending hearings, including preparation, and when not attending as instructing lawyer for counsel.	Either: (a) for an ordinary hearing—\$213.85; or (b) if protracted (beyond 5 units), for each 6 minute unit of hearing time—\$42.77.
9	Filing or delivery of documents other than <u>personal service</u> , when no other attendance is properly allowable.	\$28.87.
<b>Correspondence</b>		
10	Correspondence, including original to send and the lawyer’s file copy, and the ordinary postal or transmission expenses—whether sent by letter, email, SMS or fax.	\$28.87—for each ¼ page.
11	Circular correspondence, including original to send and the lawyer’s file copy, and the ordinary postal or transmission, expenses—after the first.	\$14.44—for each letter, including copying for subsequent pages (regardless of the number of pages).
<b>Miscellaneous</b>		
12	Paying disbursements by whatever means and including all work and associated expenses.	\$28.87.
13	Preparation of Pleadings Books, Tender Books, Application Books, Appeal Books and Briefs, including indices, pagination and binding.	\$2.14—for each page.
14	Lump sum on a default judgment.	\$2920.17.

13. Schedule 6, Part 3 is amended as follows:
- Subrule 5(1) is amended to substitute “(4)” for “(3)” and insert the words “in respect of work done from the commencement date to 28 August 2022” after the word “scale”.
  - Subrule 5(2) is amended to substitute “(4)” for “(3)”.
  - Existing subrule 5(3) is renumbered as 5(4) and the words “(1) and (2)” are replaced with “(1), (2) and (3)”.
14. In Schedule 6, Part 3, a new subrule (3) is inserted as follows:
- “(3) Subject to subrule (4), the Magistrates Court costs scale in respect of work done from on or after 1 January 2023 is set out in the following table.”

<b>Magistrates Court costs scale</b>		
<b>Item</b>	<b>Description</b>	<b>Amount</b>
1	Pre-litigation notice of action (solicitor and counsel).	Either:  (a) in an action other than for personal injury—1% of <u>quantum</u> ; or (b) in an action for personal injury—2% of <u>quantum</u> .
2	Filing a claim, originating application, defence or response (solicitor and counsel), including:  (a) a supporting affidavit or opposing affidavit; and (b) attending the first <u>directions hearing</u> or hearing (as applicable).	5% of <u>quantum</u> .
3	Any and all activity after the first <u>directions hearing</u> or hearing (solicitor and counsel) until:  (a) if the action is to proceed to <u>trial</u> —the last hearing before <u>trial</u> , whether a <u>directions hearing</u> , hearing or pre-trial conference; or (b) the final determination of an originating application: (i) when determined at a hearing; and (ii) when the action is not listed for <u>trial</u> .	14% of <u>quantum</u> .
4	All aspects not otherwise specified of, and incidental to, preparing for trial (solicitor and counsel), including:  (a) proofing witnesses; (b) advice on evidence and law; and (c) delivering brief to counsel.	8% of <u>quantum</u> .
5	Preparing and filing a trial plan (solicitor and counsel).	2.5% of <u>quantum</u> .
6	Advice on compromise or settlement when Court approval is required (solicitor and counsel).	Either:  (a) when only the amount is in dispute—the greater of the following: (i) \$1,330; or (ii) 2% of <u>quantum</u> ; or (b) when liability and amount are in dispute—the greater of the following: (i) \$2,000; or (ii) 3% of <u>quantum</u> .
7	Attendance as counsel at trial, including fee on brief.	The following applies:  (a) the first day—the greater of the following: (i) \$1,480; or (ii) 4% of <u>quantum</u> ; or (b) subsequent days—the greater of the following: (i) \$1,110; or (ii) 3% of <u>quantum</u> .
8	Arranging attendance of a witness at trial, including issuing a subpoena, if applicable.	\$110.
9	Any other attendance when the costs are not within any other item (solicitor and counsel).	\$170.

<b>Magistrates Court costs scale</b>		
<b>Item</b>	<b>Description</b>	<b>Amount</b>
10	Notice of demand and registration of a lien under the <i>Worker's Liens Act 1893</i> .	Either: (a) for claims of \$1 up to and including \$10,000—\$290; or (b) for claims above \$10,000—\$500.
11	Notice of withdrawal, or satisfaction, of a lien, and registration under the <i>Worker's Liens Act 1893</i> .	Either: (a) for claims of \$1 up to and including \$10,000—\$110; or (b) for claims above \$10,000—\$160.
12	Filing a request for judgment.	\$110.
13	Preparing a bill for taxation, including attendance.	\$390.
<b>Enforcement</b>		
14	Attendance on an application to set aside a warrant.	\$170.
15	Request for an <u>enforcement process</u> .	Either: (a) for a warrant of sale or warrant of possession—\$55; or (b) for any other process (including attending at the hearing)—\$120.
16	Preparing and registering a warrant of sale against real property and registering it.	Either: (a) for claims of \$1 up to and including \$10,000—\$160; or (b) for claims above \$10,000—\$190.
17	Discharging a warrant of sale.	Either: (a) for claims of \$1 up to and including \$10,000—\$110; or (b) for claims above \$10,000—\$160.
18	Applying for and obtaining a charging order over real property and registering it.	Either: (a) for claims of \$1 up to and including \$10,000—\$240; or (b) for claims above \$10,000—\$500.
19	Discharging a charging order at the Lands Titles Office.	Either: (a) For claims of \$1 up to and including \$10,000—\$110; or (b) for claims above \$10,000—\$160.
<b>Disbursements</b>		
20	Service of <u>originating process</u> .	Either: (a) <u>personal service</u> on an individual—\$110; or (b) <u>other</u> —\$55.
21	Professional or other expert witness fee per day (includes waiting).	\$1,110 or such other amount ordered by the Court.
22	Other adult witness per day (includes waiting).	\$400 or such other amount ordered by the Court.
23	Juvenile witness (includes waiting).	\$170 or such other amount ordered by the Court.

<b>Magistrates Court costs scale</b>		
<b>Item</b>	<b>Description</b>	<b>Amount</b>
24	Travel expenses for witness when witness normally resident more than 50 km from the <u>trial</u> court.	95 cents per km or the least expensive return air fare, whichever is the lesser, or the cheapest combination of both.
25	Accommodation for witness when witness required to be absent from normal place of residence overnight.	\$320 per night or such larger amount ordered by the Court prior to judgment for accommodation and sustenance.
26	<u>Expert reports</u> .	\$1,100 or such other amount ordered by the Court.
27	Documents produced by photocopying.	\$0.72—for each page.
28	Other.	All Court fees, search fees, and other fees and payments to the extent to which they have been properly and reasonably incurred and paid; but excluding the usual and incidental expenses and overheads of a legal practice and in particular excluding postage, telephone charges (non STD) and courier expenses.”

15. Schedule 6, Part 4 is amended as follows:
- a) Subrule 7(1) is amended to substitute “(4)” for “(3)” and insert the words “in respect of work done from the commencement date to 28 August 2022” after the word “scale”.
  - b) Subrule 7(2) is amended to substitute “(4)” for “(3)”.
  - c) Existing subrule 7(3) is renumbered as 7(4) and the words “(1) and (2)” are replaced with “(1), (2) and (3)”.
16. In Schedule 6, Part 4, a new subrule (3) is inserted as follows:
- “(3) Subject to subrule (4), the Minor Civil costs scale in respect of work done from on or after 1 January 2023 is set out in the following table”.

<b>Minor Civil costs scale</b>		
<b>Item</b>	<b>Description</b>	<b>Amount</b>
1	Filing an action if prepared and filed by a lawyer.	\$20 plus 5% of <u>quantum</u> (up to a maximum of \$500).
2	Having a lawyer prepare and file personal injury particulars.	2% of <u>quantum</u> .
3	Where a matter is defended and a Magistrate orders that the complexity of the action justifies legal advice in the pre- <u>trial</u> processes.	5% of <u>quantum</u> .
4	Any attendance at Court by party or lawyer (when lawyer is entitled to attend).	0.5% of <u>quantum</u> .
5	Filing and serving a subpoena.	\$55.
6	Preparation of a <u>trial</u> plan when the Court permits it due to special circumstances ( <i>Magistrates Court Act 1991</i> section 38(5)).	3% of <u>quantum</u> .
7	To advise on compromise or settlement when court approval required.	Either: (a) when only the amount is in dispute—\$1,110; or (b) when liability and amount are in dispute—\$1,670.
8	Notice of Demand and registration of Lien under the <i>Worker’s Liens Act 1893</i> .	Either: (a) for claims of \$1 up to and including \$10,000—\$280; or (b) for claims above \$10,000—\$500.
9	Notice of withdrawal or satisfaction of Lien and registration.	Either: (a) for claims of \$1 up to and including \$10,000—\$110; or

<b>Minor Civil costs scale</b>		
<b>Item</b>	<b>Description</b>	<b>Amount</b>
		(b) for claims above \$10,000—\$160.
<b>Enforcement</b>		
10	Request for Investigation or Examination summons including attendance at the hearing.	\$55.
11	Any other request for enforcement of judgment.	\$55.
12	Preparing and registering a warrant of sale against real property.	Either: (a) for claims of \$1 up to and including \$10,000—\$160; or (b) for claims above \$10,000—\$190.
13	Discharging a warrant of sale.	Either: (a) for claims of \$1 up to and including \$10,000—\$110; or (b) for claims above \$10,000—\$160.
14	Applying for and obtaining a charging order over real property and registering it.	Either: (a) for claims of \$1 up to and including \$10,000—\$240; or (b) for claims above \$10,000—\$500.
15	Discharging a charging order at the Lands Titles Office.	Either: (a) for claims of \$1 up to and including \$10,000—\$110; or (b) for claims above \$10,000—\$160.
<b>Disbursements</b>		
16	Service of <u>originating process</u> .	Either: (a) <u>personal service</u> on an individual where required—\$110; or (b) <u>other</u> —\$55.
17	Witness fees generally.	\$90—per day.
18	Professional witness.	\$560—per day.
19	All other Court fees.	As allowed by the Court.
20	Other disbursements.	As allowed by the Court.

17. In Schedule 7, Form 126— Notice of and Consent to Discontinuance is inserted to replace Form 126— Consent to Discontinuance as follows:

Form 126

<p><b>To be inserted by Court</b></p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
--

## NOTICE OF AND CONSENT TO DISCONTINUANCE

[*SUPREME/DISTRICT/MAGISTRATES*] Delete all but one COURT OF SOUTH AUSTRALIA

[*COURT OF APPEAL*] If applicable

CIVIL JURISDICTION

[*MINOR CIVIL*] If applicable

[*NAME OF LIST*] LIST If applicable

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

First Interested Party

Lodging Party	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))	
Name of law firm / solicitor <small>If any</small>	Law Firm	Solicitor

### Discontinuance

Mark appropriate section below with an 'x'

The following parties [list the Party title and name of each discontinuing party]

wholly discontinue the following proceeding against the [list the Party title and name of each party against whom the proceeding is discontinued]:

Type of proceeding:

- [ ] Claim.
- [ ] Originating Application.
- [ ] Counterclaim.
- [ ] Third Party Claim.
- [ ] Contribution Notice.
- [ ] Appeal.
- [ ] Cross Appeal.
- [ ] Notice of Alternative Contention.
- [ ] Other [specify].

**Consent to Discontinuance**

Mark appropriate sections below with an 'x'

The following parties [list the Party title and name of each consenting party]  
consent to the discontinuance identified above.

**Execution by consenting parties**

.....  
Signature of [ ] solicitor [ ] party

.....  
Name printed

.....  
Party title

.....  
Date

18. In Schedule 7, Form 200— Generic is deleted and substituted as follows:  
Form 200

**To be inserted by Court**

Case Number:

Date Filed:

FDN:

**Hearing Date and Time:**

**Hearing Location:**

**{TITLE}**

[*SUPREME/DISTRICT/MAGISTRATES*] Delete all but one COURT OF SOUTH AUSTRALIA  
[*COURT OF APPEAL*] If applicable

**CIVIL JURISDICTION**[*MINOR CIVIL*] If applicable[*NAME OF LIST*] LIST If applicable

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

First Interested Party

<b>Lodging Party</b>	<b>Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))</b>	
<b>Name of law firm / solicitor</b> If any	<b>Law Firm</b>	<b>Solicitor</b>

<b>[Substantive Title]</b> Substance of the form
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<b>Service</b>  The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.
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<b>Accompanying Documents</b>  Accompanying this Document is a: If applicable identify document(s)
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19. In Schedule 7, Form P1— Final Notice is deleted and substituted as follows:  
Form P1

<p><b>To be inserted by Court</b></p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
--

**FINAL NOTICE**

**[SUPREME/DISTRICT/MAGISTRATES] COURT OF SOUTH AUSTRALIA  
CIVIL JURISDICTION**

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant (Sender)

First Respondent (Recipient)

Applicant (Sender)	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))			
Name of law firm / solicitor If any	Law Firm	Solicitor		
Address for service	Street Address (including unit or level number and name of property if required)			
	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			

Duplicate panel if multiple Applicants

Respondent (Recipient)	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))
Address	Street Address (including unit or level number and name of property if required)

	City/town/suburb	State	Postcode	Country
	Email address			
Phone Details	Type - Number			

Duplicate panel if multiple Respondents

### Notice to the Recipient

The Sender intends to file an action against you in one of the above named Courts for \$[amount] plus the cost of this Final Notice \$[amount]; a total of \$[amount].

A brief basis of the action is below:

Number each paragraph separately if there is more than one paragraph

The sender seeks a response from you within 21 days. Details of your options, what they mean and how they work are set out below.

### Information about this Notice

This notice is not a formal court action. However, it provides an opportunity for you to voluntarily negotiate a resolution with the Sender without further involvement by the Court. This may save you costs, time and court appearances.

### Possible Consequences of Ignoring this Notice

You may wish to seek independent legal or financial counselling advice before deciding what to do.

If you ignore this notice or if you are not able to reach a resolution within 21 days of receipt of this notice, the Sender may file an action against you in one of the above named Courts. If you lose the case you will have to pay or provide what is claimed and in addition you may have to pay extra costs if you ignore this notice. A court judgment against you may affect your credit rating.

### Options for Payment/Settlement of the Action

- If you accept that you owe the full amount claimed, you can avoid the risk of the Sender filing an action against you if you pay the amount claimed to the Sender within 21 days. **Do not send money to Court.**
- If you accept that you owe the full amount claimed but cannot afford to pay the amount in full, you can try to arrange instalment payments with the Sender. You can use an Enforceable Payment Agreement (EPA) where in return for you acknowledging the debt and making payments, the Sender agrees not to commence a formal action, nor to report the debt to credit referencing

agencies. You can obtain these from the CAA website (<http://www.courts.sa.gov.au/ForLawyers/Pages/Rules-Forms-and-Fees.aspx>) or any Court Registry. Keep a record of payments made.

- If you agree there is an amount owed but disagree with the amount claimed, try to negotiate with the Sender. If the Sender agrees, you may be able to use the free mediation service to do this (see below).
- If you owe some of the amount claimed, you could pay that to reduce the amount in dispute.
- The Sender is not entitled to debt collecting costs unless you agreed to pay them in your credit or other agreement for goods or services supplied.

### **Mediation and Expert Services**

Mediation is an alternative way of resolving a dispute other than by court processes leading to trial.

- Court mediation is available in the Magistrates Court, depending on the type of matter this may be at no cost or there may be a charge.
- A number of independent court experts are available via the Magistrates Court to provide an opinion on technical issues.
- Information regarding Mediation is available on the CAA website (<http://www.courts.sa.gov.au/civil-cases/mediation>).

### **Contacts**

For further information about Court services that may be available to you, call CourtSA Registry Services on 8204 2444.

The Interpreting and Translating Centre may be able to assist you if English is your second language. This is not a free service.

91-97 Grenfell Street

ADELAIDE SA 5000

Telephone: 1800 280 203

Website: [www.translate.sa.gov.au](http://www.translate.sa.gov.au)

In accordance with the *Supreme Court Act 1935*, the *District Court Act 1991* and the *Magistrates Court Act 1991*, and all other enabling powers, the *Uniform Civil (No 8) Amending Rules 2022* have been made –

- as rules of the Supreme Court by 3 or more Judges of the Supreme Court; and
- as rules of the District Court by the Chief Judge and 2 or more other Judges of that Court; and
- as rules of the Magistrates Court by the Chief Magistrate and 2 or more other Magistrates,

and such rules will apply to and in relation to the Court in accordance with their terms.

Dated: 13 December 2022

CHIEF JUSTICE KOURAKIS  
CHIEF JUDGE EVANS  
CHIEF MAGISTRATE HRIBAL

# STATE GOVERNMENT INSTRUMENTS

## BUILDING WORK CONTRACTORS ACT 1995

### *Exemption*

TAKE notice that, pursuant to section 45 of the *Building Work Contractors Act 1995*, I, Zoe Thomas as a delegate for the Minister for Consumer and Business Affairs, do hereby exempt the licensee named in Schedule 1 from the application of Division 3 of Part 5 of the above Act in relation to domestic building work described in Schedule 2 and subject to the conditions specified in Schedule 3.

#### SCHEDULE 1

DUNCAN MCKENZIE COOKE BLD 205722

#### SCHEDULE 2

Construction of a two storey residential dwelling and swimming pool at Allotment 28 in Deposited Plan 4664 being a portion of the land described in Certificate of Title Volume 5216 Folio 331, more commonly known as 20 Attunga Street, Glenelg North SA 5045.

#### SCHEDULE 3

1. This exemption is limited to domestic building work personally performed by the licensee in relation to the building work described in Schedule 2.
2. This exemption does not apply to any domestic building work the licensee contracts to another building work contractor, for which that contractor is required by law to hold building indemnity insurance.
3. That the licensee does not transfer his interest in the land prior to five years from the date of completion of the building work the subject of this exemption, without the prior authorisation of Consumer and Business Services (CBS). Before giving such authorisation, CBS may require the licensee to take any reasonable steps to protect the future purchaser(s) of the property, including but not limited to:
  - Providing evidence that an adequate policy of building indemnity insurance is in force to cover the balance of the five-year period from the date of completion of the building work the subject of this exemption;
  - Providing evidence of an independent expert inspection of the building work the subject of this exemption;
  - Making an independent expert report available to prospective purchasers of the property;
  - Giving prospective purchasers of the property notice of the absence of a policy of building indemnity insurance.

Dated: 19 December 2022

ZOE THOMAS  
Assistant Director, Licensing  
Delegate for the Minister for Consumer and Business Affairs

## EXPLOSIVES ACT 1936

### *Appointment*

I, Kyam Joseph Maher, Minister for Industrial Relations and Public Sector in and for the State of South Australia, hereby appoint the following persons as an Inspector of explosives for the purposes of the *Explosives Act 1936* pursuant to section 9(1) of that Act:

- Clare Margaret WHARTON

Dated: 17 December 2022

HON KYAM MAHER MLC  
Minister for Industrial Relations and Public Sector

## EXPLOSIVES ACT 1936

### *Revocation*

I, Kyam Joseph Maher, Minister for Industrial Relations and Public Sector in and for the State of South Australia, hereby revoke the appointments of the following persons as Inspectors of explosives for the purposes of the *Explosives Act 1936* pursuant to section 9(1) of that Act:

- Luke Robert BRAMMY
- Grant Andrew IRELAND
- Marrie JONGENEEL
- Kyla Valerie Gail ORMROD
- Adrian John Smith
- Emma-Jane Louise WATSON

Dated: 17 December 2022

HON KYAM MAHER MLC  
Minister for Industrial Relations and Public Sector

## FISHERIES MANAGEMENT (GENERAL) REGULATIONS 2017

### REGULATION 23B

#### *Taking of Murray Cod in certain waters—Rescue*

For the purposes of regulation 23B of the *Fisheries Management (General) Regulations 2017* regarding the taking of Murray Cod in certain waters, – I, Prof Gavin Begg, Executive Director of Fisheries and Aquaculture, delegate of the Minister for Primary Industries and Regional Development make the following determination—

- (1) Mr Braeden Lampard of OzFish Unlimited Ltd and listed OzFish volunteers may take up to 500 Murray Cod (*Maccullochella peellii*) to rescue them from waters exhibiting hypoxic blackwater conditions within the waters of the River Murray proper and Lakes Albert and Alexandrina, following flooding.
- (2) Fish taken pursuant to this determination must be translocated directly interstate and must not be released into any other waters of the state.

- (3) Activities under this determination may only be conducted together with actions under Ministerial exemption ME9903236.
- (4) The activity under this determination may only occur during the period 18 December 2022 to 17 December 2023.

Dated: 17 December 2022

PROF. GAVIN BEGG  
Executive Director, Fisheries and Aquaculture  
Delegate of the Minister for Primary Industries and Regional Development

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FISHERIES MANAGEMENT ACT 2007

SECTION 115

*Ministerial Exemption ME9903220*

TAKE NOTICE that pursuant to section 115 of the *Fisheries Management Act 2007*, I Professor Gavin Begg, Executive Director Fisheries and Aquaculture, delegate of the Minister for Primary Industries and Regional Development, hereby exempt Garry Warrick of 1979 Kingston Road, New Residence SA 5333, holder of River Fishery licence number R27 (the 'exemption holder'), and his nominated agents, from sections 53(2) and 70 of the *Fisheries Management Act 2007* and Regulation 5, and Schedule 7 of the *Fisheries Management (General) Regulations 2017* but only insofar as he may use the devices described in Schedule 1 (the 'exempted activity') to take the species specified in Schedule 2 from the areas specified in Schedule 3, subject to the conditions set out in Schedule 4, from 18 December 2022 until 17 December 2023, unless varied or revoked earlier.

SCHEDULE 1

- 30 x 'Carp net' – a gill net with a ply greater than 5, having a maximum length of 50 metres and a minimum mesh size of 10 centimetres and a maximum mesh size not exceeding 18 centimetres.
- 2 x Carp Separation Cages forming part of Lock 1 in Blanchetown on the River Murray.
- 1 x Backpack electrofisher (Smith-Root LR24).
- 1 x Boat electrofisher (Smith-Root 5.0 kW GPP).

SCHEDULE 2

- Carp
- Bony Bream

SCHEDULE 3

1. The exemption holder may conduct fishing activities using the Carp nets and electrofisher gear specified in Schedule 1 in the following areas of the backwaters of the River Murray:
  - Lake Bonney and connected Chambers Creek
  - Wachtels Lagoon
  - Spectacle Lakes and unnamed connected creek
  - Yatco Lagoon
  - Gurra Gurra Lakes
2. The exemption holder may conduct fishing activities using the Carp Separation Cages which form part of Lock 1 at Blanchetown on the River Murray.

SCHEDULE 4

1. The exemption holder must not use more than the permitted number of devices specified in Schedule 1 at any one time.
2. The exemption holder must not have more than 30 Carp nets in his possession at any time when he is deploying Carp nets in the backwaters of the River Murray.
3. The exemption holder may only engage in the exempted activity when also fishing pursuant to River Fishery licence number R27, and may only use a boat to engage in the exempted activity if that boat is registered by endorsement on River Fishery licence number R27.
4. The exempted activity may only be conducted by the exemption holder or his nominated agents, Mr Jayden Warrick and/or Mr Keith Bell.
5. Use of the electrofisher gear must comply with guidelines set out by the Australian Code of Electrofishing Practice. All persons using the devices must be trained in accordance with these guidelines.
6. All native fish (excluding Bony Bream) taken in the course of the exempted activity must be immediately returned to the water, and consistent with the Australian Code of Electrofishing Practice, when native species are encountered while electrofishing, electrofishing must be discontinued until the native species recovers and escapes.
7. Immediately prior to commencing the exempted activity, the exemption holder must contact the Department via PIRSA Fishwatch on 1800 065 522 and provide the following details:
  - The licence number and person(s) conducting the activity;
  - The exact location(s) of the fishing activities;
  - The gear type and quantity being used;
  - **Exemption number ME9903220.**
8. The exemption holder must ensure that the Carp nets are checked and all fish removed at least once during any 24 hour period during which they are in the water. All noxious species captured during these activities must not be returned to the water and disposed of appropriately.
9. Carp nets must be removed from the water when fishing pursuant to this exemption notice ceases.
10. Where the exemption holder moves the Carp nets more than 3 kilometres from the location of the nets reported to the Department under condition 7, or removes any of the nets from the river completely, the exemption holder must provide an additional report to the Department of Primary Industries and Regions (PIRSA) Fishwatch on 1800 065 522 and either provide details as required under condition 7 of this exemption notice, or report that fishing with Carp nets and Carp Separation Cages has ceased.
11. While engaging in the exempted activity, the exemption holder must be in possession of a copy of this notice. Such notice must be produced to a Fisheries Officer as requested.

12. The exemption holder must not contravene or fail to comply with the *Fisheries Management Act 2007* or any regulations made under that Act, except where specifically exempted by this notice.

Dated: 17 December 2022

PROFESSOR GAVIN BEGG  
Executive Director, Fisheries and Aquaculture  
Delegate of the Minister for Primary Industries and Regional Development

FISHERIES MANAGEMENT ACT 2007

SECTION 115

*Ministerial Exemption ME9903228*

TAKE NOTICE that pursuant to section 115 of the *Fisheries Management Act 2007* (the Act), Dr Scotte Wedderburn of the School of Biological Sciences, University of Adelaide SA 5005 (the 'exemption holder') is exempt from Sections 70 of the *Fisheries Management Act 2007*, Schedule 6, Regulation 5, clauses 42 and 74 of the *Fisheries Management (General) Regulations 2017* but only insofar as he may use the fishing gear specified in Schedule 1, in the waters specified in Schedule 2 (the exempted activity), to survey turtles subject to the conditions specified in Schedule 3, from 2 January 2023 to 1 January 2024, unless varied or revoked earlier.

SCHEDULE 1

- Up to 12 fyke nets that are consistent with the following dimensions:
  - Having a single 6 m wing, 4 m long body, 1 m height hoops, 28 mm mesh.

SCHEDULE 2

- In wetland habitats associated with the River Murray Proper, Lake Albert and Lake Alexandrina, South Australia.

SCHEDULE 3

1. Any native fish captured during the exempted activity must be immediately returned to the water in the location where they were caught.
2. All noxious fish captured during the exempted activity must be humanely destroyed and not returned to the water.
3. A maximum of three (3) fyke nets may be set at any one site but must be retrieved from the water the following morning.
4. Fyke nets must be deployed with a minimum of two floats >10 cm diameter in the cod end (final chamber) to permit surface access of >3 cm for air-breathing animals.
5. Fyke nets may only be deployed after 4pm and must be checked and cleaned each morning before 10am.
6. The exempted activity may only occur where it is consistent with activities authorised under Scientific Research permit Q26018-14 issued under the *National Parks and Wildlife Act 1972*.
7. Any equipment used to collect and hold fish/turtles during the exempted activity must be decontaminated prior to and after undertaking the exempted activity.
8. At least 1 hour before conducting activities under this exemption, the exemption holder must contact the Department of Primary Industries and Regions (PIRSA) Fishwatch on **1800 065 522** and answer a series of questions about the exempted activity. The exemption holder will need to have a copy of this notice in their possession at the time of making the call and be able to provide information about the area and time of the exempted activity, the vehicles and/or boats involved, the number of persons assisting with undertaking the exempted activity and other related questions.
9. The exemption holder must provide a report in writing detailing the activities carried out pursuant to this notice to the Executive Director, Fisheries and Aquaculture (GPO Box 1625, ADELAIDE SA 5001) within 30 days of the expiry of this exemption that includes the following details:
  - the date and location of sampling;
  - the gear used;
  - any interactions with protected species and mammals; and
  - other information regarding size, breeding or anything deemed relevant or of interest that is able to be volunteered.
10. While engaging in the exempted activity, the exemption holder must be in possession of a copy of this exemption. This exemption must be produced to a PIRSA Fisheries Officer, if requested.
11. The exemption holder must not contravene or fail to comply with the *Fisheries Management Act 2007* or any regulations made under that Act, except where specifically exempted by this notice
12. This notice does not purport to override the provisions or operation of any other Act including, but not limited to, the *River Murray Act 2003* or the *National Parks and Wildlife Act 1972*. The exemption holder must comply with any relevant regulations, permits, requirements and directions from the Department for Environment and Water when undertaking activities within a specially protected area made under that Act, except where specifically exempted by this notice

Dated: 14 December 2022

PROFESSOR GAVIN BEGG  
Executive Director, Fisheries and Aquaculture  
Delegate of the Minister for Primary Industries and Regional Development

FISHERIES MANAGEMENT ACT 2007

SECTION 115

*Ministerial Exemption ME9903236*

TAKE NOTICE that pursuant to section 115 of the *Fisheries Management Act 2007* (the Act), Mr Braeden Lampard of Ozfish Unlimited, (the 'exemption holder') or listed Ozfish volunteers, are exempt from Sections 70 and 71(1) and 71(2) of the *Fisheries Management Act 2007*, and regulation 5, Schedule 2 of the *Fisheries Management (General) Regulations 2017*, and clauses 63, 64, 113 (1) of Schedule 6 of the *Fisheries Management (General) Regulations 2017* but only insofar as they may use the methods specified in Schedule 1 to take the identified species, in the waters specified in Schedule 2, subject to the conditions specified in Schedule 3, from 18 December 2022 to 17 December 2023, unless varied or revoked earlier.

## SCHEDULE 1

- 30 x landing net / hand net as defined under the *Fisheries Management (General) Regulations* with dimensions of 60 cm; or
- Hand collection.

## SCHEDULE 2

- The River Murray System from the South Australian border to the mouth of the Murray River and associated tributaries.

## SCHEDULE 3

1. The exemption holder will be deemed responsible for the conduct of all listed Ozfish volunteers conducting the exempted activities under this notice. Any Ozfish volunteer conducting activities under this exemption must be provided with a copy of this notice, which they must have signed as an indication that they have read and understand the conditions under it.
2. Noxious fish captured during the exempted activity must not be returned to the water and must be humanely destroyed.
3. The exemption holder must provide a list of the names of the Ozfish volunteers that will be undertaking the exempted activity as nominated agents to the Director Operations, Department of Primary Industries and Regions (PIRSA) Fisheries and Aquaculture Division (GPO Box 1625, ADELAIDE SA 5001). In the event that the list of volunteers is varied an updated list must be provided to the Director Operations as soon as practicable.
4. In conducting the exempted activity, the 4.5 m boat Hornet Trophy, with registration TV 629 may be used.
5. The exemption holder or nominated agent/s may only retain the following specified species as part of the exempted activity:
  - Murray Cod (*Maccullochella peelii*)
  - Golden Perch / Callop (*Macquaria ambigua*)
  - Silver Perch (*Bidyanus bidyanus*)
  - Tandan Catfish (*Tandanus tandanus*)
  - Trout Cod (*Maccullochella macquariensis*).
6. The exemption holder or listed Ozfish volunteers may only take a maximum of 500 individuals of each of the specified species during the term of the exemption.
7. The fish collected pursuant to this exemption must be immediately translocated interstate and are to be kept at the aquaculture facilities of 'North West Aquaculture', 3376 Etiwanda Ave Mildura, Victoria 3500.
8. The specified species must not be released or deposited into any waters of the State once taken unless otherwise authorised under a permit pursuant to section 78(2) of the *Fisheries Management Act 2007*.
9. Any equipment used to collect and hold fish during the exempted activity must be decontaminated prior to and after undertaking the exempted activities.
10. At least 1 hour before conducting activities under this exemption, the exemption holder must contact PIRSA Fishwatch on **1800 065 522** and answer a series of questions about the exempted activity. The exemption holder will need to have a copy of this notice in their possession at the time of making the call and be able to provide information about the area and time of the exempted activity, the vehicles and/or boats involved, the number of persons assisting with undertaking the exempted activity and other related questions.
11. The exemption holder must provide a report in writing detailing the activities carried out pursuant to this notice to the Executive Director, Fisheries and Aquaculture (GPO Box 1625, ADELAIDE SA 5001) within 30 days of the expiry of this exemption that includes the following details:
  - the date and location fish were taken;
  - the number and description of all species collected;
  - the gear used;
  - the date fish captured were moved interstate;
  - the number of fish mortalities while in possession of the exemption holder;
  - any interactions with protected species and marine mammals; and
  - other information regarding size, breeding or anything deemed relevant or of interest that is able to be volunteered.
12. While engaging in the exempted activity, the exemption holder or listed Ozfish volunteer must be in possession of a copy of this exemption. Such exemption must be produced to a PIRSA Fisheries Officer if requested.
13. The delegate of the Minister for the purposes of this notice reserves the right to request information from the exemption holder regarding the activities conducted under this exemption during the term of the exemption, at or after the expiry of the exemption.
14. The exemption holder must not contravene or fail to comply with the *Fisheries Management Act 2007* or any regulations made under that Act, except where specifically exempted by this notice.
15. This notice does not purport to override the provisions or operation of any other Act including, but not limited to, the *River Murray Act 2003*. The exemption holder and list Ozfish volunteers must comply with any relevant regulations, permits, requirements and directions from the Department for Environment and Water when undertaking activities within a specially protected area.

Dated: 17 December 2022

PROFESSOR GAVIN BEGG  
Executive Director, Fisheries and Aquaculture  
Delegate of the Minister for Primary Industries and Regional Development

## FISHERIES MANAGEMENT ACT 2007

## SECTION 115

*Ministerial Exemption ME9903239*

TAKE NOTICE that pursuant to section 115 of the *Fisheries Management Act 2007*, I Professor Gavin Begg, Executive Director Fisheries and Aquaculture, delegate of the Minister for Primary Industries and Regional Development, hereby exempt Garry Warrick of 1979 Kingston Road, New Residence SA 5333, holder of River Fishery licence number R27 (the 'exemption holder'), and his nominated agents, from sections 52, 70 and 72 of the *Fisheries Management Act 2007* and Regulation 5, Regulation 6, Schedule 2, Schedule 5, clauses 63, 64, 65, 74, 75 and 113 of Schedule 6, Schedule 7 of the *Fisheries Management (General) Regulations 2017* but only insofar as he may use the devices described in Schedule 1 to take and sell Carp, and to capture the native species specified in Schedule 2 from the areas specified in Schedule 3 (the 'exempted activity') for the purpose of translocation consistent with agreements in place with SA Water, subject to the conditions set out in Schedule 4, from 18 December 2022 until 17 December 2023, unless varied or revoked earlier.

## SCHEDULE 1

- 30 x 'Carp net' – a gill net with a ply greater than 5, having a maximum length of 50 metres and a minimum mesh size of 10 centimetres and a maximum mesh size not exceeding 18 centimetres.
- 1 x Backpack electrofisher (Smith-Root LR24).
- 1 x Boat electrofisher (Smith-Root 5.0 kW GPP).

## SCHEDULE 2

- Carp
- Bony Bream
- Golden Perch
- Silver Perch
- Murray Cod

## SCHEDULE 3

The exemption holder may conduct exempted activities using gear specified in Schedule 1 pursuant to this Ministerial exemption in Warren Reservoir consistent with approvals from SA Water and Ministerial permits MP0189, MP0194.

## SCHEDULE 4

1. The exemption holder must not use more than the permitted number of devices under Schedule 1 at any one time.
2. In conducting the exempted activity, the exemption holder may only use boats registered to River Fishery licence R27.
3. The exempted activity may only be conducted by the exemption holder or his nominated agents, Mr Jayden Warrick, and Mr Keith Bell.
4. Use of the electrofisher gear must comply with guidelines set out by the Australian Code of Electrofishing Practice. All persons using the devices must be trained in accordance with these guidelines.
5. Murray Cod, Golden Perch and Silver Perch may be retained for translocation to South Parra Reservoir pursuant to MP0190.
6. Carp retained may be sold consistent with carp sales under River Fishery Licence R27. Noxious fish species, including but not limited to Carp, must not be returned to the water.
7. Immediately prior to commencing the exempted activity, the exemption holder must contact the Department of Primary Industries and Regions (PIRSA) Fishwatch on 1800 065 522 and provide the following details:
  - The licence number and person(s) conducting the activity;
  - The exact location(s) of the fishing activities;
  - The gear type and quantity being used;
  - **Exemption number ME9903239.**
8. The exemption holder must ensure that the Carp nets are checked and all fish removed at least once during any 24 hour period in the water.
9. Carp nets must be removed from the water when fishing pursuant to this exemption notice ceases.
10. While engaging in the exempted activity, the exemption holder must be in possession of a copy of this notice. Such notice must be produced to a Fisheries Officer as requested.
11. The exemption holder must not contravene or fail to comply with the *Fisheries Management Act 2007* or any regulations made under that Act, except where specifically exempted by this notice.

Dated: 17 December 2022

PROFESSOR GAVIN BEGG  
Executive Director, Fisheries and Aquaculture  
Delegate of the Minister for Primary Industries and Regional Development

## HARBORS AND NAVIGATION ACT 1993

## SECTION 67

## NOTICE OF DIRECTION—NO. 4 OF 2022

*Mooring Levee Bank—River Murray*

I, **EMMA MEGAN KOKAR**, Executive Director, Road and Marine Services Division of the Department for Infrastructure and Transport, delegate of the Minister for Infrastructure and Transport in the State of South Australia in accordance with section 11 of the *Harbors and Navigation Act 1993* (the Act), and pursuant to section 67 of the Act, **do hereby direct** the following in the waters of the River Murray:

1. That no vessels or any other water traffic (including canoes, kayaks, surf skis, rowboats or other human-powered vessels or aquatic toys) be moored, anchored, attached or secured in any way to any levee bank along the River Murray, including a floodplain.

Definitions:

*For the purposes of this Notice of Direction the following terms are defined as follows:*

**Aquatic Toy** means: a surfboard, sailboard, kite board or any other aid to swimming or fishing that is not primarily designed for navigation.

**Floodplain** means: an area of flat or nearly flat land adjacent to the River Murray which stretches outwards from the banks of its channel, and which experiences flooding during periods of declared High Flow or Flood by the South Australian State Emergency Services.

**Human-powered vessel** means: any vessel or craft that is not fitted with an engine or motor and is propelled by human force.

**Levee bank** means: a human made structure built to contain, control or divert the flow of water in order to provide protection to towns, and/or agricultural land from flooding.

**River Murray** means: All creeks, tributaries, lakes, lagoons and other bodies of water connected to the River Murray between the border of South Australia and extending to the Murray Mouth, except a body of water that has been exempted.

This Notice of Direction is in operation during times of declared High Flow or Flood in the waters of the River Murray by the South Australian State Emergency Services or until varied or revoked by a subsequent Notice of Direction.

This Notice of Direction does not apply to any vessels operated by the South Australian Emergency Services or any other South Australian Government Department or Local Government (Councils) that are assisting with the emergency response effort during times of declared

High Flow or Flood in the waters of the River Murray by the South Australian State Emergency Services. This also includes any vessels operated by a volunteer organisation or association that may be providing assistance to any South Australian Emergency Services.

All other provisions of the *Harbors and Navigation Act 1993* and Regulations will continue to apply.

Dated: 7 December 2022

EMMA MEGAN KOKAR  
Delegate of the Minister for Infrastructure and Transport

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## HARBORS AND NAVIGATION ACT 1993

### SECTION 67

#### NOTICE OF DIRECTION—NO. 5 OF 2022

##### *Ban on Vessel Activity—River Murray*

I, EMMA MEGAN KOKAR, Executive Director, Road and Marine Services Division of the Department for Infrastructure and Transport, delegate of the Minister for Infrastructure and Transport in the State of South Australia in accordance with section 11 of the *Harbors and Navigation Act 1993* (the Act), and pursuant to section 67 of the Act, **do hereby direct** the following in the waters of the River Murray:

1. That no motorised vessels be operated the River Murray.
2. That no human-powered vessels or any other water traffic (including canoes, kayaks, surf skis, rowboats or aquatic toys) be operated on the River Murray.
3. That no persons shall swim, bathe or dive in the River Murray.
4. That no persons shall undertake any fishing activity or place or leave any fishing apparatus (including any net, drum net, hoop net, mesh net, set line, shrimp trap and yabbie pot) in the River Murray.

##### *Definitions:*

*For the purposes of this Notice of Direction the following terms are defined as follows:*

**Aquatic Toy** means: a surfboard, sailboard, kite board or any other aid to swimming or fishing that is not primarily designed for navigation.

**Drop net, drum net, hoop net, mesh net, set line, shrimp trap and yabbie pot** have the same meanings as in the *Fisheries Management Act 2007*.

**Fishing apparatus** means an implement, apparatus, device or substance for taking or facilitating the taking of an aquatic resource (within the meaning of the *Fisheries Management Act 2007*).

**Human-powered vessel** means: any vessel or craft that is not fitted with an engine or motor and is propelled by human force.

**Motorised vessel** means: a vessel fitted with, and powered or propelled by, an engine or a motor.

**River Murray** means: All creeks, tributaries, lakes, lagoons and other bodies of water connected to the River Murray between the border of South Australia and a line joining the upstream sides of the landings used by the ferry at Wellington, except all the waters of Lake Bonney and any other body of water that has been exempted.

**Work-Related** means: any work required to be undertaken in the course of a person's employment or from which the person derives a source of income.

This Notice of Direction is in operation during times of declared High Flow or Flood in the waters of the River Murray by the South Australian State Emergency Services or until varied or revoked by a subsequent Notice of Direction.

This Notice of Direction does not apply to any vessel activity on the River Murray that is reasonably required and used in conjunction with any:

- Work-related purpose;
- access to any food, drinking water, medical assistance, aids or supplies;
- access to any emergency aids or supplies (including sandbag);
- access to fuel (petrol, diesel, liquid petroleum gas or any other fuel etc);
- access to property;
- need to render emergency assistance or reduce risk to life and injury to persons, animals or property.

This Notice of Direction does not apply to any vessels operated by the South Australian Emergency Services or any other South Australian Government Department or Local Government (Councils) that are assisting with the emergency response effort during times of declared High Flow or Flood in the waters of the River Murray by the South Australian State Emergency Services. This also includes any vessels operated by a volunteer organisation or association that may be providing assistance to any South Australian Emergency Services.

All other provisions of the *Harbors and Navigation Act 1993* and Regulations will continue to apply.

Dated: 20 December 2022

EMMA MEGAN KOKAR  
Delegate of the Minister for Infrastructure and Transport

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## HOUSING IMPROVEMENT ACT 2016

### *Rent Control Revocations*

Whereas the Minister for Human Services Delegate is satisfied that each of the houses described hereunder has ceased to be unsafe or unsuitable for human habitation for the purposes of the *Housing Improvement Act 2016*, notice is hereby given that, in exercise of the powers conferred by the said Act, the Minister for Human Services Delegate does hereby revoke the said Rent Control in respect of each property.

Address of Premises	Allotment Section	Certificate of Title Volume Folio
27 Fourth ST, Quorn SA 5433	Allotment 265 Town Plan 380701 Hundred of Quorn	CT5207/571
107 Lewis Road, Glynde SA 5070	Allotment 61 Filed Plan 135612 Hundred of Adelaide	CT5657/160

Dated: 22 December 2022

CRAIG THOMPSON  
Housing Regulator and Registrar  
Housing Safety Authority, SAHA  
Delegate of Minister for Human Services

#### LANDSCAPE SOUTH AUSTRALIA ACT 2019

##### *Declaration of Penalty in Relation to the Unauthorised or Unlawful Taking of Water*

PURSUANT to Section 88 of the *Landscape South Australia Act 2019* (the Act), I, Ben Bruce, delegate of the Minister for Climate, Environment and Water to whom the Act is committed, hereby declare that the following penalties are payable in relation to the unauthorised or unlawful taking of water during the consumption period that corresponds to the accounting period 1 July 2022 to 30 June 2023 inclusive:

- Where a person who is the holder of a water allocation (other than a water allocation pursuant to an authorisation under Section 105 of the Act) takes water from a prescribed water resource listed in column one of the table in Schedule 1 to this notice, which is in excess of the amount available under the allocation, the penalty declared pursuant to Section 88(1)(a) is the corresponding rate in column two of the table in Schedule 1 per kilolitre of water taken in excess of the amount available under the allocation, as determined or assessed to have been taken in accordance with Section 79 of the Act.
- Where a person who is the holder of a water allocation pursuant to an authorisation under Section 105 of the Act takes water from a prescribed water resource listed in column one of the table in Schedule 2 to this notice, which is in excess of the amount available under the allocation, the penalty declared pursuant to Section 88(1)(a) is the corresponding rate in column two of the table in Schedule 2 per kilolitre of water taken in excess of the amount available under the allocation, as determined or assessed to have been taken in accordance with Section 79 of the Act.
- Where a person takes water from a prescribed water resource in column one of the table in Schedule 1 to this notice and is not authorised under section 105 or as part of a water allocation to take that water, and so acts in contravention of the Act, the penalty declared under Section 88(1)(e) is the corresponding rate in column three of the table in Schedule 1 per kilolitre of water, as determined or assessed to have been taken in accordance with Section 79 of the Act.
- Where a person who is authorised to take water by or under a notice under Section 109 of the Act takes water from a prescribed water resource described in column one of the table in Schedule 1 to this notice which is in excess of the amount authorised for take by or under the notice under Section 109 of the Act, and so acts in contravention of the notice, the penalty declared pursuant to Section 88(1)(f) is the corresponding rate in column two of the table in Schedule 1 per kilolitre of water taken in excess of the amount authorised for take by or under the notice, as determined or assessed to have been taken in accordance with Section 79 of the Act.
- Where a person who is not authorised to take water by or under a notice under Section 109 of the Act takes water from a prescribed water resource described in column one of the table in Schedule 1 to this notice in contravention of the notice under Section 109 of the Act, the penalty declared under Section 88(1)(f) is the corresponding rate in column three of the table in Schedule 1, per kilolitre of water, as determined or assessed to have been taken in accordance with Section 79 of the Act.
- Where a person may be subject to more than one penalty under Section 88 in respect of the same conduct, the penalty that is the greater shall be imposed.

In this notice:

‘the Northern Adelaide Plains Prescribed Wells Area’ means the area declared to be the Northern Adelaide Plains Proclaimed Region by proclamation under Section 41 of the *Water Resources Act 1976* (see *Government Gazette* 13 May 1976 page 2459), and as further declared by regulation under Section 125 of the *Natural Resources Management Act 2004* (see *Government Gazette* 22 July 2004, p. 2600);

‘the Central Adelaide Prescribed Wells Area’ means the area which includes the wells declared by regulation under section 125 of the *Natural Resources Management Act 2004* (*Natural Resources Management (Central Adelaide – Prescribed Wells Area) Regulations 2007*) (see *Government Gazette* 7 June 2007, pp.2573-2574);

‘the Dry Creek Prescribed Wells Area’ means the area declared to be the Dry Creek Proclaimed Wells Area by proclamation under Section 33(2) of the *Water Resources Act 1990* (see *Government Gazette* 11 July 1996 p. 76, and as further varied by *Government Gazette* 28 November 1996, p. 1747);

‘the Angas-Bremer Prescribed Wells Area’ means the area declared to be the Angas-Bremer Proclaimed Region by proclamation under Section 41 of the *Water Resources Act 1976* (see *Government Gazette* 23 October 1980 p. 1192);

‘the Peake, Roby and Sherlock Prescribed Wells Area’ means the area declared by regulation under Section 125 of the *Natural Resources Management Act 2004* (*Natural Resources Management (Peake, Roby and Sherlock Prescribed Wells Area) Regulations 2005*) (see *Government Gazette* 27 October 2005 p. 3836);

‘the Marne Saunders Prescribed Water Resources Area’ means the area declared by regulation under Section 125 of the *Natural Resources Management Act 2004* (see *Government Gazette* 20 March 2003, p. 1111);

‘the Clare Valley Prescribed Water Resources Area’ means the area declared by regulation to be the Clare Valley Prescribed Wells Area and Watercourses under section 8 of the *Water Resources Act 1997* (see *Government Gazette* 25 July 1996 p.171) and the area declared by regulation to be the Clare Valley Prescribed Surface Water Area under Section 8 of the *Water Resources Act 1997* (see *Government Gazette* 28 October 1999 p.2127);

‘the Mallee Prescribed Wells Area’ means the area declared to be the Mallee Prescribed Wells Area by proclamation under Section 41 of the *Water Resources Act 1976* (See *Government Gazette* 28 July 1983, page 205 and varied on 9 January 1986, page 19) and as further declared by regulation under Section 125 of the *Natural Resources Management Act 2004* (see *Government Gazette* 27 October 2005, p. 3833);

‘the Southern Basins Prescribed Wells Area’ means the area declared to be the Southern Basins Proclaimed Region by proclamation under Section 41 of the *Water Resources Act 1976* (see *Government Gazette* 12 March 1987 p. 596);

‘the Musgrave Prescribed Wells Area’ means the area declared to be the Musgrave Proclaimed Region by proclamation under Section 41 of the *Water Resources Act 1976* (see *Government Gazette* 12 March 1987 p. 596);

‘the Far North Prescribed Wells Area’ means the area declared to be the Far North Prescribed Wells Area by regulation under Section 8 of the *Water Resources Act 1997* (see *Government Gazette* 27 March 2003 p. 1250);

- ‘the Barossa Prescribed Water Resources Area’ means the area declared by regulation under Section 8 of the *Water Resources Act 1997* (see *Government Gazette* 19 May 2005, p. 1295);
- ‘the McLaren Vale Prescribed Wells Area’ means the area gazetted on 7 January 1999 page 13, under the provisions of the *Water Resources Act 1997*;
- ‘the Western Mount Lofty Ranges Prescribed Water Resources Area’ means that area which includes:
- the watercourses declared by regulation under section 125 of the *Natural Resources Management Act 2004 (Natural Resources Management (Western Mount Lofty Ranges -- Prescribed Watercourses) Regulations 2005)* (see *Government Gazette* 20 October 2005, pp. 3791-3792); and
  - the wells declared by regulation under section 125 of the *Natural Resources Management Act 2004 (Natural Resources Management (Western Mount Lofty Ranges – Prescribed Wells Area) Regulations 2005)* (see *Government Gazette* 20 October 2005, pp.3793-3794); and
  - the surface water area declared by regulation under section 125 of the *Natural Resources Management Act 2004 (Natural Resources Management (Western Mount Lofty Ranges - Surface Water Prescribed Area) Regulation 2005)* (see *Government Gazette* 20 October 2005, pp. 3795-3796);
- ‘the Eastern Mount Lofty Ranges Prescribed Resources Area’ means that area which includes:
- the watercourses and surface water area declared by regulation under section 125 of the *Natural Resources Management Act 2004 (Natural Resources Management (Eastern Mount Lofty Ranges - Prescribed Watercourses and Surface Water Prescribed Area) Regulations 2005)* (see *Government Gazette* 8 September 2005, pp.3292-3293); and
  - the wells declared by regulation under section 125 of the *Natural Resources Management Act 2004 (Natural Resources Management (Eastern Mount Lofty Ranges – Prescribed Wells Area) Regulations 2005)* (see *Government Gazette* 8 September 2005, pp.3294-3295).
- ‘the Morambro Creek Prescribed Watercourse and Prescribed Surface Water Area’ means that area which includes:
- the watercourse declared by regulation under section 8 of the *Water Resources Act 1997 (Water Resources (Morambro Creek) Regulations 2001)* (see *Government Gazette* 12 April 2001, p.1605); and
  - the surface water prescribed area declared by regulation under section 8 of the *Water Resources Act 1997 (Water Resources (Surface Water Prescribed Area – Morambro Catchment) Regulations 2001)*.
- ‘the Lower Limestone Coast Prescribed Wells Area’ means the area declared by regulation under section 8 of *Water Resource Act 1997* (see *Government Gazette* 02 December 2004, p. 4462-4464);
- ‘the Padthaway Prescribed Wells Area’ means the area declared by proclamation under section 25 of the *Water Resources Act 1976* (see *Government Gazette* 13 May 1976, p. 2459);
- ‘the Tatiara Prescribed Wells Area’ means the area declared to be the Tatiara Prescribed Area by proclamation under Section 41 of the *Water Resources Act 1976* (See *Government Gazette* 12 July 1984, p. 134) and further revoked and varied (see *Government Gazette* 30 January 1986, p. 206);
- ‘the Tintinara-Coonalpyn Prescribed Wells Area’ means the area prescribed under Section 8 of the *Water Resource Act 1997 (Water Resources (Tintinara Coonalpyn Prescribed Wells Area) Regulations 2000)* (see *Government Gazette* 02 November 2000, p.2933).

## SCHEDULE 1

Penalties for unauthorised or unlawful take from a prescribed water resource 2022 - 2023:

Column 1	Column 2	Column 3
Prescribed Water Resource	Penalty for unauthorised take of water	Penalty for unlawful take of water
Angas Bremer Prescribed Wells Area	\$0.69/kL	\$0.92/kL
Barossa Prescribed Water Resources Area	\$2.25/kL	\$3.00/kL
Clare Valley Prescribed Water Resources Area	\$0.69/kL	\$0.92/kL
Dry Creek Prescribed Wells Area	\$0.69/kL	\$0.92/kL
Eastern Mt Lofty Ranges Prescribed Water Resources Area	\$1.20/kL	\$1.60/kL
Far North Prescribed Wells Area	\$0.69/kL	\$0.92/kL
Lower Limestone Coast Prescribed Wells Area	\$1.14/kL	\$1.52/kL
Mallee Prescribed Wells Area	\$1.49/kL	\$1.98/kL
Marne Saunders Prescribed Water Resources Area	\$0.69/kL	\$0.92/kL
McLaren Vale Prescribed Wells Area	\$3.90/kL	\$5.20/kL
Morambro Creek Prescribed Watercourse and Prescribed Surface Water Area	\$0.69/kL	\$0.92/kL
Musgrave Prescribed Wells Area	\$0.69/kL	\$0.92/kL
Northern Adelaide Plains Prescribed Wells Area	\$1.88/kL	\$2.50/kL
Padthaway Prescribed Wells Area	\$0.69/kL	\$0.92/kL
Peake, Roby and Sherlock Prescribed Wells Area	\$0.69/kL	\$0.92/kL
Southern Basins Prescribed Wells Area	\$0.69/kL	\$0.92/kL
Tatiara Prescribed Wells Area	\$0.69/kL	\$0.92/kL
Tintinara Coonalpyn Prescribed Wells Area	\$0.69/kL	\$0.92/kL
Western Mt Lofty Ranges Prescribed Water Resources Area	\$1.50/kL	\$2.00/kL

Unit of measure kL is the abbreviation of kilolitre

## SCHEDULE 2

Penalties for unauthorised take from a prescribed water resource, taken in association with an authorisation pursuant to section 105 of the Act:

Column 1	Column 2
Prescribed Water Resource	Penalty for unauthorised take of water
Central Adelaide Prescribed Wells Area	\$0.69/kL
Western Mount Lofty Ranges Prescribed Water Resources Area	\$1.50/kL

Unit of measure kL is the abbreviation of kilolitre

Dated: 19 December 2022

BEN BRUCE  
Executive Director, Water and River Murray  
Department for Environment and Water  
Delegate of the Minister for Climate, Environment and Water

## LOCAL GOVERNMENT (ELECTIONS) ACT 1999

## 2023 Local Government Supplementary Elections—Nominations Open

Nominations open from Friday, 13 January 2023, and close at 12 noon on Friday, 27 January 2023.

Candidates must submit a profile of not more than 1000 characters with their nomination and may also provide a photograph, predominantly head and shoulders, taken within the previous 12 months.

More information about nominating, including the candidate handbook that outlines the criteria and requirements for nominating, can be accessed at [ecsa.sa.gov.au](https://ecsa.sa.gov.au) or by phoning 1300 655 232.

**Nominate online at:** [ecsa.sa.gov.au/nominate](https://ecsa.sa.gov.au/nominate)

**Briefing sessions for intending candidates:**

Candidate briefing sessions are available as face-to-face sessions, webinars, or a pre-recorded video. Register online at [ecsa.sa.gov.au/ig-briefings](https://ecsa.sa.gov.au/ig-briefings)

Council vacancies are set out below.

Copper Coast Council	1 vacancy for area councillor
District Council of Kimba	1 vacancy for area councillor
Kingston District Council	Mayor
District Council of Mount Remarkable	1 councillor for Willochra ward
Northern Areas Council	1 councillor for Broughton ward
District Council of Robe	Mayor
Southern Mallee District Council	5 vacancies for area councillor
District Council of Streaky Bay	1 councillor for Eyre ward
District Council of Tumby Bay	4 vacancies for area councillor
Wudinna District Council	1 vacancy for area councillor

Dated: 1 January 2023

M. SHERRY  
Returning Officer

## NATIONAL ELECTRICITY (SOUTH AUSTRALIA) ACT 1996

## NATIONAL ELECTRICITY (SOUTH AUSTRALIA) LAW—SECTION 90DA

*Notice of Making of National Electricity Amendment (Regulatory sandboxing) Rule 2022*

I, Tom Koutsantonis, Minister for Energy and Mining for the Crown in right of the State of South Australia, as the Minister administering the *National Electricity (South Australia) Act 1996* of South Australia, hereby make the National Electricity Amendment (Regulatory sandboxing) Rule 2022 under section 90DA(1) of the National Electricity (South Australia) Act on the unanimous recommendation of the Ministers of the participating jurisdictions sitting as the Ministerial Council on Energy for the purposes of that section.

This Rule has been signed by me for the purposes of identification as the National Electricity Amendment (Regulatory sandboxing) Rule 2022 and commences operation on 15 December 2022. It will, from the commencement date, be publicly available on the Australian Energy Market Commission website: [www.aemc.gov.au](https://www.aemc.gov.au).

Dated: 14 December 2022

HON TOM KOUTSANTONIS MP  
Minister for Energy and Mining

## NATIONAL ENERGY RETAIL LAW (SOUTH AUSTRALIA) ACT 2011

## NATIONAL ENERGY RETAIL LAW (SOUTH AUSTRALIA)—SECTION 238AA

*Notice of Making of National Electricity Amendment (Regulatory sandboxing) Rule 2022*

I, Tom Koutsantonis, Minister for Energy and Mining for the Crown in right of the State of South Australia, as the Minister administering the *National Energy Retail Law (South Australia) Act 2011* of South Australia, hereby make the National Energy Retail Amendment (Regulatory sandboxing) Rule 2022 under section 238AA(1) of the National Energy Retail Law (South Australia) Act on the unanimous recommendation of the Ministers of the participating jurisdictions sitting as the Ministerial Council on Energy for the purposes of that section.

This Rule has been signed by me for the purposes of identification as the National Energy Retail Amendment (Regulatory sandboxing) Rule 2022, and commences operation on 15 December 2022. It will, from the commencement date, be publicly available on the Australian Energy Market Commission website: [www.aemc.gov.au](http://www.aemc.gov.au).

Dated: 14 December 2022

HON TOM KOUTSANTONIS MP  
Minister for Energy and Mining

NATIONAL GAS (SOUTH AUSTRALIA) ACT 2008

NATIONAL GAS (SOUTH AUSTRALIA) LAW—SECTION 294EA

*Notice of Making of National Electricity Amendment (Regulatory sandboxing) Rule 2022*

I, Tom Koutsantonis, Minister for Energy and Mining for the Crown in right of the State of South Australia, as the Minister administering the *National Gas (South Australia) Act 2008* of South Australia, hereby make the National Gas Amendment (Regulatory sandboxing) Rule 2022 under section 294EA(1) of the National Gas (South Australia) Act on the unanimous recommendation of the Ministers of the participating jurisdictions sitting as the Ministerial Council on Energy for the purposes of that section.

This Rule has been signed by me for the purposes of identification as the National Gas Amendment (Regulatory sandboxing) Rule 2022 and commences operation on 15 December 2022. It will, from the commencement date, be publicly available on the Australian Energy Market Commission website: [www.aemc.gov.au](http://www.aemc.gov.au).

Dated: 14 December 2022

HON TOM KOUTSANTONIS MP  
Minister for Energy and Mining

PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016

SECTION 76

*Amendment to the Planning and Design Code*

*Preamble*

It is necessary to amend the Planning and Design Code (the Code) in operation at 8 December 2022 (Version 2022.23) in order to make changes of form relating to the Code's spatial layers and their relationship with land parcels. NOTE: There are no changes to the application of zone, subzone or overlay boundaries and their relationship with affected parcels or the intent of policy application as a result of this amendment:

1. PURSUANT to section 76 of the *Planning, Development and Infrastructure Act 2016* (the Act), I hereby amend the Code in order to make changes of form (without altering the effect of underlying policy), correct errors and make operational amendments as follows:
  - a. Undertake minor alterations to the geometry of the spatial layers and data in the Code to maintain the current relationship between the parcel boundaries and Code data as a result of the following:
    - i. New plans of division deposited in the Land Titles Office between 30 November 2022 and 13 December 2022 affecting the following spatial and data layers in the Code:
      - A. Zones and subzones
      - B. Technical and Numeric Variations
        - Building Heights (Levels)
        - Building Heights (Metres)
        - Concept Plan
        - Interface Height
        - Minimum Primary Street Setback
        - Minimum Side Boundary Setback
        - Future Local Road Widening Setback
        - Minimum Frontage
        - Minimum Site Area
      - C. Overlays
        - Affordable Housing
        - Coastal Areas
        - Defence Aviation Area
        - Environment and Food Production Area
        - Future Local Road Widening
        - Future Road Widening
        - Hazards (Bushfire - High Risk)
        - Hazards (Bushfire - Medium Risk)
        - Hazards (Bushfire - General Risk)
        - Hazards (Bushfire - Urban Interface)
        - Hazards (Bushfire - Regional)
        - Hazards (Bushfire - Outback)
        - Heritage Adjacency
        - Historic Area
        - Limited Land Division
        - Local Heritage Place
        - Noise and Air Emissions
        - Regulated and Significant Tree
        - Scenic Quality
        - State Heritage Place
        - Stormwater Management
        - Urban Tree Canopy

- b. In Part 13 of the Code – Table of Amendments, update the publication date, Code version number, amendment type and summary of amendments within the ‘Table of Planning and Design Code Amendments’ to reflect the amendments to the Code as described in this Notice.
2. PURSUANT to section 76(5)(a) of the Act, I further specify that the amendments to the Code as described in this Notice will take effect upon the date those amendments are published on the SA planning portal.

Dated: 15 December 2022

GREG VAN GAANS  
Director, Land and Built Environment  
Department for Trade and Investment  
Delegate of the Minister for Planning

PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT 2016

SECTION 76

*Amendment to the Planning and Design Code*

*Preamble*

It is necessary to amend the Planning and Design Code (the Code) in operation at 8 December 2022 (Version 2022.23) in order to correct the following errors:

- incorrect reference to ‘Character Preservation Area Overlay’ in Table 4 – Restricted Development Classification of the Rural Zone
  - incorrect policy numbering in the Design Module of Part 4 - General Development Policies
  - missing policy linkage for Class of Development ‘Office’ in Table 3 - Applicable Policies for Performance Assessed Development in the Community Facilities Zone.
1. PURSUANT to section 76 of the *Planning, Development and Infrastructure Act 2016* (the Act), I hereby amend the Code in order to make the following minor or operational amendments as follows:
- c. In Part 2 – Zones and Sub Zones, within Table 4 – Restricted Development Classification of the Rural Zone, replace the words ‘Character Preservation Area Overlay’ with the words ‘Character Preservation District Overlay’
  - d. In Part 4 – General Development Policies, within the Assessment Provisions (AP) of the Design Module, replace the text ‘DTS/DPF 28.3’ under the heading ‘Site Facilities / Waste Storage’ with the text ‘DTS/DPF 30.3’.
  - e. In Part 2 – Zones and Sub Zone, within the Community Facilities Zone, amend Table 3 - Applicable Policies for Performance Assessed Development, by inserting Community Facilities Zone ‘Land Use and Intensity PO 1.3’ as an applicable ‘Zone’ policy for Class of Development ‘Office’.
  - f. In Part 13 of the Code – Table of Amendments, update the publication date, Code version number, amendment type and summary of amendments within the ‘Table of Planning and Design Code Amendments’ to reflect the amendments to the Code as described in this Notice.
2. PURSUANT to section 76(5)(a) of the Act, I further specify that the amendments to the Code as described in this Notice will take effect upon the date those amendments are published on the SA planning portal.

Dated: 20 December 2022

SALLY SMITH  
Executive Director, Planning and Land Use Services  
Department for Trade and Investment  
Delegate of the Minister for Planning

RETAIL AND COMMERCIAL LEASES ACT 1995

*Exemption*

**PURSUANT** to section 77(1)(b) of the *Retail and Commercial Leases Act 1995* (SA) I, Andrea Michaels, the Minister for Small and Family Business for the State of South Australia,

**EXEMPT** from all provisions of the *Retail and Commercial Leases Act 1995* (SA) for a period of ten (10) years from the date of this exemption the class of retail shop leases which are entered into:

1. during the period of this exemption;
2. by or on behalf of the City of Onkaparinga and its successors as lessor;
3. for a term of twelve (12) months or less (disregarding the period/s of any previous retail shop lease/s between the parties);
4. in respect of premises comprised of one or more areas, rooms or spaces at any of the properties specified in the Schedule to this exemption;
5. for a permitted use which is in accordance with any community land management plan that has been adopted by the City of Onkaparinga for the premises from time to time, or where no such community land management plan applies, then for use for the provision of health, welfare, community, cultural, sporting or recreational services;
6. for specified days and times of use during the term; and
7. for a gross amount of rent which is inclusive of all outgoings and is determined in accordance with section 188 of the *Local Government Act 1999* (SA).

**ON CONDITION** that:

1. this exemption may be varied or revoked by the Minister responsible for administration of the *Retail and Commercial Leases Act 1995* (SA) at any time (however, for the avoidance of doubt, no variation or revocation of this exemption affects the continued operation of this exemption in its then current form to retail shop leases already entered into up to the date of the variation or revocation); and

2. where the City of Onkaparinga or its agent enters into a retail shop lease in reliance on this exemption, the retail shop lease must contain a statement that the retail shop lease is exempt from the provisions of the *Retail and Commercial Leases Act 1995* (SA) pursuant to this exemption.

Dated: 22 November 2022

ANDREA MICHAELS MP  
Minister for Small and Family Business

SCHEDULE

Properties

No.	Name (current as at the date of the exemption, as updated from time to time)	Address	Title (current as at the date of the exemption, as updated from time to time)
1	Elizabeth House Positive Ageing Centre	112 Elizabeth Road, Christie Downs	CT 5719/597
2	Wakefield House Positive Ageing Centre	65-75 Acre Avenue, Morphett Vale	CT 2688/180
3	Willunga Hub	Allot 560 St Peters Terrace, Willunga	CT 5815/549
4	Wardli Youth Centre	13-17 McKinna Road, Christie Downs	CT 5097/355
5	Base 10 Youth Centre	10-20 Main South Road, Reynella	CT 6244/275
6	Studio 20 Youth Centre	Aldinga Central Shopping Centre, Pridham Boulevard, Aldinga Beach	CT 6155/170
7	Visitor Information Centre	796 Main Road, McLaren Vale	CT 6088/53
8	Art Centre Port Noarlunga	22 Gawler Street, Port Noarlunga	CT 5775/672
9	Sauerbier House Cultural Exchange	21 Wearing Street, Port Noarlunga	CT 5321/746
10	Morphett Vale Community Centre	9 William Street, Morphett Vale	CT 6099/637
11	Byards Community Centre	Lot 170 Byards Road, Happy Valley	CT 5608/724
12	Sellicks Beach Community Hall	Lot 148 Riviera Road, Sellicks Beach	CT 2810/81
13	Karawatha Community Centre	12 Baden Terrace, O'Sullivan Beach	CT 5584/59
14	Aldinga Community Centre	7 Stewart Avenue, Aldinga Beach	CT 5714/688
15	Hasting Street Centre	2 Tongalla Street, Seaford	CT 3507/177
16	Seaford Community Centre	52 Beechwood Grove, Seaford	CT 6156/984
17	Aberfoyle Community Centre	1 Jessica Street, Aberfoyle Park	CT 5607/572
18	Neporendi Aboriginal Community Centre	172-174 Old South Road, Old Reynella	CT 5488/230
19	River Road Netball and Tennis Courts	Lot 16 River Road, Port Noarlunga	CT 5765/106
20	Coromandel Community Centre	442b Main Road, Coromandel Valley	CT 5681/79
21	Christie Downs Community House	65-95 Morton Road, Christie Downs	CT 4189/918
22	Woodcroft Morphett Vale Neighbourhood Centre	1/175-183 Bains Road, Morphett Vale	CT 5212/833
23	Hackham West Community Centre	44 Glynville Drive, Hackham West	CT 5741/115
24	Reynella Neighbourhood Centre	164-170 Old South Road, Old Reynella	CT 5824/104
25	Hazel McKenzie Hall	30 Harper Road, Clarendon	CT 5433/675
26	Moana Pioneers Memorial Hall	38-44 Nashwauk Crescent, Moana	CT 6246/21
27	Old Noarlunga Institute Hall	Lot 97 Market Crescent, Old Noarlunga	CT 5710/138
28	Kangarilla Progress Community Hall	1992 Kangarilla Road, Kangarilla	CR 5755/675
29	Kangarilla Temperance Hall	38 McLaren Flat Road, Kangarilla	CT 5603/956
30	Maslin Beach Community Hall	Lot 461 Gulf Parade, Maslin Beach	CT 2875/92
31	Aldinga Institute Hall	23 Old Coach Road, Aldinga	CT 6181/671
32	McLaren Flat Soldiers Memorial Hall and Community Club	41-47 Main Road, McLaren Flat	CT 5853/24
33	McLaren Vale Institute Hall	155-157 Main Road, McLaren Vale	CT 6109/588
34	Noarlunga Leisure Centre	13 Seaman Road,	CT 5069/341

No.	Name (current as at the date of the exemption, as updated from time to time)	Address	Title (current as at the date of the exemption, as updated from time to time)
35	Seaford Recreation Centre	Noarlunga Centre 620 Grand Boulevard, Seaford	CT 5566/461
36	Aldinga Recreation Centre	5 McRae Street, Aldinga Beach	CT 6193/291
37	The Hub Recreation Centre	3 The Mall, Aberfoyle Park	CT 5654/804

## RETURN TO WORK ACT 2014

*Notice of Travel Allowance***Preamble**

Section 33(8) of the *Return to Work Act 2014* (the Act) states that:

*If a worker travels in a private vehicle to or from any place for the purpose of receiving medical services, hospitalisation or approved recovery/return to work services, and the travel is reasonably necessary in the circumstances of the case, the worker is entitled to a travel allowance at rates fixed by a scale published by the Minister under this section.*

## NOTICE

I DECLARE that the rate for travel allowance in 2023 is hereby fixed for the purposes of section 33(8) of the Act at 51.6 cents per kilometre, and this notice supersedes all previous notices of the travel allowance rate published under section 33(8) of the Act.

This Notice is effective for travel on or after 1 January 2023.

Dated: 11 December 2022

HON KYAM MAHER MLC  
Minister for Industrial Relations and Private Sector

## SOUTH AUSTRALIAN SKILLS ACT 2008

*Part 4—Apprenticeships, Traineeships and Training Contracts*

PURSUANT to the provision of the *South Australian Skills Act 2008*, the South Australian Skills Commission (SASC) gives notice that determines the following Trades or Declared Vocations in addition to the *Gazette* notices of:

1.	25 September 2008	2.	23 October 2008	3.	13 November 2008	4.	4 December 2008
5.	18 December 2008	6.	29 January 2009	7.	12 February 2009	8.	5 March 2009
9.	12 March 2009	10.	26 March 2009	11.	30 April 2009	12.	18 June 2009
13.	25 June 2009	14.	27 August 2009	15.	17 September 2009	16.	24 September 2009
17.	9 October 2009	18.	22 October 2009	19.	3 December 2009	20.	17 December 2009
21.	4 February 2010	22.	11 February 2010	23.	18 February 2010	24.	18 March 2010
25.	8 April 2010	26.	6 May 2010	27.	20 May 2010	28.	3 June 2010
29.	17 June 2010	30.	24 June 2010	31.	8 July 2010	32.	9 September 2010
33.	23 September 2010	34.	4 November 2010	35.	25 November 2010	36.	16 December 2010
37.	23 December 2010	38.	17 March 2011	39.	7 April 2011	40.	21 April 2011
41.	19 May 2011	42.	30 June 2011	43.	21 July 2011	44.	8 September 2011
45.	10 November 2011	46.	24 November 2011	47.	1 December 2011	48.	8 December 2011
49.	16 December 2011	50.	22 December 2011	51.	5 January 2012	52.	19 January 2012
53.	1 March 2012	54.	29 March 2012	55.	24 May 2012	56.	31 May 2012
57.	7 June 2012	58.	14 June 2012	59.	21 June 2012	60.	28 June 2012
61.	5 July 2012	62.	12 July 2012	63.	19 July 2012	64.	2 August 2012
65.	9 August 2012	66.	30 August 2012	67.	13 September 2012	68.	4 October 2012
69.	18 October 2012	70.	25 October 2012	71.	8 November 2012	72.	29 November 2012
73.	13 December 2012	74.	25 January 2013	75.	14 February 2013	76.	21 February 2013
77.	28 February 2013	78.	7 March 2013	79.	14 March 2013	80.	21 March 2013
81.	28 March 2013	82.	26 April 2013	83.	23 May 2013	84.	30 May 2013
85.	13 June 2013	86.	20 June 2013	87.	11 July 2013	88.	1 August 2013
89.	8 August 2013	90.	15 August 2013	91.	29 August 2013	92.	6 February 2014
93.	12 June 2014	94.	28 August 2014	95.	4 September 2014	96.	16 October 2014
97.	23 October 2014	98.	5 February 2015	99.	26 March 2015	100.	16 April 2015
101.	27 May 2015	102.	18 June 2015	103.	3 December 2015	104.	7 April 2016
105.	30 June 2016	106.	28 July 2016	107.	8 September 2016	108.	22 September 2016
109.	27 October 2016	110.	1 December 2016	111.	15 December 2016	112.	7 March 2017
113.	21 March 2017	114.	23 May 2017	115.	13 June 2017	116.	18 July 2017
117.	19 September 2017	118.	26 September 2017	119.	17 October 2017	120.	3 January 2018
121.	23 January 2018	122.	14 March 2018	123.	14 June 2018	124.	5 July 2018
125.	2 August 2018	126.	9 August 2018	127.	16 August 2018	128.	30 August 2018
129.	27 September 2018	130.	4 October 2018	131.	18 October 2018	132.	1 November 2018
133.	15 November 2018	134.	22 November 2018	135.	29 November 2018	136.	6 December 2018
137.	20 December 2018	138.	24 January 2019	139.	14 February 2019	140.	30 May 2019
141.	6 June 2019	142.	13 June 2019	143.	20 June 2019	144.	27 June 2019
145.	11 July 2019	146.	8 August 2019	147.	22 August 2019	148.	12 September 2019
149.	19 September 2019	150.	14 November 2019	151.	28 November 2019	152.	12 December 2019
153.	19 December 2019	154.	23 January 2020	155.	27 February 2020	156.	21 April 2020
157.	25 June 2020	158.	10 September 2020	159.	17 September 2020	160.	8 October 2020
161.	29 October 2020	162.	5 November 2020	163.	10 December 2020	164.	17 December 2020
165.	24 December 2020	166.	21 January 2021	167.	11 February 2021	168.	25 February 2021
169.	25 March 2021	170.	1 April 2021	171.	8 April 2021	172.	6 May 2021
173.	10 June 2021	174.	1 July 2021	175.	12 August 2021	176.	16 September 2021

177. 23 September 2021	178. 30 September 2021	179. 14 October 2021	180. 21 October 2021
181. 9 November 2021	182. 2 December 2021	183. 23 December 2021	184. 24 February 2022
185. 10 March 2022	186. 24 March 2022	187. 12 May 2022	188. 16 June 2022
189. 23 June 2022	190. 11 August 2022	191. 25 August 2022	192. 27 October 2022
192. 22 December 2022			

TRADES OR DECLARED VOCATIONS AND REQUIRED QUALIFICATIONS AND TRAINING CONTRACT CONDITIONS FOR THE COMMUNITY SERVICES (CHC), CORRECTIONAL SERVICES (CSC), ELECTROTECHNOLOGY (UEE), HEALTH (HLT), MANUFACTURING AND ENGINEERING (MEM), NATIONAL WATER (NWP), PUBLIC SAFETY (PUA), TRANSPORT AND LOGISTICS (TLI), FURNISHING (MSF), TRAINING AND EDUCATION (TAE) TRAINING PACKAGE/S

*Trade/ #Declared Vocation/ Other Occupation	Qualification Code	Qualification Title	Nominal Term of Training Contract	Probationary Period	Supervision Level Rating
Aged Care Worker #	CHC43021	Certificate IV in Ageing Support	24	60	H
Community Worker #	CHC43021	Certificate IV in Ageing Support	24	60	H
Correctional Officer #	CSC30122	Certificate III in Correctional Practice	12	60	M
Correctional Officer #	CSC40122	Certificate IV in Correctional Practice	12	60	H
Disability Worker #	CHC43021	Certificate IV in Ageing Support	24	60	M
Disability Worker #	CHC43121	Certificate IV in Disability Support	24	60	M
Emergency Communications Centre Operator #	PUA30822	Certificate III in Public Safety (Emergency Communications Centre Operations)	12	60	H
Engineering Technician #	MEM30522	Certificate III in Engineering - Technical	12	60	M
Engineering Technician Level V #	MEM50222	Diploma of Engineering - Technical	24	60	H
Engineering Tradesperson (Fabrication) *	MEM31922	Certificate III in Engineering - Fabrication Trade	48	90	H
Engineering Tradesperson (Mechanical) *	MEM31322	Certificate III in Refrigeration and Air Conditioning	48	90	H
Firefighter and Emergency Operator #	PUA20622	Certificate II in Public Safety (Firefighting and Emergency Operations)	12	60	H
Firefighter and Emergency Operator #	PUA30622	Certificate III in Public Safety (Firefighting and Emergency Operations)	36	90	H
Cyber Security Support Officer #	22603VIC	Certificate IV in Cyber Security	24	60	M
Network Operations Centre Analyst #	22603VIC	Certificate IV in Cyber Security	24	60	M
Network Security Support Officer #	22603VIC	Certificate IV in Cyber Security	24	60	M
Security Penetration Tester #	22603VIC	Certificate IV in Cyber Security	24	60	M
Systems Security Administrator #	22603VIC	Certificate IV in Cyber Security	24	60	M
Health Administration Worker #	HLT47321	Certificate IV in Health Administration	24	60	M
Health Support Worker #	HLT23221	Certificate II in Health Support Services	12	60	L
Health Support Worker #	HLT33021	Certificate III in Allied Health Assistance	12	60	M
Health Support Worker #	HLT43021	Certificate IV in Allied Health Assistance	24	60	M
Personal Servicing Worker (Aged Care) #	CHC33021	Certificate III in Individual Support	12	60	H
Personal Servicing Worker (Disability) #	CHC33021	Certificate III in Individual Support	12	60	H
Rail Transport (Train Operations) #	TLI33122	Certificate III in Rail Customer Service	24	60	M
Road Transport Operator #	TLI30122	Certificate III in Mobile Crane Operations	18	60	M
Road Transport Operator #	TLI40722	Certificate IV in Mobile Crane Operations	24	60	M

Silversmith *	MEM31922	Certificate III in Engineering - Fabrication Trade	48	90	H
Training Officer #	TAE40122	Certificate IV in Training and Assessment	24	60	M
Upholstering *	MSF30722	Certificate III in Upholstery	48	90	M
Water Industry Operator #	NWP20122	Certificate II in Water Industry Operations	12	60	M
Water Industry Operator #	NWP30222	Certificate III in Water Industry Operations	24	60	M
Advanced Tradesperson (Hazardous Areas - Electrical) *	UEE42622	Certificate IV in Hazardous areas - Electrical	24	60	H

Dated: 22 December 2022

JOHN EVANGELISTA  
Director, Traineeship and Apprenticeship Services  
Department for Education

## THE REMUNERATION TRIBUNAL

### REPORT—NO. 6 OF 2022

*2022 Review of Remuneration of Auditor-General, Electoral Commissioner,  
Deputy Electoral Commissioner & Health and Community Services Complaints Commissioner*

## REPORT

### INTRODUCTION

- The Remuneration Tribunal (**Tribunal**) has conducted a review of Determination 4 of 2021<sup>1</sup> which sets salaries payable to the following statutory offices as conferred under section 14 of the *Remuneration Act 1990 (Act)*.
  - the Auditor-General
  - the Electoral Commissioner
  - the Deputy Electoral Commissioner
  - the Health and Community Services Complaints Commissioner.
- The Tribunal has decided to increase salaries for these offices as detailed in this report, with work value based increases applying to the first three office holders. The Tribunal has issued an accompanying determination which gives effect to its decision.

<sup>1</sup> Remuneration of Auditor-General, Electoral Commissioner, Deputy Electoral Commissioner, Health and Community Services Complaints Commissioner.

### THE REVIEW PROCESS

- On 22 June 2022, and in accordance with sections 10(2) and 10(4) of the Act, the Tribunal wrote to and invited submissions by 25 July 2022 in respect of this review from:
  - the Honourable Premier of South Australia – as the Minister responsible for the Act who may make submissions or introduce evidence in the public interest
  - the above mentioned office holders
- In seeking these submissions, the Tribunal noted its indication in its 2021 report that it was minded to consider conducting a work value assessment of these roles. Accordingly, the Tribunal invited submissions on this topic.
- The Tribunal also placed a notice on its website from 22 June 2022 calling for submissions from affected persons by 25 July 2022.
- The Tribunal received a joint submission from the Electoral Commissioner and Deputy Electoral Commissioner on 25 July 2022. It also received a submission from the Premier's representative on 1 August 2022. No other written submissions were received.
- The submissions and other information received from the Electoral Commissioner and Deputy Electoral Commissioner are dealt with later in this report. It is useful however to briefly summarise the initial submissions received from the Premier's representative. In summary, they provided information on wage movements in the public sector, economic data, and background to this review, and submitted that:
  - while the Tribunal retains a broad discretion in conducting its annual reviews, it should be cautious in approaching a work value-based assessment as presently there is insufficient indicative evidence of significant work value increases to justify this
  - an increase of 1.5% from 1 January 2022 would be consistent with the Tribunal's past approach of maintaining increases within a reasonable range when compared with public sector executives.
- On 30 August 2022, the Tribunal wrote to the Auditor-General and invited him to attend before the Tribunal to provide information on the responsibilities of his office as compared with other jurisdictions and on the salary differences. This invitation was extended, in circumstances where the Auditor-General had chosen not to provide a submission, but the Tribunal noted that the last work value review for the Auditor-General occurred over 20 years ago.
- On 30 August 2022, the Tribunal wrote to the Electoral Commissioner and invited him and the Deputy Electoral Commissioner to attend before the Tribunal to provide information on the responsibilities of both offices as compared with other jurisdictions and on the salary differences.
- On 30 August 2022, the Tribunal wrote to the Premier to notify him of the proposed meetings, and that it intended to inform the Premier of its proposed approach to the review together with an opportunity to comment on that approach before any final conclusion is reached.
- The Tribunal subsequently met with the Auditor-General on 26 September 2022, and then with the Electoral Commissioner and Deputy Electoral Commissioner.
- On 17 October 2022, the Tribunal wrote to the Premier and provided him with an indication of the Tribunal's preliminary conclusions. The Premier was asked whether he wished to make any further submissions, and if so, to nominate a date by which submissions would be provided.

13. The Premier's representative has since confirmed that the Premier does not wish to make any further submissions. The Tribunal has taken the Premier's position to simply confirm that the establishment of an appropriate level of remuneration is entirely a matter for the Tribunal.

#### CONSIDERATION AND CONCLUSION

##### The Auditor-General

14. Notwithstanding that the Auditor-General did not request an increase, or review of his remuneration, the Tribunal was concerned that this remuneration had not been reviewed against work value principles for many years. The Tribunal also noted very substantial discrepancies between remuneration levels for Auditors-General in every State and Territory when compared to the South Australian Auditor-General's remuneration.
15. These differences are shown in the table below:

Jurisdiction	2021	2022
Victoria	\$540,000–\$549,999 (presume total package)	
NSW	\$513,880	\$521,740
Queensland	\$467,000	
Western Australia	\$403,288	\$414,481
Tasmania	\$371,000	
South Australia	\$336,951	
ACT	\$317,704	\$328,029
Northern Territory	\$299,000	

16. The Tribunal notes that the figures for Victoria, Queensland, and the Northern Territory have been ascertained from detailed Annual Reports from each jurisdiction. As indicated, the remuneration for Victoria is presumed to be a total package inclusive of superannuation, however the salary component of that package would still sit at or towards the top of the above list. The salaries for New South Wales, Western Australia, and the Australian Capital Territory are set by respective Tribunals. The salary for Tasmania is set by a statutory formula, being the average salary paid to the Auditors-General in South Australia and Western Australia.
17. As indicated, the Tribunal asked the Auditor-General to meet to discuss his role and changes to the functions undertaken. In the course of these discussions, the Auditor-General noted substantial changes to his function and significant changes to the expectations of the function. The Auditor-General also remarked on staffing retention issues and rapidly changing remuneration expectations which created pressure within his department.
18. The Tribunal has adopted the position that a comparison of remuneration differentials provides a useful insight into possible remuneration issues, but does not, of itself, justify a change in remuneration. A fundamental requirement is that the Tribunal is satisfied that there have been significant changes in work value since the remuneration was last assessed.
19. It is well established that work value changes which provide a sustainable basis for reviewing remuneration include:
- changes in the nature of the work
  - the level of skill and responsibility involved in doing the work, and/or
  - the conditions under which the work is performed.
20. If changes within one or more of these factors are identified the Tribunal may then consider comparable remuneration levels.
21. The Tribunal last conducted a detailed assessment of the Auditor-General's function over 20 years ago. The Tribunal's discussions with the Auditor-General and its own investigations into the expectations of this function are indicative of significant changes in the financial reporting environment. These changes go to accounting practices and expectations. Further, technological changes have both enabled and demanded that public sector auditors apply more advanced technology to interact with client bodies. There is an increased need for specialisation which brings with it differing managerial expectations. Performance reporting requirements and on-line reporting systems have required different audit management and organizational approaches. The Tribunal has not and is not required to consider if these changes alter the role of more junior auditing staff, but they have imposed significant change expectations on the functions undertaken and the oversight role of the Auditor-General.
22. In addition to the work value changes to the Auditor-General's function, the Tribunal has also noted that the responsibilities of this role in relation to public sector management requirements have also increased.
23. The Tribunal has concluded that these work value changes require a substantial revision of the remuneration for this office. A failure to do so is highly likely to limit the Government's capacity to recruit essential highly skilled Auditor-General office holder functions in the near future and ultimately impact on the credibility of the functions undertaken.
24. In assessing remuneration levels, the Tribunal has taken total remuneration into account. This includes current motor vehicle arrangements, based on the costing arrangements provided by Fleet SA. The Tribunal has recognised that the current Auditor-General is a member of a defined benefit superannuation fund, but has considered superannuation arrangements on the basis of standard accumulation scheme arrangements.
25. Given its conclusions about these work value changes, the Tribunal has reviewed remuneration levels for Auditor-General functions in other States and Territories. While these roles are inherently similar, the Tribunal has noted some relatively minor differences in relation to the extent of local government work. Differences between South Australia and the mainland Eastern seaboard States in terms of the relative size of public sector functions have also been considered by the Tribunal. The Tribunal has also noted information from the Auditor-General that in his time, he has built the capability of his office (and statutory responsibilities) to be doing the same range of work which other jurisdictions are undertaking.
26. The total remuneration for the South Australian Auditor-General is in the order of \$70,000 per annum less than the overall average remuneration for Auditors-General for all of the States and Territories and is in the order of \$110,000 less than the average remuneration level for these positions taking into account the States alone.
27. The Tribunal considers that the remuneration for the Auditor-General should be increased in two tranches. The first increase of \$55,000 will operate from 1 January 2023, with the second tranche of \$55,000 to operate from 1 November 2023. The Tribunal stresses that this substantial increase does not represent a basis for more general increases in general auditing remuneration levels as each function needs to be considered separately.

28. The effective date of these salary increases was also taken into account in deciding on the quantum of the increases, noting that the last salary increase for the Auditor-General was on 1 January 2021.

#### THE ELECTORAL COMMISSIONER AND DEPUTY ELECTORAL COMMISSIONER

29. The Electoral Commissioner and Deputy Electoral Commissioner provided a submission where they requested that the Tribunal recognise significant changes to the work complexity associated with these functions since 2010, notwithstanding that the Tribunal reviewed the remuneration for these positions in 2016 and 2017 respectively. The Electoral Commissioner and Deputy Electoral Commissioner referred to substantial changes to electoral security arrangements throughout Australia, which required national co-operation, to additional workload imposts associated with Local Government elections and to increased complexity associated with the monitoring of social media and misleading advertising actions.
30. The Tribunal has noted that the remuneration levels for these functions have been regularly reviewed and that the last review of the Electoral Commissioner's position involved a position assessment undertaken by an external remuneration expert.
31. The Tribunal acknowledges that a comparison of remuneration levels for comparable functions in other States and Territories indicates that these South Australian functions are paid substantially less than average remuneration levels.
32. By itself, these discrepancies do not form a basis for remuneration adjustments. The Tribunal has adopted the same approach as it has applied to reviewing the Auditor-General's remuneration level. The Tribunal firstly needs to be satisfied that there have been significant changes to work value before it will have regard to comparable remuneration levels.
33. As a starting point, the Tribunal intends to confine its consideration of the current remuneration levels to changes which have occurred since the last reviews in 2016 and 2017. The Tribunal is not satisfied that errors in earlier Tribunal determinations have been made out so as to warrant revisiting those conclusions.
34. Consistent with its approach to the Auditor-General's remuneration review, work value changes which provide a sustainable basis for reviewing remuneration for the Electoral Commissioner and Deputy Electoral Commissioner include:
- changes in the nature of the work
  - the level of skill and responsibility involved in doing the work, and/or
  - the conditions under which the work is performed.
35. If significant changes to one or more of these factors are identified the Tribunal may then consider comparable remuneration levels.
36. The Tribunal has reviewed all the information provided. It is somewhat restricted in undertaking this review because demonstrable performance criteria associated with these roles are not clear. This is a matter the Electoral Commissioner may wish to consider in the future.
37. The Tribunal is satisfied that progressive changes impacting on the Electoral Commissioner functions have increased the complexity of these functions since 2017. These changes include demands for increased cyber security protections, increases in national co-operation requirements, although future reliance on changes that are most likely generated by the Australian Government represents a flawed basis for assertions of work value change unless the South Australian impact of those changes can be identified. Notwithstanding this, the continuing growth in challenges relating to social media and misleading advertising represent demonstrable changes in work value.
38. Having reached this conclusion, the Tribunal has reviewed comparable remuneration levels for other State and Territory electoral commissioner functions. These comparisons are shown below:

#### **Electoral Commissioner**

<b>Jurisdiction</b>	<b>2021</b>	<b>2022</b>
New South Wales	\$399,990	\$406,110
Victoria	\$333,000	
Queensland	\$304,626 – \$367,177	
Western Australia	\$253,020	\$259,978
Northern Territory	\$244,000	
South Australia	\$239,737	
ACT	\$232,532	\$240,089
Tasmania	\$196,319 – \$215,952 \$225,768 (with approval of Head of State Service)	\$200,933 – \$221,027 \$231,073 (with approval of Head of State Service)

39. The Tribunal notes that the figures for Victoria, Queensland, and the Northern Territory have been ascertained (or estimated in the case of Victoria) from detailed Annual Reports from each jurisdiction, and from the submission of the Electoral Commissioner. The salaries for New South Wales, Western Australia, and the Australian Capital Territory are set by respective Tribunals. The salary for Tasmania is set under an Employment Direction, with the role being a Senior Executive Level 3.

#### **Deputy Electoral Commissioner**

<b>Jurisdiction</b>	<b>2021</b>	<b>2022</b>
Victoria	\$244,000	
ACT	\$193,171	
Western Australia	\$191,776	\$197,050
Queensland	\$179,329 – \$186,828	
South Australia	\$179,539	
Northern Territory	\$149,000 – \$155,000	
Tasmania	\$127,141 – \$135,790	

40. The Tribunal notes that the figures for Victoria, Queensland, and the Northern Territory have been ascertained (or estimated in the case of Victoria) from detailed Annual Reports from each jurisdiction. The salaries for Western Australia and the Australian Capital Territory are set by respective Tribunals. There is no deputy in New South Wales. The salary for Tasmania is set by an enterprise agreement, with the role being a Band 8.

41. The Tribunal has noted that the electoral commissioner function is inherently more demanding in Victoria and New South Wales, because of increased population demands. The Tribunal does not agree with the Electoral Commissioner and Deputy Electoral Commissioner positions that there is a significant difference in the value of percentage wage increases for executives on total remuneration package arrangements in contrast to wage and salary earners. However, the Tribunal considers that this comparison demonstrates a significant shortfall in the Electoral Commissioner remuneration level.
42. The Tribunal considers that the Electoral Commissioner's remuneration should increase by \$25,000 per annum, with effect from 1 January 2023 to recognise the changes in work value. A similar increase should apply to the Deputy Electoral Commissioner role.
43. Accordingly the new salaries from 1 January 2023 will be: \$264,737 and \$195,000 respectively.
44. The effective date of these salary increases was taken into account in deciding on the quantum of the increases, noting that the last salary increases for these offices was 1 January 2021.
45. Again, the Tribunal notes that its conclusions in this respect are underpinned by the changes in work value such that they cannot form a basis for more generally applied remuneration increases.

#### **THE HEALTH AND COMMUNITY SERVICES COMPLAINTS COMMISSIONER**

46. The Health and Community Services Complaints (**HCSC Commissioner**) did not request a salary increase. Nevertheless the Tribunal considered this role in the context of other functions.
47. The Tribunal concluded that there are significant variations in the roles of health system complaint executives, so that direct comparisons with interstate roles are difficult. No substantial shortfall in remuneration levels could be discerned on the information available to the Tribunal. As there was no request to review work value changes, the Tribunal has concluded that the remuneration change for this position should take account of general economic data including public sector wage movements. Should the HCSC Commissioner seek to pursue increases on the basis of asserted work value changes, these will need to be established in the future.
48. The Tribunal has taken the following economic data into account:
  - a. The Consumer Price Index (All groups Adelaide) shows the following percentage changes from the corresponding quarters of previous years:
    - i. 3.3% for December 2021
    - ii. 4.7% for March 2022
    - iii. 6.4% for June 2022
    - iv. 8.4% for September 2022.
  - b. The Australian Bureau of Statistics Wage Price Index (Public Sector in South Australia) shows the following percentage changes from the corresponding quarters of previous years:
    - i. 1.2% for September 2021
    - ii. 1.4% for December 2021
    - iii. 2.0% for March 2022
    - iv. 1.7% for June 2022
    - v. 2.7% for September 2022.
  - c. As at November 2022 the Reserve Bank of Australia forecast of the Consumer Price Index is:
    - i. 8% for December 2022 quarter
    - ii. 6.3% for June 2023
    - iii. 4.7% for December 2023
    - iv. 4.2% for June 2024
    - v. 3.2% for December 2024.
49. The Tribunal has noted the steps being taken to reduce the current inflationary trend and has adopted a cautionary approach to recognition of inflationary movements.
50. The Tribunal has concluded that an annual remuneration increase of 2.75% is applicable to this position, with effect from 1 January 2022. This effective date has been chosen, noting that this review commenced in June 2022 and the last salary increase for this position applied from 1 January 2021.

#### **COMMUNICATION ALLOWANCE**

51. A communication allowance of \$800 per annum is paid to all four office holders in respect of their expenditure on mobile and landline telephones and internet usage, connected with their duties. While this rate was originally set in 2013, the Tribunal has generally reviewed the rate of the allowance each year.
52. This year, the Tribunal does not believe any increase is warranted, as the information generally available to the Tribunal does not demonstrate significant increases in communication costs.
53. The Tribunal also notes that when this rate was set in 2013, it excluded costs associated with mobile telephones on the understanding that these office holders may already be issued with mobile phones for business purposes. The Tribunal also explained the following in its report<sup>2</sup>:

**The Tribunal wishes statutory office holders to whom this Determination applies to be aware that where a mobile phone is required for official duties and not provided by the employer for official duties out of the office, they may make application to the Remuneration Tribunal for an additional annual allowance.**
54. Since 2019, reports and determinations of this Tribunal have stated that the \$800 communication allowance also covers expenditure on mobile telephones by all four office holders. Despite this, the rate of the allowance has not increased for this purpose, on the continuing understanding of the Tribunal that the office holders are issued (or eligible to be issued) with mobile telephones for work purposes.

<sup>2</sup> Remuneration Tribunal – Report Relating to Determination No 1 of 2013.

**Other determinations**

The Tribunal notes that all four office holders are covered by other determinations of the Tribunal which set conveyance allowances, accommodation and meal allowances, and salary sacrifice arrangements for judges, court officers, and statutory officers.

Dated: 14 December 2022

MATTHEW O'CALLAGHAN  
President

DEBORAH BLACK  
Member

PETER DE CURE AM  
Member

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**THE REMUNERATION TRIBUNAL****DETERMINATION—NO. 6 OF 2022***Remuneration of Auditor-General, Electoral Commissioner,  
Deputy Electoral Commissioner, and Health and Community Services Complaints Commissioner***DETERMINATION****SCOPE OF DETERMINATION**

1. The Remuneration Tribunal (**Tribunal**) has jurisdiction under section 14 of the *Remuneration Act 1990* to determine the remuneration, or a specified part of remuneration, of certain statutory office holders, as conferred by other Acts or by proclamation by the Governor.
2. This Determination is applicable to the following statutory office holders:
  - 2.1. the Auditor-General
  - 2.2. the Electoral Commissioner
  - 2.3. the Deputy Electoral Commissioner
  - 2.4. the Health and Community Services Complaints Commissioner.
3. The annual salaries for the following statutory office holders will be:
  - 3.1. **Auditor-General**  
\$391,951 from 1 January 2023, and \$446,951 from 1 November 2023.
  - 3.2. **Electoral Commissioner**  
\$264,737 from 1 January 2023.
  - 3.3. **Deputy Electoral Commissioner**  
\$195,000 from 1 January 2023.  
When acting as Electoral Commissioner for a continuous period of more than one week, the Deputy Electoral Commissioner will be paid for the acting period at the rate of salary applicable to the office of the Electoral Commissioner.
  - 3.4. **Health and Community Services Complaints Commissioner**  
\$255,150 per annum (backdated) from 1 January 2022.
4. Where a statutory office holder listed at clause 2 of this Determination is appointed on a part-time basis, that person is entitled to be paid the applicable salary as a pro rata amount, based on the hours worked as a proportion of the full-time equivalent.

**COMMUNICATION ALLOWANCE**

5. Each of the statutory office holders listed at clause 2 of this Determination are entitled to be paid a communication allowance at the rate of \$800 per annum, for expenditures for the purpose of mobile telephone, landline telephone and internet usage incurred in relation to the conduct of their official duties.
6. The allowance is payable fortnightly and at a fortnightly rate of the annual amount payable at clause 5 of this Determination.
7. Where a statutory office holder listed at clause 2 of this Determination is appointed on a part-time basis, that person is entitled to be paid a communication allowance as a pro rata amount, based on the hours worked as a proportion of the full-time equivalent.

**DATE OF OPERATION**

This Determination operates from 1 January 2023, with the salaries operating from the dates specified in clause 3. It supersedes Determination 4 of 2021.

Dated: 14 December 2022

MATTHEW O'CALLAGHAN  
President

DEBORAH BLACK  
Member

PETER DE CURE AM  
Member

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## THE REMUNERATION TRIBUNAL

REPORT—NO. 7 OF 2022

*2022 Review of Remuneration of Members of the Judiciary,  
Presidential Members of the SAET, Presidential Members of the SACAT, the State Coroner,  
and Commissioners of the Environment, Resources and Development Court*

## REPORT

## INTRODUCTION

1. The Remuneration Tribunal (**Tribunal**) has conducted a review of Determination 13 of 2021<sup>1</sup> which sets salaries payable to the members of the judiciary and office holders listed in section 13 of the *Remuneration Act 1990 (Act)*, and salaries payable to certain other office holders as conferred under section 14 of the Act. That determination also sets a communication allowance and security allowance which is payable to some of the above-mentioned office holders and judicial members.
2. As explained in this report, the Tribunal has decided to increase salaries by 2.75% and modify the application of the security allowance for part-time officers. The Tribunal has issued an accompanying determination, which applies from 1 September 2022.

<sup>1</sup> Remuneration of Members of the Judiciary, Presidential Members of the SAET, Presidential Members of the SACAT, the State Coroner, and Commissioners of the Environment, Resources and Development Court.

## THE REVIEW PROCESS

3. On 20 September 2022, in accordance with sections 10(2) and 10(4) of the Act, the Tribunal wrote to and invited submissions by 17 October 2022 in respect of this review from:
  - a. the Honourable Premier of South Australia – as the Minister responsible for the Act who may make submissions or introduce evidence in the public interest
  - b. the Judicial Remuneration Coordinating Committee (**JRCC**)
  - c. members of the judiciary and relevant office holders
4. The Tribunal also placed a notice on its website from 20 September 2022 calling for submissions from affected persons by 17 October 2022.
5. The JRCC provided a written submission on 17 October 2022, on behalf of:
  - a. the Chief Justice, Judges of Appeal, Judges and Masters of the Supreme Court
  - b. the Chief Judge, Judges and Masters of the District Court
  - c. the Judges and Magistrates of the South Australian Employment Tribunal (with respect to the security and communication allowance)
  - d. the Chief Magistrate and the Magistrates of the Magistrates Court
  - e. the State Coroner and Deputy Coroner
  - f. the Commissioners of the Environment, Resources and Development Court, and
  - g. the President and Deputy Presidents of the South Australian Employment Tribunal.
6. On 31 October 2022, after an extension was granted, the Premier's representative confirmed that the Premier did not intend to make a submission.
7. No other submissions were received.
8. The Tribunal convened a hearing on this and related matters on 14 November 2022. This hearing was attended by the Honourable Justice Tim Stanley as chair of the JRCC, Magistrate Jay Pandya as President of the Magistrates Association of South Australia, and Ms Carly Cooper from the Crown Solicitor's Office as representative of the Premier.
9. Justice Stanley and Magistrate Pandya spoke to the written submissions received from the JRCC. Ms Cooper attended and confirmed the Premier's instructions.
10. In summary, the JRCC submitted that:
  - a. the Tribunal should continue to set judicial salaries in accordance with the established national framework
  - b. the salary of a puisne Judge of the Supreme Court of South Australia should be increased to \$480,900 per annum – which would be a 2.75% increase on the current salary of a puisne Judge which has applied since 1 January 2020, and will match the annual salary of a Federal Court Judge
  - c. the salary of the other judicial members and other officers should be increased by no less than 2.75%
  - d. the increase should operate from 1 October 2022, in order to maintain a coherent national framework. This date would be three months behind when salary increases take effect for Federal, Queensland, and Territory Judges, and around the same time as the increase for Victorian Judges
  - e. the security allowance should be reviewed in the usual way, but part-time office holders should receive the full amount of the allowance as the costs of securing their residences is the same as for full-time office holders
  - f. the communication allowance should be increased to \$1,500 per annum, as the current rate was set in 2013 and the Tribunal should have regard to cost increases since 2013.

## CONSIDERATION AND CONCLUSION

11. The Tribunal has considered the current judicial salaries across the Commonwealth and States and Territories, as set out below.

Jurisdiction	Supreme Court Judge Salary	Operative Date
New South Wales	\$497,580	1 July 2022
Commonwealth (Federal Court Judge used)	\$480,900	1 July 2022
Northern Territory	\$480,900	1 July 2022
Australian Capital Territory ±	\$480,900	1 July 2022
Victoria ±	\$480,900	Date to be fixed
Queensland ±	\$480,900	1 July 2022
Tasmania §	\$471,485	1 July 2022
Western Australia	\$454,214	1 January 2022
SA (salary prior to this Determination)	\$468,020	1 January 2022

- ± These salaries are directly linked by legislation to the salary of a Federal Court Judge, under section 37U of the *Supreme Court Act 1933* (ACT), section 5 of the *Judicial Entitlements Act 2015* (Vic) and section 5 of the *Judicial Remuneration Act 2007* (Qld). The effective date of the increase for Victoria is yet to be fixed in accordance with the Victorian Act.
- § This salary is set by a statutory formula under section 7 of the *Supreme Court Act 1887* (Vic), being 90% of the average of the salaries of the Chief Justices of South Australia and Western Australia.
12. The Tribunal has had regard to the principles, guidelines, conditions, practices and procedures adopted by the South Australian Employment Tribunal under Part 4 of the *Fair Work Act 2009*, as required by section 101 of that Act.
  13. The Tribunal has taken the following economic data into account:
    - a. The Consumer Price Index (All groups Adelaide) shows the following percentage changes from the corresponding quarters of previous years:
      - i. 3.3% for December 2021
      - ii. 4.7% for March 2022
      - iii. 6.4% for June 2022
      - iv. 8.4% for September 2022.
    - b. The Australian Bureau of Statistics Wage Price Index (Public Sector in South Australia) shows the following percentage changes from the corresponding quarters of previous years:
      - i. 1.2% for September 2021
      - ii. 1.4% for December 2021
      - iii. 2.0% for March 2022
      - iv. 1.7% for June 2022
      - v. 2.7% for September 2022.
    - c. As at November 2022 the Reserve Bank of Australia forecast of the Consumer Price Index is:
      - i. 8% for December 2022 quarter
      - ii. 6.3% for June 2023
      - iii. 4.7% for December 2023
      - iv. 4.2% for June 2024
      - v. 3.2% for December 2024.
  14. The Tribunal has noted the steps being taken to reduce the current inflationary trend and has adopted a cautionary approach to recognition of inflationary movements.
  15. The Tribunal has continued to apply the long-standing principle that judicial remuneration should be set within a national framework in the public interest, whilst preserving the discretion to adopt an independent position. This means that while the Tribunal has, since 2012, determined increases with the effect of aligning the salary of a puisne Judge of the Supreme Court to that of a Judge of the Federal Court, this should not be interpreted as a commitment to automatically link the salaries of these positions in the future.
  16. As the Tribunal has explained on previous occasions, determining salaries in a 'national framework' still requires the Tribunal to appropriately consider and have regard to all the differing factors in the different jurisdictions and, where appropriate, the value of the work of a particular judicial office. While setting remuneration in the national framework does not inherently require a strict nexus to be maintained between particular judicial offices, the Tribunal recognises the substantial benefits of maintaining a consistent national approach to judicial remuneration.
  17. Accordingly, the Tribunal has decided that it is appropriate to increase the salary of a puisne Judge of the Supreme Court to \$480,900, which reflects the salary of a Judge of the Federal Court and also the median salary of Supreme Court Judges in all states and territories other than South Australia. This is a 2.75% increase, rounded up to the nearest \$10. The Tribunal has decided to increase the other salaries within the scope of this review by the same rate.

#### *Operative date*

18. As illustrated below, in recent years the effective date of increases has moved around for a variety of reasons, which include the submissions received. At times, the effective date has been the same as that set for Federal Court Judges (1 January 2016, and 1 January 2017 being examples), but more commonly the Tribunal has set an effective date which is several months later.

Determination / Report No	Effective Date of Increase	Determination / Report Issued
7 of 2012	1 November 2012	15 December 2012
5 of 2013	1 November 2012	25 November 2013
9 of 2014	No increase	12 December 2014
2015	No increase	3 December 2015
5 of 2016	1 January 2016	23 March 2016
4 of 2017	1 January 2017 & 1 January 2018	25 May 2017
2 of 2018	1 June 2018	3 May 2018
2 of 2019	1 January 2019	14 March 2019
12 of 2019	1 January 2020	21 November 2019
10 of 2020	No increase	7 December 2020
13 of 2021	No increase	14 December 2021

19. The Tribunal is minded to establish a more consistent effective date having regard to the effective dates of salary increase for Commonwealth, State and Territory Judges. The Tribunal is nevertheless mindful that some of the above-mentioned changeability reflected changes in the effective date of salary increases for Commonwealth Judges, and the timings of the Tribunal's own reviews. The Tribunal also does not purport to bind itself for future reviews. The Tribunal has also noted the potential for proposed increases in remuneration for Federal Court Judges to be disallowed by the Australian Parliament.
20. While the JRCC has this year sought an effective date of 1 October 2022, the underlying submission is that there should not be a substantial (or perhaps any) difference in the effective date between the increase for Commonwealth Judges (and jurisdictions which adopt those increases). In some previous years, the JRCC has submitted that the increase should be backdated to occur on the same date as Commonwealth Judges.
21. The Tribunal is traditionally cautious about making determinations with significant retrospective effect, but is also of the view that if a reasonable effective date is set this year, then the Tribunal can work towards conducting next year's review with sufficient time to avoid or minimise retrospectivity should the same effective date be determined for that review.

22. For this year's review, the Tribunal is of the view that 1 September 2022 strikes the right balance. Further, the Tribunal is strongly inclined to the view that if future remuneration increases maintain the national framework approach and the timing of the review for the Commonwealth Judges remains the same, 1 September represents an appropriate date for the application of that approach in South Australia.

#### Communication Allowance

23. A communication allowance of \$1,254 per annum is paid to eligible office holders in respect of their expenditure on mobile and landline telephones, and internet usage, connected with their duties. While this rate was originally set in 2013, the Tribunal has generally reviewed the rate of the allowance each year. This year, based on the information currently before it the Tribunal is not persuaded that an increase is warranted. The information generally available to the Tribunal, does not demonstrate significant increases in communication costs.
24. The Tribunal would be aided, for next year's review, by information on cost increases over recent years and information about the typical annual costs incurred by office holders on telephones and internet usage.

#### Security Allowance

25. Based on the information available, the Tribunal is not prepared to increase the rate of this allowance. As with the Communication Allowance, the Tribunal would be aided if it had information on what the allowance is currently being spent on and whether the rate of the allowance is sufficient for its designated purpose – noting that it was never the intention for this allowance to cover all possible costs of this nature.
26. In recognition of the importance of this allowance, the Tribunal would be willing to review this allowance in the first half of next year if application/s were received with the above-mentioned information. Otherwise, the allowance will be reviewed at the usual time. The Tribunal is attracted to the proposition that payment of this allowance in the future should be contingent on demonstrated actual expenditure on security arrangements.
27. The Tribunal has considered the submission by the JRCC that part-time office holders should receive the full amount of the allowance as the costs of securing their residences is the same as for full-time office holders. The Tribunal agrees with this submission from the JRCC, and has accordingly determined that part-time office holders will receive the full amount of the security allowance with effect from 1 September 2022.

Dated: 14 December 2022

MATTHEW O'CALLAGHAN  
President

DEBORAH BLACK  
Member

PETER DE CURE AM  
Member

### THE REMUNERATION TRIBUNAL

#### DETERMINATION—NO. 7 OF 2022

#### *Remuneration of Members of the Judiciary, Presidential Members of the SAET,*

#### *Presidential Members of the SACAT, the State Coroner, and Commissioners of the Environment, Resources and Development Court*

#### DETERMINATION

#### SCOPE OF DETERMINATION

1. This Determination sets out the remuneration payable to the holders of public offices listed in section 13 of the *Remuneration Act 1990 (Act)*, and the remuneration payable to certain specified statutory office holders where such jurisdiction is conferred under section 14 of the Act.

#### SALARY

2. Members of the Judiciary

- 2.1. Annual salaries for the following members of the judiciary will be:

	per annum operative 1 September 2022
Chief Justice of the Supreme Court.....	\$538,560
President of the Court of Appeal.....	\$504,090
Puisne Judges of the Court of Appeal.....	\$495,320
Puisne Judges of the Supreme Court.....	\$480,900
Masters of the Supreme Court.....	\$424,670
Chief Judge of the District Court.....	\$480,900
Other District Court Judges.....	\$424,670
Masters of the District Court.....	\$375,050
Chief Magistrate <sup>□</sup> .....	\$407,090
Supervising Magistrates.....	\$370,070
Assistant Supervising Magistrate of the Adelaide Magistrates Court.....	\$362,670
Magistrates.....	\$345,000
Magistrate appointed Warden under the <i>Mining Act 1971</i> as amended and performing the duties of Senior Warden paid the salary shown for as long as that person continues to perform such duties.....	\$363,520

<sup>□</sup>A judicial officer who is appointed to the office of the Chief Magistrate whose primary office is a Judge of the District Court is entitled to the salary of a District Court Judge, as prescribed by section 6A of the *Magistrates Act 1983* and section 6 of the *Judicial Administration (Auxiliary Appointments and Powers) Act 1988*.

- 2.2. Where a person is appointed as Acting Chief Justice of the Supreme Court or as Acting Chief Judge of the District Court and such appointment extends for a continuous period of more than one week, the person appointed shall be paid a salary equal to the salary specified herein for the Chief Justice or the Chief Judge, as appropriate, for the whole of the period the appointment is in effect.
- 2.3. Annual allowances for the following members of the judiciary will be as follows, and shall be payable in addition to any entitlement to salary under this Determination:

	per annum operative 1 September 2022
Senior Judge, Environment Resources and Development Court, appointed as such, paid the allowance shown for as long as that person continues to perform such duties and is designated as 'Senior'.	\$11,910
Judge of the Youth Court for as long as that person continues to perform such duties	\$11,910
Magistrate appointed to the position of Supervising Regional Manager by the Chief Magistrate with the concurrence of the Attorney-General, to perform special duties as specified by the Chief Magistrate, and associated with the role of Supervising Regional Manager, for as long as that person continues in that position and performs the duties of that position.	\$33,860
Magistrate directed by the Chief Magistrate with the concurrence of the Attorney-General to perform special administrative duties in a region (Regional Manager) or in a residential country area (Country Resident Magistrate) paid the allowance shown for as long as that person continues to perform such duties.	\$25,090
Magistrate appointed to the position of Manager Family Violence List by the Chief Magistrate with the concurrence of the Attorney-General, to perform special duties, relating to family violence state-wide, for as long as that person continues in that position and performs the duties of the position.	\$25,090
Magistrate directed by the Chief Magistrate with the concurrence of the Attorney-General to perform special administrative duties at a particular court (Magistrate-in-Charge) paid the allowance shown for as long as that person continues to perform such duties.	\$9,780
Magistrate appointed as a Deputy State Coroner on a full-time ongoing basis paid the allowance shown for as long as that person continues to perform such duties.	\$9,490

### 3. Statutory Office Holders

- 3.1. Annual salaries for the following statutory office holders will be:

	Per annum operative 1 September 2022
The State Coroner	\$390,820
Additional salary component for a Judge of the District Court who holds the appointment, and performs the functions of, the President of the South Australian Employment Tribunal.	An amount equal to 10 per cent of the salary of a judge of the District Court
Additional salary payable to Magistrate appointed as a Deputy President of the South Australian Employment Tribunal under section 13(1)(b) of the <i>South Australian Employment Tribunal Act 2014</i>	\$35,970
Additional salary payable to a puisne judge of the Supreme Court appointed as President of the South Australian Civil and Administrative Tribunal, on account of holding the office of President of the South Australian Civil and Administrative Tribunal.	An amount equal to 10 per cent of the salary of a puisne judge of the Supreme Court
Commissioners of the Environment, Resources and Development Court.	\$321,110

### 4. Deputy President of the SACAT

- 4.1. Annual salaries for the following office holders will be as follows, and shall be payable as per the specified operative dates:

Salary payable to a Deputy President of the South Australian Civil and Administrative Tribunal, appointed under section 14(1)(b) of the <i>South Australian Civil and Administrative Tribunal Act 2013</i> , payable between the dates of 21 November 2019 and 31 December 2019. Should such an appointment be made on a part-time basis, the salary shall be payable on a pro-rata basis	\$338,230
Additional salary payable to Magistrate appointed as a Deputy President of the South Australian Employment Tribunal under section 13(1)(b) of the <i>South Australian Employment Tribunal Act 2014</i>	\$345,000

### COMMUNICATION ALLOWANCE

5. A communication allowance of \$1,254 per annum for expenditures for the purpose of mobile telephone, landline telephone and internet usage incurred in relation to the conduct of a judicial officer's duties shall be payable to the following office holders:

The Chief Justice, Judges and Masters of the Supreme Court;  
 The President and Judges of the Court of Appeal;  
 The Chief Judge, Judges and Masters of the District Court;  
 The Judges and Magistrates of the South Australian Employment Tribunal;  
 The Chief Magistrate and the Magistrates of the Magistrates Court;  
 The State Coroner and the Deputy Coroner;  
 The Commissioners of the Environment, Resources and Development Court and Commission;  
 The President and Deputy Presidents of the South Australian Employment Tribunal; and  
 The President and Deputy President of the South Australian Civil and Administrative Tribunal.

6. The allowance is payable fortnightly and at a fortnightly rate of the annual amount payable at clause 5 of this Determination.
7. Should an office holder at clause 5 be appointed on a part-time basis, the communication allowance shall be payable on a pro-rata basis.

#### JUDICIAL SECURITY ALLOWANCE

8. A security allowance of \$1,025 per annum for expenditures for the purpose of personal security at the judicial officer's residence shall be payable to the following office holders:

The Chief Justice, Judges and Masters of the Supreme Court;  
 The President and Judges of the Court of Appeal;  
 The Chief Judge, Judges and Masters of the District Court;  
 The Judges and Magistrates of the South Australian Employment Tribunal;  
 The Chief Magistrate and the Magistrates of the Magistrates Court;  
 The State Coroner and the Deputy Coroner;  
 The Commissioners of the Environment, Resources and Development Court and Commission;  
 The President and Deputy Presidents of the South Australian Employment Tribunal; and  
 The President and Deputy President of the South Australian Civil and Administrative Tribunal.

9. The allowance is payable fortnightly and at a fortnightly rate of the annual amount payable at clause 8 of this Determination.
10. Part-time office holders are entitled to the full amount of the judicial security allowance, with effect from 1 September 2022.

#### DATE OF OPERATION

11. This Determination operates (backdated) from 1 September 2022. It supersedes Determination 13 of 2021.

Dated: 14 December 2022

MATTHEW O'CALLAGHAN  
 President

DEBORAH BLACK  
 Member

PETER DE CURE AM  
 Member

### THE REMUNERATION TRIBUNAL

REPORT—NO. 8 OF 2022

*2022 Review of Accommodation and Meal Allowances—Judges, Court Officers and Statutory Officers*

#### REPORT

##### INTRODUCTION

1. The Remuneration Tribunal (**Tribunal**) has conducted a review of Determination 15 of 2021<sup>1</sup> which sets accommodation and meal allowances payable to the members of the judiciary and office holders listed in section 13 of the *Remuneration Act 1990 (Act)*, and certain other office holders as conferred under section 14 of the Act.
2. In conducting this review, the Tribunal has also heard and decided on an application from the Judicial Remuneration Coordinating Committee (**JRCC**) which sought the Tribunal to make a determination which restores the half-day accommodation and meal allowance abolished by Determination 13 of 2020.
3. As explained in this report, the Tribunal has decided to increase the rate of the allowances by 2.5% and restore the half-day accommodation allowance. The Tribunal has issued an accompanying determination. The increased allowances apply from 1 January 2023, with the entitlement to the half-day allowance restored from 7 December 2020.

<sup>1</sup> Accommodation and Meal Allowances – Judges, Court Officers and Statutory Officers.

##### THE REVIEW PROCESS

4. On 20 September 2022, in accordance with sections 10(2) and 10(4) of the Act, the Tribunal wrote to and invited submissions by 17 October 2022 in respect of this review and the associated application from:
  - a. the Honourable Premier of South Australia – as the Minister responsible for the Act who may make submissions or introduce evidence in the public interest
  - b. the JRCC
  - c. members of the judiciary and relevant office holders
5. The Tribunal also placed a notice on its website from 20 September 2022 calling for submissions from affected persons by 17 October 2022.
6. The JRCC provided a written submission on 17 October 2022, on behalf of:
  - a. the Chief Justice, Judges of Appeal, Judges and Masters of the Supreme Court
  - b. the Chief Judge, Judges and Masters of the District Court
  - c. the Judges and Magistrates of the South Australian Employment Tribunal
  - d. the Chief Magistrate and the Magistrates of the Magistrates Court
  - e. the State Coroner and Deputy Coroner

- f. the Commissioners of the Environment, Resources and Development Court, and
- g. the President and Deputy Presidents of the South Australian Employment Tribunal.
7. The written submissions received from the JRCC were also stated to be made by the Magistrates Association of South Australia (MASA) on behalf of the Magistrates of South Australia.
8. On 31 October 2022, after an extension was granted, the Premier's representative confirmed that the Premier did not intend to make a submission.
9. No other submissions were received.
10. The Tribunal convened a hearing on this and related matters on 14 November 2022. This hearing was attended by the Honourable Justice Tim Stanley as chair of the JRCC, Magistrate Jay Pandya as President of MASA, and Ms Carly Cooper from the Crown Solicitor's Office as representative of the Premier.
11. Justice Stanley and Magistrate Pandya spoke to the written submissions received from the JRCC. Ms Cooper attended, and confirmed that she was not instructed to make any submissions.
12. In summary:
  - a. the JRCC submitted that the Tribunal should review the amount of the allowances in the usual way and, subject to the application to restore the half-day allowance, otherwise make a determination that reflects the terms of Determination 15 of 2021
  - b. the JRCC and MASA submitted the Tribunal should restore the entitlement to the half-day allowance with effect from 21 November 2019, as the entitlement was removed without notice being given to any persons affected by its removal and without an opportunity for such persons to be heard on its removal. The JRCC and MASA contend that the Tribunal failed to comply with section 10(2) of the Act, and accordingly the Tribunal lacked jurisdiction to abolish the entitlement and should therefore correct this error by way of a fresh determination.

## CONSIDERATION AND CONCLUSION

### Application to Restore Half-day Allowance

13. Dealing with this application first, the Tribunal has decided to restore the entitlement to a half-day allowance with effect from 7 December 2020. That date reflects the date Determination 13 of 2020 took effect, which is the determination that effectively abolished the half-day allowance.
14. As explained in Report 13 of 2020, Determination 13 of 2020 contained amended definitions and terms with a view to making them clearer. There was no express intention to remove the entitlement to a half-day allowance, and its absence from Determination 13 of 2020 was an oversight. It is therefore proper for this entitlement to be restored with retrospective effect.

### Rate of the Allowances

15. The determination under review sets allowances to cover the costs of commercial accommodation and meals associated with official travel by members of the judiciary and other relevant office holders.
16. In considering this matter, the Tribunal has had regard to the following economic data relevant to the costs of commercial accommodation and meals:
  - a. The Consumer Price Index (All groups Adelaide) shows the following percentage changes from the corresponding quarters of previous years:
    - i. 3.3% for December 2021
    - ii. 4.7% for March 2022
    - iii. 6.4% for June 2022
    - iv. 8.4% for September 2022.
  - b. As at November 2022 the Reserve Bank of Australia forecast of the Consumer Price Index is:
    - i. 8% for December 2022 quarter
    - ii. 6.3% for June 2023
    - iii. 4.7% for December 2023
    - iv. 4.2% for June 2024
    - v. 3.2% for December 2024.
17. The Tribunal has noted the steps being taken to reduce the current inflationary trend and has adopted a cautionary approach to recognition of inflationary movements.
18. The Tribunal has also had regard to the Australian Taxation Office Taxation Determinations 2021/6 and 2022/10, which respectively set for taxation purposes reasonable accommodation, meal and incidental expenses for the 2021-22 and 2022-23 income years. The Tribunal has noted the following percentage changes between those respective Taxation Determinations, for the highest earners:
  - a. 0% increase to accommodation costs for all capital cities, and most country centres
  - b. 1.9% increase to breakfast costs
  - c. 1.8% increase to lunch and dinner costs
  - d. 3.6% increase to incidentals
  - e. overall 0.8% to 1% increase for daily total (which includes accommodation, meals and incidentals)
19. Having regard to these factors, the Tribunal has decided that these allowances should be increased by 2.5%, with effect from 1 January 2023.

Dated: 14 December 2022

MATTHEW O'CALLAGHAN  
President  
DEBORAH BLACK  
Member  
PETER DE CURE AM  
Member

## THE REMUNERATION TRIBUNAL

## DETERMINATION—NO. 8 OF 2022

*Accommodation and Meal Allowances—Judges, Court Officers and Statutory Officers***DETERMINATION****SCOPE OF DETERMINATION**

1. This Determination applies to Judges, Court Officers, and Statutory Officers.

**INTERPRETATION**

2. In this Determination, unless the contrary appears:

“**Commercial Accommodation**” means short term (not permanent) accommodation in a commercial establishment such as a hotel, motel or serviced apartment and must be a genuine arms-length commercial transaction. Commercial Accommodation does not include AirBnB or other “sharing economy” type accommodation.

“**Court Officer**” means a Commissioner of the Environment, Resources and Development Court.

“**Incurs Actual Expenditure**” means an amount of money spent by a Judge, Court Officer or Statutory Officer.

“**Judge**” means any of the following members of the judiciary:

the Chief Justice of the Supreme Court;  
the President of the Court of Appeal;  
the Judges of the Court of Appeal;  
the Puisne Judges of the Supreme Court;  
the Masters of the Supreme Court;  
the Chief Judge of the District Court;  
the Judges of the Environment, Resources and Development Court;  
the Masters of the District Court;  
the Other District Court Judges;  
the Judges of the South Australian Employment Tribunal;  
the Chief Magistrate;  
the Magistrates;  
the Magistrates of the South Australian Employment Tribunal;  
the State Coroner; and  
the Deputy State Coroner.

“**Meals**” means food or drink purchased by a Judge, Court Officer or Statutory Officer in connection with an allowance payable under this Determination.

“**Metropolitan Adelaide**” bears the same meaning as defined in the *Development Act 1993*.

“**Official Duties**” means activities undertaken by a Judge, Court Officer or Statutory Officer in relation to their duties as either a Judge, Court Officer or Statutory Officer.

“**Per Diem**” means per day in relation to the allowances payable under this Determination.

“**Statutory Officer**” means any of the following statutory office holders:

the Auditor General;  
the Electoral Commissioner;  
the Deputy Electoral Commissioner;  
the Health and Community Services Complaints Commissioner;  
the Deputy President of the South Australian Civil and Administrative Tribunal.

“**Sydney**” means locations which are less than 10km by road from the Sydney General Post Office (by the most direct route), or less than 5km by road from Sydney’s principal airport (by the most direct route).

**ACCOMMODATION AND MEAL ALLOWANCES**

3. A Judge, Court Officer or Statutory Officer who incurs actual expenditure for both commercial accommodation and meals when travelling for the purpose of performing their official duties and which necessitates absence from home overnight shall be entitled to be paid a per diem accommodation and meal allowance, as follows
  - 3.1. Within Metropolitan Adelaide:
    - 3.1.1. An allowance at the rate of \$350.00 per day for the purpose of meeting expenditure in relation to commercial accommodation and meals.
  - 3.2. Outside Metropolitan Adelaide, but within South Australia:
    - 3.2.1. An allowance at the rate of \$321.00 per day for the purpose of meeting expenditure in relation to commercial accommodation and meals.
  - 3.3. Outside South Australia, but within Australia (other than Sydney):
    - 3.3.1. An allowance at the rate of \$490.00 per day for the purpose of meeting expenditure in relation to commercial accommodation and meals.
  - 3.4. Sydney:
    - 3.4.1. An allowance at the rate of \$558.00 per day for the purpose of meeting expenditure in relation to commercial accommodation and meals.
  - 3.5. Office holders who travel interstate and return on the same day may be reimbursed for lunch only on the basis of actual expenditure up to \$25.80. Reimbursement is not to be made for lunch during single day absences within South Australia.
  - 3.6. When an additional period of less than 24 hours absence occurs without overnight accommodation consecutive with and immediately following a period of absence in paragraph 3.1, 3.2, 3.3, or 3.4, then a further payment calculated at the rate of one half of the allowance shall be paid with respect to the excess hours.

**RESTORED HALF-DAY ALLOWANCE FROM 7 December 2020 to 31 December 2022**

4. Determinations 13 of 2020 and 15 of 2021 are to be read as if the following was always included as clause 3.6:

*When an additional period of less than 24 hours absence occurs without overnight accommodation consecutive with and immediately following a period of absence in paragraph 3.1, 3.2, 3.3, or 3.4, then a further payment calculated at the rate of one half of the allowance shall be paid with respect to the excess hours.*

**DATE OF OPERATION**

5. This Determination operates from 1 January 2023, with the exception of clause 4 which has immediate effect. It supersedes Determination 15 of 2021.

Dated: 14 December 2022

MATTHEW O'CALLAGHAN  
President

DEBORAH BLACK  
Member

PETER DE CURE AM  
Member

**THE REMUNERATION TRIBUNAL**

REPORT—No. 9 OF 2022

*2022 Review of Conveyance Allowances—Judges, Court Officers and Statutory Officers*

**REPORT****INTRODUCTION**

1. The Remuneration Tribunal (**Tribunal**) has conducted a review of Determination 14 of 2021<sup>1</sup> which sets conveyance allowances and related entitlements for members of the judiciary and office holders listed in section 13 of the *Remuneration Act 1990 (Act)*, and certain other office holders as conferred under section 14 of the Act.
2. As explained in this report, the Tribunal has decided to increase the allowances by 5%. The Tribunal has issued an accompanying determination, which applies from 1 January 2023.

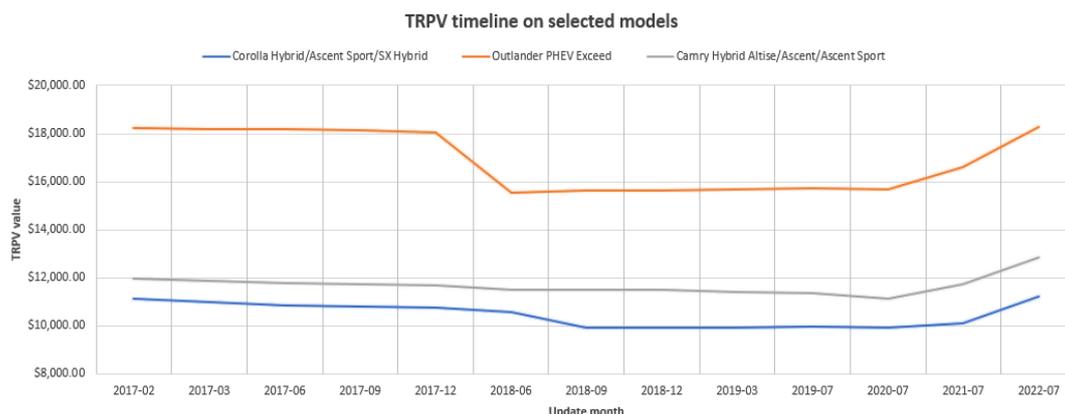
<sup>1</sup> Conveyance Allowance – Judges, Court Officers and Statutory Officers.

**THE REVIEW PROCESS**

3. On 20 September 2022, in accordance with sections 10(2) and 10(4) of the Act, the Tribunal wrote to and invited submissions by 17 October 2022 in respect of this review and the associated application from:
  - a. the Honourable Premier of South Australia – as the Minister responsible for the Act who may make submissions or introduce evidence in the public interest
  - b. the Judicial Remuneration Coordinating Committee (**JRCC**)
  - c. members of the judiciary and relevant office holders
4. The Tribunal also placed a notice on its website from 20 September 2022 calling for submissions from affected persons by 17 October 2022.
5. The JRCC provided a written submission on 17 October 2022, on behalf of:
  - a. the Chief Justice, Judges and Masters of the Supreme Court
  - b. the Chief Judge, Judges and Masters of the District Court
  - c. the Judges and Magistrates of the South Australian Employment Tribunal
  - d. the Chief Magistrate and the Magistrates of the Magistrates Court
  - e. the State Coroner and Deputy Coroner
  - f. the Commissioners of the Environment, Resources and Development Court, and
  - g. the President and Deputy Presidents of the South Australian Employment Tribunal.
6. On 31 October 2022, after an extension was granted, the Premier's representative confirmed that the Premier did not intend to make a submission.
7. No other submissions were received.
8. The Tribunal convened a hearing on this and related matters on 14 November 2022. This hearing was attended by the Honourable Justice Tim Stanley as chair of the JRCC, Magistrate Jay Pandya as President of MASA, and Ms Carly Cooper from the Crown Solicitor's Office as representative of the Premier.
9. Justice Stanley and Magistrate Pandya spoke to the written submissions received from the JRCC. Ms Cooper attended, and confirmed that she was not instructed to make any submissions.
10. In summary the JRCC submitted that the Tribunal should review the amount of the allowances in the usual way, and otherwise make a determination that reflects the terms of Determination 14 of 2021.

**CONSIDERATION AND CONCLUSION**

11. The determination under review sets conveyance allowances which are payable on a fortnightly basis, based on an annual amount of \$17,541, \$16,551, or \$15,298 (depending on the office holder).
12. The determination also sets related entitlements, including the ability for Judges and other office holders to elect to have a motor vehicle allocated to them from the Judicial Vehicle Schedule compiled by Fleet SA. Where such an election is made, the relevant office holder is charged an annual rate set by Fleet SA from time to time. The conveyance allowance is then accordingly reduced, and if it is not adequate to cover the cost of the allocated vehicle the office holder will be charged the excess amount over the allowance.
13. The current three allowance amounts have remained unchanged since July 2016. The Tribunal has noted the annual rates charged by Fleet SA between 2016 and the present have fluctuated, and there have always been vehicles available which do not exceed each respective conveyance allowance. The following table, supplied by Fleet SA, provides an indication of the cost fluctuations for three different groupings of vehicles:



14. The Tribunal has noted that on average, the annual charge determined by Fleet SA has increased by approximately 10% from the rates set in July 2021 to those set in July 2022. The percentage changes however are not uniform, and range from between (minus) 3% to (plus) 21%. Despite these cost increases, a range of vehicles remain available within the existing conveyance allowance levels.
15. The Tribunal has not received any submissions seeking any particular increase to the allowances, or any submission that the allowances are inadequate. The Tribunal is nevertheless minded to increase allowances, having regard to the previous fluctuations in prices set by Fleet SA, recent price changes, and the range of vehicles available without excess charges depending on the level of the allowance.
16. Having regard to these factors, the Tribunal has decided that the allowances will be increased by 5%, with effect from 1 January 2023.
17. In light of an application received from the Resident Magistrate, Berri (dealt with in Report 13 of 2022), the Tribunal has decided to amend the determination to enable the State Courts Administrator to allow the hire of a vehicle at the State's expense in circumstances where the vehicle available to a member of the judiciary etc for official and private use cannot travel safely to a designated location. This amendment would, for example, permit the hire of a four-wheel drive vehicle for off-road use where required for official purposes.

Dated: 14 December 2022

MATTHEW O'CALLAGHAN  
President

DEBORAH BLACK  
Member

PETER DE CURE AM  
Member

## THE REMUNERATION TRIBUNAL

DETERMINATION—NO. 9 OF 2022

*Accommodation and Meal Allowances—Judges, Court Officers and Statutory Officers*

### DETERMINATION

#### SCOPE OF DETERMINATION

##### 1. INTERPRETATION

1.1. In this Determination, unless the contrary appears:

“**Court Officer**” means a Commissioner of the Environment, Resources and Development Court.

“**Executives**” means persons appointed to an executive position under the *Public Sector Act 2009*;

“**Judge**” means any of the following members of the judiciary:

the Chief Justice of the Supreme Court;  
the President of the Court of Appeal;  
the Judges of the Court of Appeal;  
the Puisne Judges of the Supreme Court;  
the President of the South Australian Employment Tribunal;  
the Deputy Presidents of the South Australian Employment Tribunal;  
the Judges of the Environment, Resources and Development Court;  
the Judges of the South Australian Employment Tribunal;  
the Chief Judge of the District Court;  
the other District Court Judges;  
the Chief Magistrate (as a Judge of the District Court);  
the Magistrates of the South Australian Employment Tribunal;  
the other Magistrates;  
the Masters of the Supreme Court;  
the Masters of the District Court;  
the State Coroner; and  
the Deputy State Coroner.

“**Registrar**” means the “Registrar” within the meaning of the *South Australian Employment Tribunal Act 2014* (SA).

“**Relevant authority**” means:

- (a) the State Courts Administrator in relation to Judges and Court Officers;

- (b) the Registrar in relation to the presidential members of the South Australian Employment Tribunal; and
- (c) the Director, Fleet SA in relation to other Statutory Officers.

“**Retirement**” bears the same meaning as in the *Judges’ Pensions Act 1971*, the *Superannuation Act 1988* and the *Southern State Superannuation Act 2009*.

“**Resignation**” bears the same meaning as in the *Judges’ Pensions Act 1971*, the *Superannuation Act 1988*, and the *Southern State Superannuation Act 2009*.

“**Statutory Officers**” means any of the following statutory office holders:

the Auditor-General;  
the Electoral Commissioner;  
the Deputy Electoral Commissioner; and  
the Health and Community Services Complaints Commissioner

- 1.2. For the purposes of this Determination, “salary” bears the same meaning as in the *Judges’ Pensions Act 1971*, *Southern State Superannuation Act 2009*, and in the *Superannuation Act 1988*, to the intent and effect that any amount paid by way of conveyance allowance is not “salary”, and that any abatement or reduction of salary in accordance with this Determination will not affect the determination of entitlements or obligations pursuant to those Acts.

## 2. CONVEYANCE ALLOWANCES

### 2.1. Amount of Allowances

Subject to the conditions set out in this Determination, Judges, Court Officers and Statutory Officers are entitled to receive a conveyance allowance payable fortnightly at an annual rate as follows:

#### 2.1.1 For:

the Chief Justice of the Supreme Court;  
the President of the Court of Appeal;  
the Judges of the Court of Appeal;  
Judges of the Supreme Court;  
the Chief Judge of the District Court;  
the President of the South Australian Employment Tribunal; and  
the Auditor-General;  
an amount of \$18,418.

#### 2.1.2 For:

Judges of the District Court;  
the Chief Magistrate;  
Judges of the South Australian Employment Tribunal;  
Judges of the Environment, Resources and Development Court;  
Masters of the Supreme Court;  
the Electoral Commissioner; and  
the Health and Community Services Complaints Commissioner;  
an amount of \$17,379.

#### 2.1.3 For:

Magistrates;  
Masters of the District Court;  
the State Coroner;  
the Deputy State Coroner;  
Magistrates of the South Australian Employment Tribunal;  
Deputy President of the South Australian Civil and Administrative Tribunal, appointed under section 14(1)(b) of the *SACAT Act 2013*.  
Commissioners of the Environment, Resources and Development Court; and  
the Deputy Electoral Commissioner;  
an amount of \$16,063.

### 2.2. Part Time Appointees

Where a person to whom this Determination applies is appointed on a part time basis, that person is entitled to receive a conveyance allowance at a pro rata amount of the relevant allowance in clause 2.1, based on the number of ordinary hours worked as a proportion of the full time equivalent.

### 2.3. Temporary Appointees

Where a person who is not provided with a vehicle in their substantive position is appointed on a temporary basis to act as a Judge, Court Officer or Statutory Officer, that person is entitled after the expiration of the first calendar month of service to receive a conveyance allowance in accordance with clause 2.1.

### 2.4. Use of Taxis and Private Vehicles

#### 2.4.1. Judges and Court Officers

A Judge or Court Officer is not entitled to use a government fleet vehicle allocated to the Courts Administration Authority, or to engage taxis or hire car at the expense of the State Courts Administrator, or to seek the payment of any additional allowance for the use of a private vehicle, whether for official or unofficial purposes unless:

- (a) it has been certified by the State Courts Administrator that it was inefficient or not cost effective for the Judge or Court Officer to use the vehicle available for their official and private use; or
- (b) it has been certified by the State Courts Administrator that the vehicle available for the Judge or Court Officer’s official and private use cannot travel safely to a designated location; or

- (c) such use or engagement is consistent with a general direction given by the Chief Judicial Officer of the relevant Court, or in the case of Court Officers, the presiding officer of the relevant Tribunal, as to the circumstances where the vehicle available for official and private use, need not be used by reason of efficiency and cost effectiveness.

For the presidential members of the South Australian Employment Tribunal, the Registrar is the relevant approval authority.

An example of circumstances where such certification or general directions may be given is for journeys to and from the airport, where it may be more efficient or cost effective to use a taxi.

#### 2.4.2. **Statutory Officers**

A Statutory Officer must not engage a taxi or hire car, and is not entitled to the payment of any additional allowance for the use of a private vehicle, whether for official or unofficial purposes, unless it is inefficient or not cost effective to use the vehicle available for the Officer's official and private use.

#### 2.4.3. **Amount of Reimbursement**

Where any person subject to this Determination is seeking payment of an additional allowance to cover the use of a private motor vehicle for official purposes, reimbursement of the cost will be made, calculated at the rate per kilometre at a rate equating to that pursuant to the *SA Public Sector Salaried Employees Interim Award*.

### 3. **VEHICLES AVAILABLE THROUGH FLEET SA FOR OFFICIAL AND PRIVATE USE**

#### 3.1. **Selection of Vehicle**

Persons who are subject to this Determination are entitled, in accordance with the conditions specified herein, to elect to have allocated to them a motor vehicle of any model and type from the Judicial Vehicle Schedule compiled by Fleet SA, as varied from time to time. Notice of the selected motor vehicle should be made in writing as follows:

- by Judges and Court Officers to the State Courts Administrator;
- by members of the South Australian Employment Tribunal to the Registrar, including members who are Statutory Officers; and
- by other Statutory Officers to the Director, Fleet SA.

The annual charge payable for each vehicle, determined by Fleet SA on the same basis as the calculation made in respect of the use of motor vehicles by Executives, is set out in the Judicial Vehicle Schedule compiled by Fleet SA.

#### 3.2. **Temporary Appointees**

Persons appointed on a temporary basis to act as a Judge, Court Officer or Statutory Officer are not entitled to make an election under clause 3.1.

#### 3.3. **Charges for Use of Vehicles**

The amount payable by a Judge, Court Officer or Statutory Officer for the use of a selected vehicle is the amount set out in the Fleet SA Judicial Vehicle Schedule adjacent to the description of the type of vehicle.

Where a person to whom this Determination applies is appointed on a part time basis, and elects pursuant to clause 3.1 to have a motor vehicle, the charge payable by that person pursuant to clause 3.4 shall be an amount determined by Fleet SA, which may be greater than the standard charge to a full time officer to appropriately reflect the proportionately greater private use of such a motor vehicle.

#### 3.4. **Payment of Vehicle Charges**

If a Judge, Court Officer or Statutory Officer makes an election under clause 3.1 and a vehicle is supplied in accordance with that election, then the salary and allowances otherwise payable to the Judge, Court Officer or Statutory Officer must be abated and reduced so as to offset the charges for the use of the vehicle for the period during which the Judge, Court Officer or Statutory Officer has the use of the vehicle.

#### 3.5. **New Models or Types**

3.5.1. If a new type of vehicle, or a new model of a type specified in the Schedules becomes available for selection in terms of 3.1 after the date of election but before the placement of a binding order, the Judge, Court Officer, or Statutory Officer is entitled to withdraw the original election and elect to take the new model or type of vehicle.

3.5.2. The annual charge payable for a new model or new type of vehicle is that amount determined by Fleet SA as the annual charge for private use of the vehicle by Executives. The annual charge takes into account the following:

- purchase price and depreciation;
- fuel, maintenance, insurance and registration costs and interest rates; (operating costs are calculated on the basis of an average of 70% private usage);
- Goods and Services Tax (GST);
- Fringe Benefits Tax (FBT) based on an attributed business rate of 20,000 kilometres per year; and
- the vehicle being retained for 3 years or 60,000 kilometres travelled, whichever first occurs.

3.5.3. If a model or type of vehicle selected by a Judge, Court Officer or Statutory Officer becomes unavailable before the placement of a binding order, the Judge, Court Officer or Statutory Officer must be advised accordingly and allowed to make a further election under clause 3.1.

3.5.4. If a model becomes unavailable after the date of placement of a binding order and a later or better model vehicle is supplied, any Judge, Court Officer or Statutory Officer who has selected the unavailable vehicle is liable only to pay the annual charge for the vehicle as selected, and not the charge payable for the vehicle as supplied.

#### 3.6. **Accessories**

The Judge, Court Officer or Statutory Officer may choose to have manufacturer approved accessories fitted to the vehicle. The full cost of the accessories and the expense of having them fitted (including any tax incurred) is payable by the Judge, Court Officer or Statutory Officer. When the vehicle is due for return the Judge, Court Officer or Statutory Officer may have personally-installed accessories removed from the vehicle, providing the Judge, Court Officer or Statutory Officer meets the

full cost of restoring the vehicle to the same condition as if the accessories had not been fitted. No compensation will be paid if options are left on the vehicle unless agreed by the relevant authority.

Options such as airbags, ABS brake systems and cruise control may not be removed, and tow bars must not be reinstalled on another vehicle.

### 3.7. Retention of Vehicle

Having made an election and receiving the vehicle, the Judge, Court Officer or Statutory Officer must keep the vehicle for a period equivalent to the period determined from time to time by Fleet SA as the period for the replacement of vehicles provided to Executives.

At the conclusion of that period the Judge, Court Officer or Statutory Officer will be entitled to make a new election, or, if he or she does not make an election, to be paid the allowance.

### 3.8. Conditions of Use

The vehicle will be fully maintained, serviced and insured by the relevant authority.

The vehicle will be made available at or near the place of duty of the Judge, Court Officer, or Statutory Officer and the vehicle will be available for private and official use, subject to the following:

- 3.8.1. The Judge, Court Officer, or Statutory Officer must make the vehicle available for official use (including for official use by the Judge, Court Officer, or Statutory Officer) at all times whilst the vehicle is parked at or near the usual place of work of the Judge, Court Officer, or Statutory Officer, and the Judge, Court Officer or Statutory Officer, does not require the vehicle for private use.
- 3.8.2. The Judge, Court Officer, or Statutory Officer will be authorised by the relevant authority to refuel the vehicle provided the vehicle is fuelled in accordance with any requirements specified by Fleet SA, which may include requirements that the vehicle be fuelled using a particular brand of motor fuel and that it be only fuelled in South Australia. (If fuelled otherwise than in accordance with those requirements, it will be at the cost of the Judge, Court Officer, or Statutory Officer).
- 3.8.3. The Judge, Court Officer, or Statutory Officer must make the vehicle available as required by the relevant authority for the purposes of the maintenance and repair of the vehicle and must deliver the vehicle to such place as the relevant authority may specify for that purpose.
- 3.8.4. The relevant authority will ensure that Judges, Court Officers and Statutory Officers are insured (which may be pursuant to Government "self-insurance") in respect of compulsory third party liability, third party property damage and any property damage to the vehicle and will hold the Judge, Court Officer, or Statutory Officer harmless in respect of any such property damage. Personal items within the vehicle need not be covered. The Judge, Court Officer, or Statutory Officer must comply with any requirements of the insurance policy of which the member is aware or should have been aware.
- 3.8.5. The Judge, Court Officer or Statutory Officer will be responsible for any driving or parking fines for offences incurred.
- 3.8.6. The vehicle is available to the Judge, Court Officer or Statutory Officer while on leave. Where the Judge, Court Officer or Statutory Officer is absent from duty for a period greater than 7 days then the Judge, Court Officer, or Statutory Officer will be responsible for fuelling the vehicle until returning to duty.
- 3.8.7. Vehicles may be driven interstate during periods of leave and there is no limit to privately travelled kilometres. Fuel charges for private interstate trips are entirely the personal responsibility of the Judge, Court Officer, or Statutory Officer.

### 3.9. Special Conditions of Use

Notwithstanding anything else in this Determination:

- 3.9.1. where any damage is the result of a wilful or deliberate act of any person, the relevant authority may take such action as he or she thinks fit to recover the cost of such damage;
- 3.9.2. the insurance and discharges are not applicable if the driver is under the influence of drugs and/or alcohol;
- 3.9.3. the insurance and discharges are not applicable if the insurance has been brought to the attention of the Judge, Court Officer or Statutory Officer and is avoided by an action of the driver of the vehicle; and
- 3.9.4. where the insurance policy contains an excess clause, then the Judge, Court Officer or Statutory Officer will be liable to repay the relevant authority the amount of that excess (or any part thereof) in the event that it becomes payable by reason of the driver of the vehicle being blameworthy for any of the damage giving rise to a claim on the policy when the vehicle is being used other than for official use.

### 3.10. Care of Vehicle

The Judge, Court Officer or Statutory Officer is responsible for ensuring that reasonable care is taken of the vehicle. Off street parking at the home of the person concerned is to be used if available and reasonable steps are to be taken to ensure its security. Where any damage to a vehicle supplied to a:

- 3.10.1. Judge or Court Officer is, in the opinion of the Courts Administration Council, the consequence of a serious breach of the obligations imposed by this clause, the Judge, or Court Officer must, on demand, pay the Courts Administration Authority the proper cost of rectification of such damage;
- 3.10.2. Statutory Officer is, in the opinion of the Director, Fleet SA, the consequence of a serious breach of the obligations imposed by this clause, the Statutory Officer concerned must, on demand, pay to Fleet SA the proper cost of rectification of such damage; and
- 3.10.3. Presidential member of the South Australian Employment Tribunal is, in the opinion of the Registrar, the consequence of a serious breach of the obligations imposed by this clause, the Member concerned must, on demand, pay to the Tribunal the proper cost of rectification of such damage.

### 3.11. Additional Drivers

The vehicle may be driven by any other Government employee who requires the vehicle for official use.

Judges, Court Officers, and Statutory Officers, must nominate to the relevant authority the names of any persons to use the vehicle at times when it is not required to be available for official use and, subject to the control and direction of the Judge, Court Officer or Statutory Officer, such persons will be authorised to use the vehicle upon such nomination.

Approval is required from the relevant authority for the vehicle to be driven by holders of any form of provisional licence or learner's permit. Approval is also required if any other category of person not otherwise mentioned, is to drive the vehicle.

### 3.12. **Right to Purchase**

At any time during the 12 months immediately preceding the date of his or her retirement or resignation, a Judge, Court Officer, or Statutory Officer may, by notice in writing to the relevant authority, elect to purchase the vehicle then allocated to him or her as at the date of his or her retirement or resignation or at the end of the lease period. After such notification has been given, the relevant authority must take such steps as are necessary to ensure that it can sell the vehicle to the member.

### 3.13. **No Changeover**

A Judge, Court Officer or Statutory Officer who makes an election under clause 3.12 shall not be permitted or required to hand a vehicle in for normally scheduled changeover where that changeover would occur between the date of election and the date of retirement/resignation/end of lease period.

### 3.14. **Conditions of Purchase**

The conditions in relation to a purchase made following an election under clause 3.12 shall be:

3.14.1. The price will be the fair market value for such a vehicle sold without any statutory warranty.

3.14.2. The price will be agreed between the Director, Fleet SA, and the Judge, Court Officer or Statutory Officer, due regard being had to prices generally recovered for such vehicles at Fleet SA public auctions.

3.14.3. Failing such agreement, the price will be determined by an independent valuer agreed by the parties. Where the prospective retiree/resignee is a:

3.14.3.1. Judge or Court Officer, any fee payable to such a valuer shall be borne in equal shares by the prospective retiree/resignee and the State Courts Administrator;

3.14.3.2. Statutory Officer, any fee payable to such a valuer shall be borne in equal shares with half payable by the respective retiree/resignee and the other half being payable from funds appropriated to pay expenses associated with the statutory office held by the retiree/resignee; and

3.14.3.3. Presidential member of the South Australian Employment Tribunal, any fee payable to such a valuer shall be borne in equal shares by the prospective retiree/resignee and the Registrar.

3.14.4. The price shall be payable in full on, or prior to, the date of retirement/resignation of the Judge, Court Officer or Statutory Officer.

## 4. **DATE OF OPERATION**

4.1. This Determination operates from 1 January 2023. It supersedes Determination 14 of 2021.

4.2. If a Judge, Court Officer or Statutory Officer currently has the use of a vehicle pursuant to a previous Determination of the Remuneration Tribunal, the conveyance allowance and annual charge payable under the previous Determination will continue to apply. Clause 2 of this Determination will have no effect until that Judge, Court Officer or Statutory Officer takes delivery of a vehicle pursuant to this Determination, or elects not to receive a vehicle.

Dated: 14 December 2022

MATTHEW O'CALLAGHAN  
President

DEBORAH BLACK  
Member

PETER DE CURE AM  
Member

## THE REMUNERATION TRIBUNAL

REPORT—NO. 10 OF 2022

*2022 Review of Salary Sacrifice Arrangements for Judges, Court Officers and Statutory Officers*

### REPORT

#### INTRODUCTION

1. The Remuneration Tribunal (**Tribunal**) has conducted a review of Determination 16 of 2021<sup>1</sup> which provides for salary sacrifice arrangements for Judges, Court Officers and Statutory Officers covered by the determination.
2. As explained in this report, the Tribunal has decided that some minor changes are required to the determination to accommodate new superannuation fund selection laws.

<sup>1</sup> Salary Sacrifice Arrangements for Judges, Court Officers and Statutory Officers.

#### THE REVIEW PROCESS

3. On 20 September 2022, in accordance with sections 10(2) and 10(4) of the Act, the Tribunal wrote to and invited submissions by 17 October 2022 in respect of this review and the associated application from:
  - a. the Honourable Premier of South Australia – as the Minister responsible for the Act who may make submissions or introduce evidence in the public interest
  - b. the Judicial Remuneration Coordinating Committee (**JRCC**)
  - c. members of the judiciary and relevant office holders
4. The Tribunal also placed a notice on its website from 20 September 2022 calling for submissions from affected persons by 17 October 2022.
5. The JRCC provided a written submission on 17 October 2022, on behalf of:
  - a. the Chief Justice, Judges of Appeal, Judges and Masters of the Supreme Court
  - b. the Chief Judge, Judges and Masters of the District Court
  - c. the Judges and Magistrates of the South Australian Employment Tribunal

- d. the Chief Magistrate and the Magistrates of the Magistrates Court
  - e. the State Coroner and Deputy Coroner
  - f. the Commissioners of the Environment, Resources and Development Court, and
  - g. the President and Deputy Presidents of the South Australian Employment Tribunal.
6. On 31 October 2022, after an extension was granted, the Premier’s representative confirmed that the Premier did not intend to make a submission.
  7. No oral submissions were made about this review at the Tribunal’s hearing on 14 November 2022.
  8. In summary the JRCC submitted that the Tribunal should review the determination in the usual way, and otherwise make a determination that reflects the terms of Determination 16 of 2021.

#### CONSIDERATION AND CONCLUSION

9. The Tribunal notes that Determination 16 of 2021 contained minor modifications to ensure compliance with the *Statutes Amendment (Fund Selection and Other Superannuation Matters) Act 2021*, which introduced reforms in relation to superannuation fund selection. That legislation recently commenced on 30 November 2022. That determination also contained modifications to include the newly created judicial offices established by the *Supreme Court (Court of Appeal) Amendment Act 2019*.
10. The Tribunal sought further advice this year from Super SA as to any further changes that are necessary to ensure compliance with the above-mentioned fund selection laws. Super SA recommended some further minor changes. The Tribunal has adopted those recommended changes. They clarify the operation of the determination for those office holders whose primary superannuation fund is the Triple S scheme by default, and who are accordingly eligible to make a fund selection under section 21C of the *Southern State Superannuation Act 2009*.
11. In summary, the new determination now includes the words “*or a fund selected under section 21C of the Southern State Superannuation Act 2009*” (and similar) in places where the previous determination referred to salary sacrifice to the Triple S Scheme. An additional note has also been included to clarify that no additional administration fee is payable in circumstances where a salary sacrifice arrangement to superannuation automatically transfers to a newly selected fund under the *Southern State Superannuation Act 2009*. These changes will not be relevant to the majority of office holders covered by the determination, given Triple S is not their primary superannuation fund.
12. The Tribunal is aware that a procurement process is currently underway to establish a new across government Panel Agreement for salary sacrifice, as the existing Agreement is due to expire on 30 June 2023. The Tribunal has been informed that when the current Panel Agreement expires, office holders and public sector employees who wish to make pre-tax voluntary superannuation contributions to their chosen superannuation fund will need to do this via payroll. It will not be possible to make such contributions through a Panel Member. The Tribunal understands that these changes will not diminish any ability to salary sacrifice to superannuation, but instead would change the process for doing so.
13. The Tribunal intends to invite a further review of the current determination in the first half of next year in order to decide if any changes need to be made in light of the procurement process. The procurement process does not currently necessitate changes.
14. The Tribunal has not been asked to make any specific change to the existing determination, and is not aware of any other necessary changes.
15. Accordingly, the Tribunal has only made minor changes to the existing determination, and the new version will apply from 1 January 2023.

Dated: 14 December 2022

MATTHEW O’CALLAGHAN  
President  
DEBORAH BLACK  
Member  
PETER DE CURE AM  
Member

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#### THE REMUNERATION TRIBUNAL DETERMINATION—NO. 10 OF 2022

##### *Salary Sacrifice Arrangements for Judges, Court Officers and Statutory Officers*

#### DETERMINATION

#### INTERPRETATION

1. In this Determination, unless the contrary appears:

“**Acceptance**” means the acceptance of an offer, which is in the form set out in **Schedule 2**.

“**Administration Fee**” means the amount of:

- (a) \$44.00 inclusive of GST or such other amount determined by the Commissioner to be payable by public sector officers to offset the Paying Authority’s costs of administering salary sacrifice arrangements; and/or
- (b) an annual administration charge plus GST for administering the salary sacrifice arrangement payable by way of a deduction from the sacrificed amount to the Nominee in accordance with the relevant Service Agreement.

Administration fee may be subject to change from time to time as permitted by the paying authority.

*Please note that the fees described in both subparagraphs (a) and (b) are payable by an office holder appointing a Nominee to administer the Salary Sacrifice Arrangement and the fee described in subparagraph (a) is payable by an office holder where the Salary Sacrifice Arrangement only involves sacrificing salary into the Triple S Scheme or a fund selected under section 21C of the Southern State Superannuation Act 2009, without the need to appoint a Nominee. The fee is not payable again in circumstances where the Salary Sacrifice Arrangement automatically transfers to the new selected fund under the Southern State Superannuation Act 2009 when a fund selection takes effect.*

“**Approved Purpose**” or “**Approved Benefit**” means a payment for any of the following:

##### Category A – Exempt from FBT

- contributions to a private superannuation fund that is complying, in that, it complies with the relevant laws regulating superannuation, including the Triple S scheme.

- Work related items (portable electronic device, computer software, protective clothing, briefcase, tools of trade). Primarily for use in the employee's employment and does not apply where the employer otherwise provides the item.
- Taxi Travel to and from Work.
- Staff Fitness and Gym (in House).
- Airport Lounge Membership.
- Relocation Expenses.
- Fly-In-Fly-Out (FIFO) Parking.
- Fly-In-Fly-Out (FIFO) Travel.

Category B – Subject to FBT (Novated Lease):

- Own motor vehicle through a novated car lease.

Category C – Subject to FBT (In House Benefits):

- Other (ATO approved) in-house benefits that may be approved by Government or the Minister for the Public Sector from time to time.

Category D – Not subject to FBT (if employee could have claimed an income tax deduction)

- membership fees and subscriptions to professional associations.
- financial counselling fees.
- disability/income protection insurance.
- self education expenses.

Category E – Concessionally taxed benefits

- Remote Area Housing (employer provided).
- Remote Area Rental Assistance.
- Remote Area Reimbursement of Interest.
- Remote Area Reimbursement on Purchasing or Building a Property.
- Remote Area Provision of Gas and Electricity.

**“Authorised Signatory” means, in relation to:**

- Court Officers and Judges other than the President and Deputy Presidents of the South Australian Employment Tribunal - the State Courts Administrator;
- President and Deputy Presidents of the South Australian Employment Tribunal - the Chief Executive, Department of the Premier and Cabinet;
- Auditor-General - the Director, Audit (Policy, Planning and Research), Auditor-General's Department;
- the Electoral Commissioner; and the Deputy Electoral Commissioner - the Chief Executive, Attorney General's Department
- the Health and Community Services Complaints Commissioner - the Chief Executive, Department of Health and Wellbeing

and includes a person authorised by that person to sign Offers on behalf of a Paying Authority.

**“Commissioner”** means the person for the time being appointed to, or carrying out, the duties of the Commissioner for Public Sector Employment under the Public Sector Act 2009.

**“Court Officer”** means any of the following:

the State Coroner;

the Commissioners of the Environment, Resources and Development Court.

**“Crown”** means the Crown in the right of the State of South Australia.

**“Determination”** means the Determination of the Remuneration Tribunal made on 14 December 2022 in relation to salary sacrifice arrangements in respect of the office holder.

**“FBT”** means Fringe Benefits Tax.

**“Judges”** means any of the following members of the judiciary:

the Chief Justice of the Supreme Court;

the President of the Court of Appeal;

the Puisne Judges of the Court of Appeal;

the Puisne Judges of the Supreme Court;

the President of the South Australian Employment Tribunal;

the Deputy Presidents of the South Australian Employment Tribunal;

the Judges of the Environment, Resources and Development Court;

the Judges of the South Australian Employment Tribunal;

the Chief Judge of the District Court;

the other District Court Judges;

the Chief Magistrate;

the Magistrates of the South Australian Employment Tribunal;

the other Magistrates;

the Masters of the Supreme Court; and

the Masters of the District Court.

**“Nominee”** means the Panel Member selected by the office holder to administer his or her Salary Sacrifice Arrangement.

**“Offer”** means an offer by a Paying Authority to enter into a Salary Sacrifice Arrangement in the form set out in **Schedule 1**.

**“Office Holder”** means any of the judges, court officers, or statutory officers.

**“Panel Agreement”** means an agreement between the Crown and a Panel Member for the purposes of engaging a person in order to implement and facilitate the performance of salary sacrifice agreements for office holders and public sector employees the terms of which are as approved from time to time by the Commissioner.

“**Panel Member**” means either:

- (a) Maxxia Pty Ltd ACN 082 449 036; or
- (b) any other person contracted by the Crown in right of the State of South Australia under a Panel Agreement for the purposes of implementing and facilitating the implementation of salary sacrifice agreements under this Determination.

“**Paying Authority**” means, in respect of each office holder, the person or body responsible for paying salary and allowances to the office holder on behalf of the Crown, and includes the Crown.

“**Sacrificed Amount**” means the amount that an office holder may specify as a portion of the office holder’s salary for an FBT year that is to be sacrificed in advance prior to earning the same during the period covered by the Determination.

“**Salary Sacrifice Arrangement**” means a salary sacrifice arrangement in accordance with this Determination and the “*Guideline of the Commissioner for Public Sector Employment, Salary Sacrifice*” issued by the Commissioner for Public Sector Employment as updated from time to time.

“**Service Agreement**” means an agreement made between an office holder and a Panel Member which describes the terms and conditions under which the Panel Member will implement salary sacrifice for the office holder the terms of which will be as approved from time to time by the Commissioner for Public Sector Employment.

“**Statutory Officers**” means any of the following statutory office holders:

the Auditor-General;  
the Electoral Commissioner;  
the Deputy Electoral Commissioner; and  
the Health and Community Services Complaints Commissioner.

“**Triple S scheme**” means the Southern State Superannuation Scheme

established by the *Southern State Superannuation Act 2009*.

2. In the interpretation of this Determination and any **Schedule** of this Determination:

- where appropriate, words denoting the singular include the plural and vice versa;
- words importing one gender shall include a reference to all other genders;
- the headings to the clauses in this Determination have been inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of any of the terms or conditions of this Determination;
- a reference to a person includes a reference to corporations and other entities recognised by law;
- reference to a clause or **Schedule** is a reference to a clause or **Schedule** of this Determination; and
- reference to any Act, regulation, ruling or by-law shall be deemed to include all amendments thereto and all statutory provisions substituted thereafter.

#### PRINCIPLES OF SALARY SACRIFICE

3. A salary sacrifice arrangement is to be made available to office holders on the following basis:

- (a) it involves no additional cost to the Paying Authority;
- (b) an office holder entering into a salary sacrifice arrangement (“participating officer”) must pay all costs associated with providing the salary sacrifice, including:
  - (i) any taxation liability whatsoever, including (without limiting the foregoing) Fringe Benefits Tax (“FBT”), incurred by the Paying Authority as a result of the office holder entering into a salary sacrifice;
  - (ii) the cost incurred by the Paying Authority in setting up each individual salary sacrifice; and
  - (iii) any administration fee charged by the office holder’s nominated Panel Member;
- (c) salary may only be sacrificed by an office holder for an Approved Purpose;
- (d) an office holder must appoint a Panel Member to administer the office holder’s salary sacrifice arrangements; except where the office holder’s Salary Sacrifice Arrangement only involves sacrifice of salary into the Triple S Scheme or a fund selected under section 21C of the *Southern State Superannuation Act 2009*.
- (e) an office holder must pay to the Paying Authority the Administration Fee as specified in clause 1 herein to partially offset the Paying Authority’s administration costs in establishing the salary sacrifice arrangement, and
- (f) the Panel Member will act as agent of the Paying Authority for the purposes of administering the salary sacrifice arrangement.

#### IMPLEMENTATION OF SALARY SACRIFICE

4. The Crown must give effect to a Salary Sacrifice Arrangement the terms of which must not be inconsistent with this Determination including Schedule 3 and as may be updated from time to time.

5. Salary and allowances otherwise payable to the office holder under a Determination of the Remuneration Tribunal are abated and reduced to the extent that payments are made by a Paying Authority in accordance with a Salary Sacrifice Arrangement. Payments so made are in satisfaction of, and will fully discharge, the obligation of the Paying Authority to pay that amount of salary to the office holder.

#### COMMENCEMENT AND PERIOD OF OPERATION OF DETERMINATION

6. This Determination comes into operation on and from 1 January 2023 and shall remain in force until further Determination by the Tribunal.

Dated: 14 December 2022

MATTHEW O’CALLAGHAN  
President

DEBORAH BLACK  
Member

PETER DE CURE AM  
Member

SCHEDULE 1

**OFFER BY PAYING AUTHORITY TO ENTER INTO A SALARY SACRIFICE ARRANGEMENT IN ACCORDANCE WITH THE DETERMINATION OF THE REMUNERATION TRIBUNAL**

(DETAILS TO BE FILLED IN BY THE OFFICE HOLDER AND TO BE CHECKED AND SIGNED BY THE PAYING AUTHORITY)

TO: .....  
[insert name of office holder to whom offer is being made]

.....  
[insert name of Paying Authority making the offer]

offers to enter into a Salary Sacrifice Arrangement on the terms and conditions set out in **Schedule 3** of the Remuneration Tribunal Determination 10 of 2022 and on the basis set out below.

This offer is only capable of acceptance by the lodgement with the Paying Authority of a correctly completed Acceptance of Offer in the form prescribed in **Schedule 2** of the Remuneration Tribunal Determination which is to be signed by you.

**BASIS OF SALARY SACRIFICE ARRANGEMENT:**

**Item 1 THE PAYING AUTHORITY**

The Paying Authority for this Salary Sacrifice Arrangement is:

Name:

Address:

**Item 2 THE OFFICE HOLDER**

The office holder for whom this Salary Sacrifice Arrangement is to be made is:

Name:

Address:

**Item 3 THE NOMINEE**

Please note that a nominee is not to be selected if the office holder’s Salary Sacrifice Arrangement only involves sacrifice of salary into the Triple S Scheme or a fund selected under section 21C of the *Southern State Superannuation Act 2009*, or other in house benefits administered by the Paying Authority.

The nominee for this Salary Sacrifice Arrangement is:

Name:

Address:

Attention:

**Item 4 SALARY**

The office holder’s salary upon which the Salary Sacrifice Arrangement is to be based is:

\$.....

Item 5 **APPROVED BENEFITS**

The Approved benefits in this Salary Sacrifice Arrangement are:

A payment for any Approved Benefit, being a payment for any of the following:

*[Delete those that do not apply]*

Category A – Exempt from FBT

- Contributions to a private superannuation fund that is complying, in that, it complies with the relevant laws regulating superannuation, including the Triple S scheme.
- Work related items (portable electronic device, computer software, protective clothing, briefcase, tools of trade). Primarily for use in the employee’s employment and does not apply where the employer otherwise provides the item.
- Taxi Travel to and from Work.
- Staff Fitness and Gym (in House).
- Airport Lounge Membership.
- Relocation Expenses.
- Fly-In-Fly-Out (FIFO) Parking.
- Fly-In-Fly-Out (FIFO) Travel.

Category B – Subject to FBT (Novated Lease):

- Own motor vehicle through a novated car lease.

Category C – Subject to FBT (In House Benefits):

- Other (ATO approved) in-house benefits that may be approved by Government or the Minister for the Public Sector from time to time.

Category D – Not subject to FBT (if employee could have claimed an income tax deduction)

- membership fees and subscriptions to professional associations.
- financial counselling fees.
- disability/income protection insurance.
- self education expenses.

Category E – Concessionally taxed benefits

- Remote Area Housing (employer provided).
- Remote Area Rental Assistance.
- Remote Area Reimbursement of Interest.
- Remote Area Reimbursement on Purchasing or Building a Property.
- Remote Area Provision of Gas and Electricity.

This offer is made on the .....day of .....20 .

Signed for the Paying Authority by:

.....  
[Authorised Signatory]

.....  
[Print name and title]

SCHEDULE 2 (and as updated from time to time)

ACCEPTANCE OF OFFER OF SALARY SACRIFICE

PAYING AUTHORITY'S COPY / OFFICE HOLDER'S COPY / NOMINEE'S COPY

To: of

I, (name) of (address) have read, and accept, the offer to enter into a Salary Sacrifice Arrangement made by the Paying Authority on the (date) day of 20(year).

I have also read, and accept, the terms and conditions detailed in the document headed "Salary Sacrifice Terms and Conditions" being Schedule 3 of the Remuneration Tribunal Determination 10 of 2022, ("Salary Sacrifice Terms and Conditions"). I agree to abide by the Salary Sacrifice Terms and Conditions irrespective of whether the Determination is effective, or remains in effect.

I agree to pay the applicable Administration Fee.

I understand that, for the purposes of the Australian Taxation Office, the Paying Authority is not a Public Benevolent Institution ("PBI").

The Office Holder will advise the Nominee of their selected approved benefits and benefit amounts excluding where only sacrificing to Triple S or a fund selected under section 21C of the Southern State Superannuation Act 2009, or selecting In House Benefits subject to FBT which will be managed by the Paying Authority.

The nominee will confirm in writing the benefits selected by and any subsequent amendments made by the Office Holder.

The Office Holder agrees and acknowledges that any Fringe Benefits Tax Liability which is incurred by the Employer or Office Holder in connection with the Salary Sacrifice Agreement will be a liability payable and due to be paid directly by the Office Holder (employee).

I acknowledge, and warrant to the Paying Authority, that I have elected to appoint .....(Nominee Company Name..... of .....Address..... to be my nominee within the meaning of the SALARY SACRIFICE TERMS AND CONDITIONS for all purposes associated with and in relation to the SALARY SACRIFICE TERMS AND CONDITIONS and I acknowledge that all correspondence to the nominee will be directed to the attention of Name.....

I acknowledge that the appointed Nominee may require additional documentation and agreements to be effected in order to establish and administer my salary sacrifice arrangements.

I further acknowledge that I will notify and endeavour to resolve all of the complaints, disputes and grievances in respect of the Salary Sacrifice Arrangement with the nominee or Paying Authority, whichever authority is responsible for administering the salary sacrifice benefit arrangements in question.

Please note that the paragraph noted below applies only to an office holder who is sacrificing solely into the Triple S Scheme or a fund selected under section 21C of the Southern State Superannuation Act 2009.

I acknowledge that all contact and correspondence regarding my Salary Sacrifice Arrangement will be with the following contact in the paying authority:

[Name] .....

[Office] .....

[Phone number] .....

[Facsimile] .....

Signed: .....

Print name: .....

Dated: ...../...../.....

## SCHEDULE 3

**TERMS AND CONDITIONS OF SALARY SACRIFICE ARRANGEMENT****1. INTERPRETATION**

1.1 In this **Schedule**, unless the context otherwise requires or a contrary intention appears, the following terms have the following meanings:

- 1.1.1 “books and records” means either copies or originals of all documents whether written, electronic or otherwise which are associated with or related to the Salary Sacrifice Arrangement and such books and records include but are not limited to books of account, statements, financial accounts, charges, securities, guarantees, invoices, receipts, proposals, approvals, cheque butts, deposit books, correspondence, memoranda, notes, depreciation schedules, deeds, contracts, minutes and notices.
- 1.1.2 “charges and costs” means all amounts, expenses and disbursements incurred by the Paying Authority in respect of the establishment, administration, delivery and provision of the Salary Sacrifice Arrangement pursuant to the Remuneration Tribunal Determination 10 of 2022.
- 1.1.3 “expiry date” means the date upon which the Salary Sacrifice Arrangement made between the office holder and the Crown is terminated.
- 1.1.4 “FBT year” means the year ended 31 March of each year occurring during the life of the Salary Sacrifice Arrangement.
- 1.1.5 “losses” means losses, damages, penalties, interest or costs.
- 1.1.6 “offer” means the offer to enter into a Salary Sacrifice Arrangement made by the Paying Authority in the form set out in Schedule 1.
- 1.1.7 “parties” means the Paying Authority and the office holder who are participating in a Salary Sacrifice Arrangement made under this Determination.
- 1.1.8 “pre-determined review date” means each anniversary of the date upon which the Remuneration Tribunal Determination implementing salary sacrifice commences.
- 1.1.9 “relevant taxation legislation and rulings” means any legislation dealing with the imposition of and recovery of tax and includes, but is not limited to the:
- 1.1.9.1 *Income Tax Assessment Act 1936*; and
- 1.1.9.2 *Income Tax Assessment Act 1997*; and
- 1.1.9.3 *Fringe Benefits Tax Assessment Act 1986*; and
- 1.1.9.4 Taxation Rulings.
- 1.1.10 “sacrificed amount” means the amount that an office holder may specify as a portion of the office holder’s salary for a FBT year that is to be sacrificed in advance prior to earning the same during the period covered by the Determination.
- 1.1.11 “salary” means the gross or pre-tax wage rate and salary payable to the office holder as detailed by the Paying Authority at Item 4 of its offer contained in Schedule 1 herein.
- 1.1.12 “Salary Sacrifice” means the Salary Sacrifice Arrangement to be offered by the Paying Authority to the office holder to elect pursuant to this Determination.
- 1.1.13 “Salary Sacrifice Arrangement”:
- 1.1.13.1 means the establishment and the administration of the amount of salary sacrificed by the office holder pursuant to this Determination;
- 1.1.13.2 is the total of salary sacrifice benefits which are offered under this Determination to the office holder; and,
- 1.1.13.3 may be the subject of the Panel Agreement and the Service Agreement.
- 1.1.14 “Schedule” means the Schedule attached to the Salary Sacrifice Arrangement;
- 1.1.15 “services” means the services provided by the Nominee pursuant to the Service Agreement in respect of the establishment, administration, delivery and provision of the Salary Sacrifice Arrangement;
- 1.1.16 “taxation liability” means any liability of any description that may be pursuant to a Tax Act however so described.

**2. SALARY SACRIFICE**

2.1 The office holder may specify a proportion of the office holder’s salary for a FBT year that is to be sacrificed in advance (the sacrificed amount) prior to earning the same during the period covered by the Arrangement.

2.2 The office holder may elect to take one or more Approved Benefits.

2.3 It is agreed between the parties that:

- 2.3.1 the office holder’s option and election to participate in Salary Sacrifice shall be at no cost or expense to the Paying Authority;
- 2.3.2 all charges, costs, disbursements, fees or other similar expenses incurred by the Paying Authority for the purpose of establishing and the administration of the Salary Sacrifice Arrangement and any administration thereafter shall be deducted from the sacrificed amount withheld from the office holder’s salary, or failing that the said charges, costs, disbursements, fees or other similar expenses incurred by the Paying Authority shall be deducted from the sacrificed amount withheld from the office holder’s salary and failing that will become payable by the office holder within 21 days of the issuing of a written demand by the Paying Authority to the office holder;
- 2.3.3 the Paying Authority reserves the right to impose such charges, costs, disbursements, fees or other similar expenses in respect of the Salary Sacrifice Arrangement as it sees fit to be payable by the office holder, which charges, costs, disbursements, fees or other similar expenses incurred by the Paying Authority shall be deducted from the sacrificed amount withheld from the office holder’s salary and failing that will become payable by the office holder within 21 days of the issuing of a written demand by the Paying Authority to the office holder;
- 2.3.4 each fortnight the Paying Authority will distribute and/or transfer the appropriate proportion of the office holder’s salary to the Nominee in respect of the office holder’s Salary Sacrifice Arrangement, except where the office holder’s Salary Sacrifice Arrangement involves only sacrifice of salary into the Triple S Scheme or a fund selected under section 21C

of the *Southern State Superannuation Act 2009*, when the Paying Authority will make the payment directly into the said scheme or selected fund.

- 2.3.5 the balance of the office holder's salary will continue to be paid in accordance with the Salary Determination;
- 2.3.6 the Salary Sacrifice Arrangement commences on the date specified in the offer, and ends on the earliest of:
  - 2.3.6.1 the Expiry Date; or
  - 2.3.6.2 the date upon which the Salary Sacrifice Arrangement is terminated in accordance with this Schedule; or
  - 2.3.6.3 the date upon which the Ruling ceases to operate.

### 3. REVIEW OF SALARY SACRIFICE

- 3.1 the office holder may vary or terminate their Salary Sacrifice Arrangement by contacting the Nominee and/or the Paying Authority which administers their selected benefit arrangements.
- 3.2 In the event of a liability arising or expected to arise in relation to Salary Sacrifice on the part of the Paying Authority by reason of:
  - 3.2.1 any relevant taxation legislation and rulings including, but not limited to, any assessment in respect of:
    - 3.2.1.1 a fringe benefit;
    - 3.2.1.2 income in the hands of the office holder or otherwise; or
    - 3.2.1.3 any taxation liability, however so described,
  - 3.2.2 any legislation passed by the South Australian Parliament which enacts equivalent taxation legislation to the extent that the liability may arise or be expected to arise by reason of an assessment of:
    - 3.2.2.1 a fringe benefit; or
    - 3.2.2.2 income in the hands of the office holder; or
    - 3.2.2.3 any taxation liability or otherwise, however so described; or
  - 3.2.3 any conduct of the office holder in relation to the office holder's Salary Sacrifice Arrangement which is in contravention of the Arrangement, then:
  - 3.2.4 notwithstanding this Determination and the Salary Sacrifice Arrangement, the Paying Authority, without incurring any liability to the office holder, may terminate the Salary Sacrifice Arrangement forthwith upon the giving of a written notification to the office holder.

### 4. ADMINISTRATION

- 4.1 Except where the officer holder's Salary Sacrifice Arrangement involves only the sacrifice of salary into the Triple S Scheme or a fund selected under section 21C of the *Southern State Superannuation Act 2009*, or access in-house benefits via the Paying Authority and where no nominee needs to be appointed by the office holder, the office holder will notify the Paying Authority in writing of the name and the details of the Nominee appointed by the officer holder to establish and administer the Salary Sacrifice Arrangement on behalf of the office holder.

*It follows that all references to the Nominee herein do not in any way concern an office holder whose Salary Sacrifice Arrangement only involves sacrifice into the Triple S Scheme or a fund selected under section 21C of the Southern State Superannuation Act 2009.*

- 4.2 It is a condition precedent to the Salary Sacrifice Arrangement commencing, that the office holder must complete the forms and documents referred to in Items 1 to 5 of **Schedule 1** to this Determination and forward a copy of the relevant forms and documents to the Paying Authority and the Nominee and where no Nominee has been appointed, to the paying authority.
- 4.3 The office holder must obtain agreement from the Nominee where a Nominee has been appointed that all amounts distributed and/or transferred by the Paying Authority to the Nominee pursuant to the Salary Sacrifice Arrangement:
  - 4.3.1 shall be held in trust by the Nominee in accordance with the terms and provisions of the Service Agreement;
  - 4.3.2 shall not be mingled by the Nominee with any other money paid into any other bank account operated by the Nominee pursuant to the Salary Sacrifice Arrangement;
  - 4.3.3 shall at all times be identifiable and attributable to the office holder for the purpose of distribution and/or transfer by the Nominee pursuant to the terms of the Salary Sacrifice Arrangement toward Approved Benefits selected by the office holder in respect of the office holder's Salary Sacrifice Arrangement; and
  - 4.3.4 shall at all times be held in a manner that would enable at any given time an accounting of:
    - 4.3.4.1 the total sacrificed amount distributed and/or transferred to the Nominee by the Paying Authority, applied by the Nominee to Salary Sacrifice benefits and/or applied in any other manner whatsoever;
    - 4.3.4.2 the balance of the sacrificed amount remaining.
- 4.4 The distribution and/or transfer of any amount by the Paying Authority to the Nominee pursuant to the Salary Sacrifice Arrangement is:
  - 4.4.1 for the sole purpose of the distribution and/or transfer of the said amount in respect of any Salary Sacrifice benefits in the Salary Sacrifice Arrangement; and
  - 4.4.2 not income or salary payable to the office holder.
- 4.5 All charges, costs, disbursements, fees or other similar expenses charged by the Nominee for administering the Salary Sacrifice Arrangement shall be deducted from the sacrificed amount withheld from the office holder's salary upon proper authorisation of the Nominee by the Paying Authority.
- 4.6 The office holder acknowledges that he/she will not expressly or impliedly, directly, indirectly order, instruct or otherwise require the Nominee to distribute and/or transfer or re-direct any amount distributed and/or transferred by the Paying Authority to the Nominee pursuant to the Salary Sacrifice Arrangement for the purpose of the distribution and/or transfer of the said amount in

respect of any Approved Benefits in the Salary Sacrifice Arrangement to the office holder or any other person otherwise than in accordance with terms and provisions of the Salary Sacrifice Arrangement.

- 4.7 If any part of the Salary Sacrifice has been distributed and/or transferred in advance to the Nominee and the Salary Sacrifice Arrangement is subsequently revoked, superseded or terminated for whatever reason, then that amount that has been distributed and/or transferred which is more than the pro-rata entitlement as at the date of revocation or termination of the Salary Sacrifice Arrangement, shall be:
- 4.7.1 re-distributed and/or re-transferred to the Paying Authority by the Nominee; or
  - 4.7.2 recoverable by the Paying Authority from the Nominee.
- 4.8 In the event of termination of employment with the Paying Authority for any reason whatsoever, the calculation of all statutory leave entitlements such as long service leave and annual leave shall be at the rate applicable to the office holder's salary pursuant to the relevant legislative requirements.
- 4.9 For the purpose of the Salary Sacrifice Arrangement, the Paying Authority:
- 4.9.1 will provide to the office holder; and
  - 4.9.2 unreservedly authorises the Nominee to provide to the office holder, upon written request by the office holder, all books and records associated or related to Salary Sacrifice and the Salary Sacrifice arrangement including but not limited to the Salary Sacrifice benefits taken up by the office holder, and, the parties agree that this sub-clause operates and has full effect at all other times and survives the revocation or termination of the Salary Sacrifice Arrangement.
- 4.10 For the purpose of the Salary Sacrifice Arrangement, the office holder unreservedly consents to the Paying Authority or the Nominee disclosing any books and records for the purpose of the Salary Sacrifice Arrangement and for the purpose of complying with any relevant taxation law or rulings and any audit by the Australian Taxation Office or the Auditor-General of South Australia or auditors authorised by the Paying Authority.
- 4.11 A \$44.00 (inclusive of GST) **administration** fee may apply for the administration of the Salary Sacrifice Arrangement and will be deducted by the Paying Authority from the first amount of salary which is sacrificed by the office holder.

## 5. FINANCIAL ADVICE

- 5.1 The office holder acknowledges that he/she has sole responsibility for seeking independent and personal financial advice with respect to his or her acceptance of Salary Sacrifice and the Salary Sacrifice Arrangement and that this is not a matter for the Paying Authority at all.

## 6. SUPERANNUATION

- 6.1 The Paying Authority shall make contributions in respect of the Paying Authority share of the liability accruing for benefits in relation to their obligations to the office holder under the *Superannuation Act 1988* and/or the *Southern State Superannuation Act 2009*, on the same terms and conditions as applied as at the date of commencement of the Salary Sacrifice Arrangement, subject to the office holder making any election required under the relevant superannuation legislation to maintain benefits applicable to salary (as defined in the relevant superannuation legislation) applying at the date of the commencement of the Salary Sacrifice Arrangement.

## 7. ACKNOWLEDGMENTS

- 7.1 In electing to Salary Sacrifice, the office holder acknowledges and undertakes:
- 7.1.1 that the Approved Benefits selected are the only items available for selection in the Salary Sacrifice Arrangement;
  - 7.1.2 that amounts transferred by the Paying Authority to its Nominee pursuant to the Salary Sacrifice arrangement will only be used to pay the Approved Benefits selected by the office holder; and
  - 7.1.3 not to enter into any agreements which are contrary to the terms of the Salary Sacrifice Arrangement and the Service Agreement (if applicable), and in the event that such an agreement is entered into, then the Service Agreement (if applicable) and the Salary Sacrifice Arrangement shall take precedence.
- 7.2 The office holder acknowledges that in the event of being appointed to a different office, that he or she may be subject to a different offer of Salary Sacrifice.
- 7.3 The office holder acknowledges that in the event of:
- 7.3.1 cessation of appointment; or
  - 7.3.2 appointment to a different office,
- he or she must notify the Nominee administering the Salary Sacrifice Arrangement or the Paying Authority in the event that no Nominee has been appointed by the office holder, at least 7 days prior to such an event occurring where such matter or thing is within the knowledge of the office holder.
- 7.4 The parties acknowledge and accept that any cost, loss, expense or liability incurred by either party, pursuant to the relevant taxation legislation and rulings will be the responsibility of that party and will be met by that party.
- 7.5 The office holder must comply with the terms and provisions of the Salary Sacrifice Agreement. The parties acknowledge and agree that the office holder will enter into agreements with the Nominee to facilitate the administration of the office holder's salary packaging arrangement and any such agreements must be consistent at all times with the terms of the Salary Sacrifice Arrangement.
- 7.6 The office holder acknowledges that the total and sole responsibility for the administration of the Salary Sacrifice Arrangement rests with the Nominee where a Nominee has been appointed and that the office holder will notify and endeavour to resolve all of its complaints, disputes and grievances in respect of the Salary Sacrifice Arrangements with the Nominee only if a Nominee has been appointed and not the Paying Authority.
- 7.7 The parties agree and acknowledge that the terms of this Agreement are subject at all times to the Panel Agreement and the Service Agreement.

## 8. CONFIDENTIALITY

- 8.1 The terms of the Salary Sacrifice Arrangement are to remain confidential between the parties.
- 8.2 The Paying Authority shall treat as strictly confidential all information obtained from the office holder or any other information acquired by it for the purposes of the Salary Sacrifice Arrangement and shall not divulge such information to any person without the office holder's prior written consent.

- 8.3 The Paying Authority shall:
- 8.3.1 keep access to any data collected in the course of performing the Salary Sacrifice Arrangement, whether stored in manual files or on a computer data base, for the purposes of the Salary Sacrifice Arrangement, confidential;
  - 8.3.2 keep any record used by it for purposes of the Salary Sacrifice Arrangement confidential;
  - 8.3.3 not divulge such computer passwords to any person without the office holder's prior written consent; and
  - 8.3.4 immediately inform the office holder of any unauthorised use of a computer password.
- 8.4 The Paying Authority shall, if requested by the office holder provide the office holder with written undertakings not to divulge any confidential information or any computer password to any other person.
- 8.5 The Paying Authority shall immediately notify the office holder if it becomes aware of any disclosure or distribution of information or breach of this clause 8 by any person and shall give the office holder all reasonable assistance in connection with any proceedings which the office holder may institute against such person in respect of such disclosure or distribution.
- 8.6 The obligations as to confidentiality pursuant to this clause shall survive any expiry, revocation or termination of the Salary Sacrifice Arrangement.

## 9. SECURITY

- 9.1 The Paying Authority shall only use those manual files and books and records of the office holder, which the office holder specifically authorises for performance of the Salary Sacrifice Arrangement, and only in a manner as directed by the office holder from time to time.
- 9.2 The Paying Authority shall immediately notify the office holder of any unauthorized use of the office holder's books and records.

## 10. NATURE OF RELATIONSHIP BETWEEN THE PARTIES AND LIABILITY

- 10.1 Neither of the parties has the authority to act for or to incur any liability or obligation on behalf of the other except as expressly provided in the Salary Sacrifice Arrangement.
- 10.2 The Nominee (where appointed) is nominated by the office holder to receive the sacrificed amount and to apply it for the benefit of the office holder.
- 10.3 The office holder acknowledges and agrees that the Paying Authority is not liable to the office holder either directly or indirectly in respect of any matter touching or concerning the selection of the Nominee (where appointed), or in any manner whatsoever in respect of the Salary Sacrifice arrangement.
- 10.4 The office holder further acknowledges and agrees that the Paying Authority is not liable to the office holder at all either directly or indirectly for any acts or omissions whatsoever of the Nominee (where appointed) or any other person however so described in respect of the administration or any matter touching upon or concerning the administration of the Salary Sacrifice arrangement.
- 10.5 The office holder shall indemnify the Paying Authority from and against any income tax or any other taxation liability whatsoever (including any administrative penalty, fine or other amount) that may become payable pursuant to any relevant taxation legislation and rulings in respect of any monies transferred or distributed:
- 10.5.1 by the Paying Authority to the Nominee;
  - 10.5.2 by the Paying Authority to the Triple S Scheme or a fund selected under section 21C of the *Southern State Superannuation Act 2009*; or
  - 10.5.3 by the Nominee (where appointed) to any other person (including the office holder), in respect of any of the office holder's salary distributed and/or transferred to the Nominee in respect of Approved Benefits in accordance with the Salary Sacrifice Arrangement.
- 10.6 The office holder will indemnify the Paying Authority from and against all charges, costs, damages, disbursements, fees, losses suffered or incurred by the Paying Authority as a consequence of any:
- 10.6.1 misappropriation;
  - 10.6.2 defalcation;
  - 10.6.3 failure to account; or
  - 10.6.4 any other breach/es of the Salary Sacrifice Arrangement or the Agency Agreement; by the Nominee (where appointed) of or in relation to any moneys it holds as trustee; or
  - 10.6.5 failure by the Nominee (where appointed) to make any payments as directed by the Paying Authority on the office holder's behalf or office holder pursuant to or as authorised by the Salary Sacrifice Arrangement; or
  - 10.6.6 any other matter or thing done or omitted to be done by the Nominee (where appointed) in relation to the office holder.
- 10.7 The office holder acknowledges that she/he will indemnify the Paying Authority in respect of any and all charges, costs, damages, disbursements, fees, losses suffered or incurred by the Paying Authority as a result of the establishment, administration, delivery or provision of the Salary Sacrifice Arrangement or the Salary Sacrifice arrangement.

## 11. TERMINATION

- 11.1 Except as provided herein, the office holder does not have the right to revoke or terminate the Salary Sacrifice Arrangement.
- 11.2 The Salary Sacrifice Arrangement shall expire and terminate:
- 11.2.1 at any time by written agreement between the parties;
  - 11.2.2 on the pre-determined review date;
  - 11.2.3 pursuant to any one of the events listed in clause 3.1 and/or 3.2 of this Schedule;
  - 11.2.4 if the Paying Authority gives to the office holder not less than twenty-one (21) days prior written notice terminating the Salary Sacrifice Arrangement at any time prior to the pre-determined review date;
  - 11.2.5 at any time and without notice (except as otherwise stated) by the Paying Authority if the office holder:
    - 11.2.5.1 is in default of any term in the Salary Sacrifice Arrangement and such default remains unremedied seven (7) days after a notice in writing specifying the default complained of has been given by the Paying Authority to the office holder;

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- 11.2.5.2 fails in the opinion of the Paying Authority to comply with any provision of the Salary Sacrifice Arrangement;
- 11.2.5.3 threatens to do or does any of the following:
- 11.2.5.3.1 enters into bankruptcy either compulsorily or by virtue of Part X of the *Bankruptcy Act*;
- 11.2.5.3.2 makes an assignment for the benefit of his or her creditors, or makes an arrangement of composition with his or her creditors;
- 11.2.5.3.3 has a sequestration order made against his or her estate whether pursuant to the *Bankruptcy Act*, the *Family Law Act* or any other law of the Commonwealth or the State of the Commonwealth of Australia;
- 11.2.5.4 has any judgment entered or made against it or any similar occurrence under any jurisdiction which affects the Paying Authority;
- 11.2.5.5 engages in any conduct prejudicial to the interests of the Paying Authority in respect of the Salary Sacrifice Arrangement;
- 11.2.5.6 dies;
- 11.2.5.7 becomes in the opinion of the Paying Authority mentally incapable;
- 11.2.5.8 fails to comply with the terms of any default notice within the time stipulated, but without prejudice to any right of action or remedy which shall have accrued or which shall accrue thereafter in favour of the Paying Authority.
- 11.3 Notwithstanding anything to the contrary contained in the Salary Sacrifice Arrangement, in the event of any breach or suspected contravention by the office holder of any of clause 11.2.5.1 to 11.2.5.5 inclusive, 11.2.5.7 and 11.2.5.8 of this **Schedule**, the Paying Authority has the option to terminate the Salary Sacrifice Arrangement forthwith by written notice to the office holder.
- 12. SEVERABILITY**
- 12.1 If any clause or part thereof is held by a court to be invalid or unenforceable such clause or part thereof shall be deemed deleted from the Salary Sacrifice Arrangement and the Salary Sacrifice Arrangement shall otherwise remain in full force and effect.
- 13. ASSIGNMENT**
- 13.1 Neither the Paying Authority nor the office holder shall assign sub-contract or otherwise transfer any of its rights or obligations pursuant to the Salary Sacrifice Arrangement whether in whole or in part without the prior written consent of the other party.
- 14. GOVERNING LAW**
- 14.1 The Salary Sacrifice Arrangement shall be governed by and construed in accordance with the laws for the time being in force in South Australia and the parties agree to submit to the jurisdiction of the courts of that State.
- 15. WAIVER**
- 15.1 A waiver of any provision of the Salary Sacrifice Arrangement must be in writing.
- 15.2 No waiver by either of the parties of any breach of a term or condition contained in the Salary Sacrifice Arrangement shall operate as a waiver of another breach of the same or of any other term or condition contained in the Salary Sacrifice Arrangement.
- 15.3 No forbearance, delay or indulgence by either of the parties in enforcing the provisions of the Salary Sacrifice Arrangement shall prejudice or restrict the rights of that party.
- 16. NOTICES**
- 16.1 Any notice or other communication to or by either of the parties shall be:
- 16.1.1 in writing addressed:
- 16.1.1.1 in the case of a body corporate, to the registered or principal office of that body corporate in South Australia;
- 16.1.1.2 in the case of a natural person, to the last known address of that person;
- 16.1.1.3 in the case of the Paying Authority, with the contact specified in the Acceptance Form contained in Schedule 2 of the Determination of the Remuneration Tribunal;
- 17. ENTIRE AGREEMENT AND MODIFICATIONS**
- 17.1 Subject to this clause 17, the documents in the form set out in **Schedules 1, 2 and 3** when completed and signed by the parties respectively, and the Service Agreement (where applicable), and the Panel Agreement (where applicable) are incorporated into and form part of the Salary Sacrifice Arrangement and are binding on the parties.
- 17.2 No addition to or modification of any provision of the Salary Sacrifice Arrangement shall be binding upon the parties unless agreed to in writing by the Paying Authority and the office holder in the first instance and confirmed by written instruction signed by or on behalf of the parties.
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## THE REMUNERATION TRIBUNAL

REPORT—NO. 11 OF 2022

*2022 Review of Berri Country Magistrate Housing Allowance***REPORT****INTRODUCTION**

1. The Remuneration Tribunal (**Tribunal**) has conducted a review of Determination 1 of 2021<sup>1</sup> which sets a housing allowance for the Berri Country Magistrate.
2. As explained in this report, the Tribunal has decided not to make any amendments to the current determination which will continue in force. The Tribunal is in fact minded to revoke the determination, however will defer a decision on this until next year's review in order to afford Magistrates who would potentially be affected by such a decision the opportunity to comment on the necessity for the determination to continue.

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<sup>1</sup> Berri Country Magistrate Housing Allowance.

**THE REVIEW PROCESS**

3. On 20 September 2022, in accordance with sections 10(2) and 10(4) of the *Remuneration Act 1990 (Act)*, the Tribunal wrote to and invited submissions by 17 October 2022 in respect of this review from:
  - a. the Honourable Premier of South Australia – as the Minister responsible for the Act who may make submissions or introduce evidence in the public interest
  - b. the Judicial Remuneration Coordinating Committee (**JRCC**)
  - c. members of the judiciary and relevant office holders
4. The Tribunal also placed a notice on its website from 20 September 2022 calling for submissions from affected persons by 17 October 2022.
5. The JRCC confirmed on 17 October 2022 that it did not wish to be heard on this review.
6. On 31 October 2022, after an extension was granted, the Premier's representative confirmed that the Premier did not intend to make a submission.
7. Accordingly no submissions were received, and no oral submissions were made about this review at the Tribunal's hearing on 14 November 2022.
8. On 31 October 2022, the Tribunal wrote to the Courts Administration Authority (**CAA**) to confirm whether the current Berri Country Resident Magistrate is being paid the allowance provided for by Determination 1 of 2021, or whether that Magistrate is instead being provided with State funded accommodation at Berri. On 9 November 2022, the CAA confirmed that the current Berri Country Resident Magistrate is provided with accommodation by the CAA and accordingly is not being paid the allowance provided for by Determination 1 of 2021.

**CONSIDERATION AND CONCLUSION**

9. The Tribunal notes that Determination 1 of 2021 was made following application by Magistrate Deland who sought the allowance due to her personal dissatisfaction with the State provided rental accommodation, having regard to: privacy, security, ongoing maintenance issues, and personal preference for owning her own home.
10. The Tribunal has been advised that Magistrate Deland has since retired, and the CAA has advised the current Berri Country Resident Magistrate is making use of the traditional arrangements for Resident Magistrates which involves the CAA providing accommodation at the country court locations. The Tribunal notes that Resident Magistrates at Mount Gambier and Port Augusta are also provided with CAA funded accommodation, and no determination of the Tribunal allows them to receive an allowance similar to that set by Determination 1 of 2021.
11. In these circumstances, the Tribunal is of the view that Determination 1 of 2021 should be revoked, bearing in mind that it would be open to a future Resident Magistrate to apply to the Tribunal to make a new determination on similar terms as Determination 1 of 2021.
12. The Tribunal however has decided to defer making a final decision on this topic under next year's review, in order to afford Magistrates the opportunity to comment on the necessity for the determination to continue.

Dated: 14 December 2022

MATTHEW O'CALLAGHAN  
President

DEBORAH BLACK  
Member

PETER DE CURE AM  
Member

## THE REMUNERATION TRIBUNAL

REPORT—NO. 12 OF 2022

*Application for Overseas Accommodation and Daily Allowance—  
2023 Supreme and Federal Court Judges' conference in Christchurch***REPORT****INTRODUCTION**

1. On 29 August 2022, the Remuneration Tribunal (**Tribunal**) received an application from the Judicial Remuneration Coordinating Committee (**JRCC**) asking the Tribunal to make a determination fixing a per diem accommodation and meal allowance for Supreme Court Judges attending the annual Supreme and Federal Court Judges' conference which will be held in January 2023 in Christchurch, New Zealand.

2. This specific determination has been sought, as the Tribunal's existing determination for the payment of accommodation and meal allowances does not cover international travel. In recent years, the Tribunal's practice has been to instead make specific determinations for international travel.
3. As explained in this report, the Tribunal has decided to grant the application. The Tribunal has accordingly issued an accompanying determination, which applies from 29 August 2022 being the date the application was received.

#### THE REVIEW PROCESS

4. On 20 September 2022, in accordance with sections 10(2) and 10(4) of the *Remuneration Act 1990 (Act)*, the Tribunal wrote to and invited submissions by 17 October 2022 in respect of this application from:
  - a. the Honourable Premier of South Australia – as the Minister responsible for the Act who may make submissions or introduce evidence in the public interest
  - b. the JRCC
  - c. members of the judiciary
5. The Tribunal also placed a notice on its website from 20 September 2022 calling for submissions from affected persons by 17 October 2022.
6. The JRCC provided a written submission on 17 October 2022, on behalf of the Chief Justice, Judges and Masters of the Supreme Court.
7. On 31 October 2022, after an extension was granted, the Premier's representative confirmed that the Premier did not intend to make a submission.
8. No other submissions were received.
9. The Tribunal convened a hearing on this and related matters on 14 November 2022. This hearing was attended by the Honourable Justice Tim Stanley as chair of the JRCC, Magistrate Jay Pandya as President of the Magistrates Association of South Australia, and Ms Carly Cooper from the Crown Solicitor's Office as representative of the Premier.
10. Justice Stanley spoke to the written submissions received from the JRCC. Ms Cooper attended, and confirmed the Premier's instructions.
11. In summary, the JRCC submitted that it seeks:
  - a. for the Tribunal to fix overseas accommodation and daily allowances for Judges and Masters of the Supreme Court attending the Supreme and Federal Court Judges' Conference to be held in Christchurch, New Zealand, from 22 to 25 January 2023
  - b. a determination essentially on the same terms as Determination 13 of 2019, to the effect of entitling a Judge and Master to:
    - i. be provided with accommodation at the State's expense at a standard reasonably equivalent to that provided for the Judge and Master when accommodated outside of Adelaide
    - ii. be paid meal and incidentals in an amount set out in Taxation Determination TD 2022/10 in a daily amount of \$285 payable for a period of six days comprising the outward flight day of 21 January 2023, the conference days, and the return flight day of 26 January 2023.
12. The Tribunal has observed that the *Commonwealth Remuneration Tribunal (Official Travel) Determination 2019* has since been replaced by the *Commonwealth Remuneration Tribunal (Official Travel) Determination 2022*. That updated version refers to the current Australian Taxation Office determination (TD 2022/10) identified by the JRCC.

#### CONSIDERATION AND CONCLUSION

13. The Tribunal has previously dealt with requests made for the determination of overseas travel entitlements according to the unique circumstances of each instance of travel, so that any determination made by the Tribunal is limited in effect to each such circumstance. In the Tribunal's view, that approach continues to be appropriate, given that the necessity for judicial officers to travel internationally in the course of their official duties is infrequent.
14. The Tribunal considers that accommodation and daily allowance provisions are appropriately payable in circumstances whereby there is an official requirement for international travel by a Judge or Master in the course of his or her duties as a judicial officer. The Tribunal is satisfied that attendance at the annual Supreme and Federal Court Judges' conference fits this description.
15. The Tribunal is also satisfied that the *Commonwealth Remuneration Tribunal (Official Travel) Determination 2022* sets a reasonable basis for determining an appropriate overseas daily allowance for meals and incidentals and entitlements to accommodation for this trip.
16. With respect to accommodation, the Tribunal notes that while it usually would have been appropriate for the State to have booked and paid directly for overseas accommodation, that has probably not occurred in this case as accommodation most likely needed to be booked in advance of the Tribunal deciding this application.
17. Accordingly, the accompanying determination provides for a daily allowance and either reimbursement or direct payment of accommodation expenses as sought.
18. The determination will apply from 29 August 2022 being the date the application was received.

Dated: 14 December 2022

MATTHEW O'CALLAGHAN  
President

DEBORAH BLACK  
Member

PETER DE CURE AM  
Member

## THE REMUNERATION TRIBUNAL

DETERMINATION—No. 12 OF 2022

*Overseas Accommodation and Daily Allowance—  
2023 Supreme and Federal Court Judges' conference in Christchurch*

**SCOPE OF DETERMINATION**

1. This Determination applies to Judges and Masters of the Supreme Court of South Australia.

**DETERMINATION**

2. Judges and Masters are entitled to the following, in respect of their attendance at the Supreme and Federal Court Judges' Conference to be held in Christchurch, New Zealand, from 22 to 25 January 2023:
  - a. a daily allowance of A\$285 by reference to the most recent Australian Taxation Office taxation determination (TD 2022/10) concerning reasonable meals and incidentals. This will be for six days, comprising the outward flight day of 21 January 2023, the conference days, and the return flight day of 26 January 2023
  - b. reimbursement of accommodation directly associated with their attendance at the conference, provided the reimbursement does not exceed the costs of accommodation of a standard reasonably equivalent to that provided to them in Australia but outside of Adelaide for official duties (as determined by the Chief Justice of the Supreme Court). The costs are to be fully substantiated
  - c. if accommodation has not already been paid for, a Judge or Master may alternatively have such accommodation paid directly by the Courts Administration Authority.

**DETERMINATION**

3. The Determination operates from 29 August 2022.

Dated: 14 December 2022

MATTHEW O'CALLAGHAN  
PresidentDEBORAH BLACK  
MemberPETER DE CURE AM  
Member

## THE REMUNERATION TRIBUNAL

REPORT—No. 13 OF 2022

*Application for supply of a Four-Wheel Drive Vehicle to the Resident Magistrate,  
Berri, at a cost equal to the Conveyance Allowance provided by Determination No 14 of 2021*

**REPORT****INTRODUCTION**

1. On 19 October 2022 the Remuneration Tribunal (**Tribunal**) received an application and submission from the Resident Magistrate, Berri (**Berri Magistrate**) to grant the supply of a Four-Wheel Drive (**4WD**) vehicle at a cost equal to the conveyance allowance provided by Tribunal Report and Determination No 14 of 2021 (as may be amended from time to time).
2. The Tribunal has duly considered this application, however for the reasons given in this report the Tribunal has decided not to make a determination as sought.

**THE REVIEW PROCESS**

3. On 20 October 2022, in accordance with sections 10(2) and 10(4) of the *Remuneration Act 1990 (Act)*, the Tribunal wrote to and invited submissions by 18 November 2022 in respect of this application from:
  - a. the Honourable Premier of South Australia – as the Minister responsible for the Act who may make submissions or introduce evidence in the public interest
  - b. the Judicial Remuneration Coordinating Committee (**JRCC**)
  - c. the Magistrates Association of South Australia
  - d. the Chief Magistrate
4. The Tribunal also placed a notice on its website from 20 October 2022 calling for submissions from affected persons by 18 November 2022.
5. On 28 October 2022 the JRCC provided a submission stating that it supported the application for provision of the vehicle while the Magistrate is Resident Magistrate in the Riverland.
6. On 3 November 2022 the Chief Magistrate provided a submission in support of the application which agreed with the reasons and submissions of the Berri Magistrate.
7. On 8 November 2022 the Premier's representative confirmed that the Premier did not intend to provide any submissions in respect of this application.
8. No other submissions were received.
9. No hearing was convened by the Tribunal in respect of this application, as the Berri Magistrate did not seek to make oral submissions and nor did any other interested person. The Tribunal did however briefly raise the matter at its hearing on 14 November 2022, and the Honourable Justice Tim Stanley as chair of the JRCC briefly explained that they supported the application.
10. In summary, the Berri Magistrate has sought this determination for a variety of reasons, including:
  - a. The Berri Magistrate currently uses a 4WD vehicle, but has to pay \$5,626 per annum in addition to the conveyance allowance set by the Tribunal.
  - b. Resident Magistrates at Port Augusta and Mount Gambier have for many years been entitled, by previous Tribunal determinations, to have a 4WD supplied at a cost equal to the conveyance allowance.

- c. The supply of a 4WD vehicle is highly desirable for reasons that go beyond the initial justification for the supply of such vehicles adopted by the Tribunal. Those reasons include, safety, reliability, comfort as well as suitability for use, when required on unsealed roads or off-road.
- d. The Berri Magistrate is required as part of his or her duties to undertake a return trip between Adelaide and Berri once a month, and is likely to return to Adelaide frequently on the weekends to spend time with family. The Berri Magistrate is also required to travel to Waikerie at least once each month

#### CONSIDERATION AND CONCLUSION

11. The Tribunal has initially considered this request from a safety perspective. The Tribunal notes the assertions that a 4WD vehicle is safer, more reliable and more comfortable, as well as being more suitable for use on unsealed roads. The Berri Magistrate notes that the position requires travelling considerable distances with heavy traffic volumes, on roads in variable conditions such that a 4WD is asserted to be considerably safer than a normal passenger vehicle. The potential for collisions with wildlife or livestock is also proposed as a safety consideration in favour of a 4WD vehicle.
12. The Tribunal acknowledges that the Berri Magistrate is only occasionally required to travel on unsealed roads
13. The proposition that 4WD vehicles are inherently safer than traditional passenger vehicles has been the subject of significant research and debate. A key element in this respect relates to the make of the vehicle and the safety equipment associated with it. However, issues associated with poorer handling and comparatively fewer safety features are also significant issues.
14. The Tribunal is not persuaded that a 4WD vehicle is necessarily safer on a highway with common heavy vehicle than a normal passenger vehicle.
15. It may be the case that a 4WD vehicle is better able to withstand a collision with either wildlife or livestock, but this may be offset by both safety equipment and manoeuvrability issues. As the Berri Magistrate has drawn to the Tribunal's attention, issues of road speed are also fundamental.
16. Apart from situations where there is substantial off-road use, the Tribunal is not persuaded that the provision of a 4WD vehicle creates a significant safety benefit. Further, the Tribunal rejects any notion that passenger vehicles of the nature available to Magistrates are inherently less safe for either Magistrates or other public sector employees who regularly use them.
17. The Berri Magistrate relies on a comparative argument based on the provision of 4WD vehicles to the Resident Magistrates in Port Augusta and Mt Gambier.
18. In 2002<sup>1</sup> the Tribunal agreed that the then Magistrate based at Port Augusta who was undertaking trial Regional Management duties, should be supplied with a 4WD vehicle without being required to pay the additional costs for that vehicle. In reaching that decision the Tribunal noted that the trial position required travel, over hundreds of kilometres on un-bituminised roads. The Tribunal did not establish this arrangement as an automatic component of remuneration for Magistrates in other areas.
19. In 2003<sup>2</sup> that Tribunal considered remuneration arrangements for country Resident Magistrates in Port Augusta and Mount Gambier. A 4WD vehicle was requested for the Port Augusta based Magistrate but not for the Mt Gambier based Magistrate. As a part of those arrangements the Tribunal confirmed the provision of a 4WD vehicle to the Port Augusta Magistrate, at no additional cost.
20. In 2006<sup>3</sup> the Tribunal considered and agreed to the provision of a 4WD vehicle for the Mt Gambier Resident Magistrate because of the then Magistrate's argument that he was involved in prosecutions under the *Native Vegetation Management Act 1985* and the *Fisheries Act 1982*, both of which required viewing off road locations. The Resident Magistrate argued that the principles of judicial independence meant that it was inappropriate for him to travel to those sites with the contesting parties. The Resident Magistrate also referred to the risk of wildlife on roads. The Tribunal agreed to the provision of a 4WD vehicle at no additional cost to the Magistrate on the basis of the judicial independence principle.
21. The Tribunal acknowledges that issues of judicial independence might arise if a Magistrate is frequently required to travel off road as part of their conduct of matters and travel with parties involved in a matter is inappropriate. That issue has not been seriously argued in this instance. The Tribunal is not satisfied that the circumstances applicable to the Berri Magistrate are necessarily comparable to those of the Magistrates in Port Augusta or Mt Gambier in 2003 and 2006 respectively. Indeed, the Tribunal is uncertain about the continuing relevance of those 2003 and 2006 provisions. If the Berri Magistrate has a vehicle unsuited to off-road use it appears to the Tribunal that the hire of an appropriate vehicle to deal with occasional off-road use to avoid the need to travel to a site with the parties to a matter would be more economical. To this end, the Tribunal has amended the determination providing for a conveyance allowances and related entitlements, to enable the State Courts Administrator to allow the hire of a vehicle at the State's expense in circumstances where the vehicle available to a member of the judiciary for official and private use cannot travel safely to a designated location.
22. The Tribunal has also noted a further factor relevant to its deliberations on this issue. The current conveyance allowance for Magistrates is \$16,063 per annum, as set by Determination 9 of 2022. Magistrates can select a wide range of vehicles, including 4WD vehicles at different costs and pay for the difference themselves. That is the arrangement currently adopted by the Berri Magistrate. Depending on the costs of a 4WD vehicle selected, the additional annual cost could amount to over \$5,000 per annum. The effect of the Berri Magistrate's request would effectively result in that additional cost being met by the State government through one of its agencies. The Tribunal is not satisfied that the information before it justifies such a potential expenditure.
23. For these reasons the Tribunal is not prepared to grant the Berri Magistrate's request. Given this conclusion no determination is appropriate.

<sup>1</sup> Determination and Report of the Remuneration Tribunal – No 7 of 2002 – Resident Magistrate – Port Augusta Magistrates Court.

<sup>2</sup> Determination and Report of the Remuneration Tribunal – No 8 of 2003 – Country Resident Magistrates.

<sup>3</sup> Determination and Report of the Remuneration Tribunal – No 7 of 2006 – 4WD Request – Mount Gambier Resident Magistrate

Dated: 14 December 2022

MATTHEW O'CALLAGHAN  
President

DEBORAH BLACK  
Member

PETER DE CURE AM  
Member

## THE REMUNERATION TRIBUNAL

REPORT—NO. 14 OF 2022

*2022 Review of Allowances for Members of the Parole Board of South Australia***REPORT****INTRODUCTION**

1. The Remuneration Tribunal (**Tribunal**) has conducted a review of Determination 11 of 2021<sup>1</sup> which sets allowances for members of the Parole Board of South Australia appointed under the *Corrections Act 1982*.
2. As explained in this report, the Tribunal has decided to increase the sessional rates, and financial year cap for such rates, by 2.75%. The Tribunal has issued an accompanying determination, which applies from 1 September 2022.

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<sup>1</sup> 2021 Inaugural Determination of Allowances for Members of the Parole Board of South Australia.

**THE REVIEW PROCESS**

3. On 20 October 2022, in accordance with sections 10(2) and 10(4) of the *Remuneration Act 1990 (Act)*, the Tribunal wrote to and invited submissions by 18 November 2022 in respect of this review from:
  - a. the Honourable Premier of South Australia – as the Minister responsible for the Act who may make submissions or introduce evidence in the public interest
  - b. members of the Parole Board.
4. The Premier and members of the Parole Board were asked to advise the Tribunal by the same date if they wished to make oral submissions to the Tribunal.
5. The Tribunal also placed a notice on its website from 20 October 2022 calling for submissions from affected persons by 18 November 2022.
6. Frances Nelson KC, Presiding Member of the Parole Board, provided a written submission on 1 November 2022, on behalf of members of the Parole Board. On 20 November 2022, the Premier's representative confirmed that the Premier did not intend to make a submission. No other submissions were received.
7. As no request was made to make oral submissions, the Tribunal did not convene a hearing for this review.
8. In her submission, Ms Nelson KC provided an overview of the workload of the Parole Board. She submitted that as the remuneration of Parole Board members was linked in the initial determination to judicial officers, any increase in remuneration for judicial officers should be reflected in a similar increase for Parole Board members.

**CONSIDERATION AND CONCLUSION**

9. As observed by Ms Nelson KC, the current determination directly links the per annum allowances of some members of the Parole Board to the salary of a puisne Judge of the Supreme Court of South Australia. It does this by providing for the Presiding Member to receive an allowance equivalent to 45% of that salary. The allowance for the Deputy Presiding Member and ordinary Members (excluding those who are public sector employees) are then respectively set at 60% and 30% of the Presiding Member's allowance. Accordingly, any increase determined by this Tribunal to the salary of a puisne Judge of the Supreme Court will automatically flow through to the per annum allowances of Parole Board members under the current determination.
10. It is a different matter for the sessional rate allowances, as those are currently specified as fixed amounts per session. The Tribunal however considers that the sessional rates should increase by the same percentage increase which the Tribunal determines from time to time for puisne Judge of the Supreme Court, in order to maintain an appropriate relativity between the per annum and sessional rates.
11. The Tribunal has just issued a determination<sup>2</sup> which increases the salary of a puisne Judge by 2.75% (rounded up to the nearest \$10). The Tribunal has accordingly determined to apply the same percentage increase to the sessional rates and the financial year cap on those rates, but rounded to the nearest dollar given the smaller amounts involved. Further, as the Tribunal is only required to review the allowances of members of the Parole Board every two years,<sup>3</sup> it has decided to amend the determination to make the increase arrangements automatic for next year. The Tribunal will review the suitability of this automatic arrangement when it next reviews the determination.
12. The Tribunal has determined that the increased sessional rates will apply from 1 September 2022, which reflects the same operative date of the salary increase for the judiciary. The updated financial cap will apply from the financial year commencing 1 July 2022. The determination provides for the financial cap to automatically update with any future percentage increase to the salary of a puisne Judge, with that cap applying to the financial year in which the increase takes effect.
13. The Tribunal notes that the determination and report for the members of the judiciary deals with security arrangements. These are not addressed in relation to Parole Board members. However, as has been identified in the report for the judicial determination, the Tribunal is open to review these arrangements. A similar invitation is extended to the Parole Board Members to request that the Tribunal consider this issue.

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<sup>2</sup> Report and Determination 7 of 2022 - Remuneration of Members of the Judiciary, Presidential Members of the SAET, Presidential Members of the SACAT, the State Coroner, and Commissioners of the Environment, Resources and Development Court

<sup>3</sup> In accordance with section 57(4) of the *Correctional Services Act 1982* and regulation 39A of the *Correctional Services Regulations 2016*.

Dated: 14 December 2022

MATTHEW O'CALLAGHAN  
President

DEBORAH BLACK  
Member

PETER DE CURE AM  
Member

## THE REMUNERATION TRIBUNAL

DETERMINATION—NO. 14 OF 2022

*Allowances for Members of the Parole Board of South Australia***SCOPE OF DETERMINATION**

1. This Determination applies to the members of the Parole Board of South Australia appointed under the *Corrections Act 1982*.

**ALLOWANCES**

2. This Determination applies to the members of the Parole Board of South Australia appointed under the *Corrections Act 1982*.

Office Holder (per annum rate)	Allowance (per annum rate)
Presiding Member of the Parole Board	An amount equivalent to 45% of the salary payable to a puisne Judge of the Supreme Court of South Australia <sup>1</sup>
Deputy Presiding Member of the Parole Board	An amount equivalent to 60% of the allowance payable to the Presiding Member of the Parole Board of South Australia
Member of the Parole Board – Ordinary Member (excluding public sector employees)	An amount equivalent to 30% of the allowance payable to the Presiding Member of the Parole Board of South Australia

Office Holder (sessional rate)	Allowance (sessional rate)
Deputy Member of the Parole Board – Ordinary Member	\$1,542 per session <i>subject to increases under clause 8</i>
Member or Deputy Member of the Parole Board – Qualified Medical Officer undertaking Parole Board duties outside of public sector work (see: clause 6 below)	\$1,542 per session <i>subject to increases under clause 8</i>
Member of the Parole Board – Public Sector Employee (see: clause 7 below)	\$514 per session <i>subject to increases under clause 8</i>

3. The allowances at clause 2 of this Determination are payable fortnightly and at a fortnightly rate of the annual amount, with the exception of the sessional rates which are payable on a per session basis.
4. Should an office holder hold multiple offices listed at clause 2 of this Determination, the office holder will receive only one rate of allowance, corresponding to the highest office held.
5. Sessional rates payable under this Determination are capped for each financial year:
- 5.1. for a Member who is a qualified medical officer – at an amount equivalent to the annual allowance payable to an ordinary Member for that financial year
- 5.2. for all other Members – at a maximum amount of \$46,238 per Member (subject to clause 8).
6. A Member or Deputy Parole Board Member who is a public sector medical officer and who undertakes Parole Board work outside of their public sector work will receive the applicable sessional allowance (currently \$1,542) per session for Parole Board work undertaken outside of their public sector work.
7. A Parole Board Member who is a public sector employee who participates in Parole Board hearings and activities in public sector time but who undertakes preparation work for parole Board hearings in their own time will receive the applicable sessional allowance (currently \$514) per session for which they are required to undertake that preparation.
8. If the Tribunal makes a determination which increases the salary of a puisne Judge of the Supreme Court of South Australia, the sessional rates will be taken to have increased by the same percentage (rounded up to the nearest dollar) applied to the salary of a puisne Judge and with effect from the same date. The cap prescribed in clause 5.2 will also be taken to increase by the same percentage (rounded up to the nearest dollar). That new capped amount will apply to the financial year in which the puisne Judge salary increase takes effect. For example, if the salary increase takes effect from 1 September 2023, the new cap will apply from the financial year commencing 1 July 2023.
9. Adequate administrative systems and practices in relation to compliance with this Determination are a matter for the Department for Correctional Services.

**DATE OF OPERATION**

10. This Determination operates from 1 September 2022, with the current financial caps applying from the financial year commencing 1 July 2022. It supersedes Determination 11 of 2021.

<sup>1</sup> As currently provided for by Determination 7 of 2022, or its successor, made by the Remuneration Tribunal of South Australia.

Dated: 14 December 2022

MATTHEW O'CALLAGHAN  
President

DEBORAH BLACK  
Member

PETER DE CURE AM  
Member

## THE REMUNERATION TRIBUNAL

REPORT—NO. 15 OF 2022

*2022 Review of Common Allowance for Members of the Parliament of South Australia***REPORT****INTRODUCTION**

1. The Remuneration Tribunal (**Tribunal**) has conducted a review of Determination 7 of 2021<sup>1</sup> which sets a common allowance for members of Parliament.
2. The common allowance is set under section 4AA of the *Parliamentary Remuneration Act 1990* (**PR Act**), and must be reviewed at least once every 12 months as required by section 4AA(3). It forms part of the basic salary of members of Parliament, and cannot exceed \$42,000.
3. As explained in this report, the Tribunal has determined to increase the first component of the allowance by 4% and the second by 2.75%. The Tribunal has issued an accompanying determination, which applies from 1 October 2022.

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<sup>1</sup> Common Allowance for Members of the Parliament of South Australia.

**THE REVIEW PROCESS**

4. On 22 June 2022, in accordance with sections 10(2) and 10(4) of the *Remuneration Act 1990* (**Act**), the Tribunal wrote to and invited submissions by 19 August 2022 in respect of this review from:
  - a. the Honourable Premier of South Australia – as the Minister responsible for the Act who may make submissions or introduce evidence in the public interest
  - b. members of Parliament
  - c. the Treasurer
  - d. the Independent Commissioner Against Corruption
5. The Tribunal also advertised its intention to review this, and other determinations applicable to members of Parliament, on its website from 22 June 2022. Submissions were also invited by 19 August 2022.
6. On 16 August 2022, the Premier's representative confirmed that no submission would be made. No other submissions were received in respect of this review.

**BACKGROUND**

7. The common allowance was established by the *Parliamentary Remuneration (Determination of Remuneration) Amendment Act 2015* (**Amending Act**) which amended the PR Act.
8. The common allowance is comprised of two monetary amounts. The first amount is provided as compensation for the loss of the annual travel allowance, metrocard special pass and subsidised or free interstate rail travel. The second amount is provided as compensation for the loss of payments for service as ordinary members of parliamentary committees. In these respects, the Amending Act confirms that the common allowance represents compensation to members of Parliament for the loss of specified entitlements that operated before 2015.
9. Section 4AB of the PR Act establishes that the common allowance forms part of the basic salary of a member of Parliament. This section states:

*4AB—Basic salary*

*The **basic salary** payable to a member of Parliament is salary at a rate equal to the rate from time to time of the Commonwealth basic salary less \$42 000 plus the common allowance for the relevant year.*
10. The Tribunal is not able to alter the basis of the common allowance or its component parts. The Tribunal is responsible for making an independent determination of the two components of the common allowance on an annual basis. The Tribunal is not permitted to reduce the amount of the common allowance.
11. The amount of the common allowance was last reviewed by the Tribunal in 2021. On that occasion, the Tribunal provided for a 1.75% increase in the amount of the common allowance.

**CONSIDERATION AND CONCLUSION**

12. The current common allowance components comprise the following amounts:
  - a. The amount of remuneration as reasonable compensation for the abolition of the annual travel allowance, metrocard special pass and subsidised or free interstate rail travel is \$18,038 per annum.
  - b. The amount of remuneration payable to all members of Parliament for service as ordinary members on parliamentary committees is \$13,887 per annum.
13. These amounts total \$31,925 per annum.
14. The Tribunal has taken the following economic data into account:
  - a. The Consumer Price Index (All groups Adelaide) shows the following percentage changes from the corresponding quarters of previous years:
    - i. 3.3% for December 2021
    - ii. 4.7% for March 2022
    - iii. 6.4% for June 2022
    - iv. 8.4% for September 2022.
  - b. The Australian Bureau of Statistics Wage Price Index (Public Sector in South Australia) shows the following percentage changes from the corresponding quarters of previous years:
    - i. 1.2% for September 2021
    - ii. 1.4% for December 2021

- iii. 2.0% for March 2022
  - iv. 1.7% for June 2022
  - v. 2.7% for September 2022.
- c. As at November 2022 the Reserve Bank of Australia forecast of the Consumer Price Index is:
- i. 8% for December 2022 quarter
  - ii. 6.3% for June 2023
  - iii. 4.7% for December 2023
  - iv. 4.2% for June 2024
  - v. 3.2% for December 2024.
15. The Tribunal has noted the steps being taken to reduce the current inflationary trend and has adopted a cautionary approach to recognition of inflationary movements.
16. The Tribunal has adopted the position that the first component of the common allowance should be recognised on the basis of a reimbursement of previously applicable benefits and should accordingly take account of a substantial component of the inflationary movements over the past year. Applying the cautious approach referred to above, the Tribunal considers that the element of the common allowance relating to the abolition of the annual travel allowance, metrocard special pass and subsidised or free interstate rail travel should be increased by 4%.
17. The second element of the common allowance is more directly related to normal remuneration payments. While the Tribunal has noted the Wage Price Index data for the past year, it has also had regard to current inflationary pressures. Consequently, a 2.75% increase to this component is considered appropriate.
18. The increase will apply from 1 October 2022.

Dated: 14 December 2022

MATTHEW O'CALLAGHAN  
President  
DEBORAH BLACK  
Member  
PETER DE CURE AM  
Member

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THE REMUNERATION TRIBUNAL

DETERMINATION—NO. 15 OF 2022

*Allowances for Members of the Parole Board of South Australia*

**DETERMINATION**

1. Pursuant to section 4AA of the *Parliamentary Remuneration Act 1990*, the Remuneration Tribunal makes the following Determination:
  - a) The amount of remuneration as reasonable compensation for the abolition of: annual travel allowance, metrocard special pass and subsidised or free interstate rail travel is \$18,760 per annum.
  - b) The amount of remuneration payable to all Members of Parliament for service as ordinary members on parliamentary committees is \$14,269 per annum.

**DATE OF OPERATION**

2. This Determination operates from 1 October 2022. It supersedes Determination 7 of 2021.

Dated: 14 December 2022

MATTHEW O'CALLAGHAN  
President  
DEBORAH BLACK  
Member  
PETER DE CURE AM  
Member

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THE REMUNERATION TRIBUNAL

REPORT—NO. 16 OF 2022

*2022 Review of Accommodation and Meal Allowances for  
Ministers of the Crown and the Leader and Deputy Leader of the Opposition*

**REPORT**

**INTRODUCTION**

1. The Remuneration Tribunal (**Tribunal**) has conducted a review of Determination 9 of 2021<sup>1</sup> which sets accommodation and meal allowances payable to Ministers of the Crown and the Leader and Deputy Leader of the Opposition.
2. As explained in this report, the Tribunal has determined to increase the allowances by 2.5%. The Tribunal has issued an accompanying determination, which applies from 1 January 2023.

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<sup>1</sup> Per Diem Accommodation and Meal Allowances for Ministers of the Crown and the Leader and Deputy Leader of the Opposition.

**THE REVIEW PROCESS**

3. On 22 June 2022, in accordance with sections 10(2) and 10(4) of the *Remuneration Act 1990 (Act)*, the Tribunal wrote to and invited submissions by 19 August 2022 in respect of this review from:

- a. the Honourable Premier of South Australia – as the Minister responsible for the Act who may make submissions or introduce evidence in the public interest
  - b. members of Parliament
  - c. the Treasurer
  - d. the Independent Commissioner Against Corruption
4. The Tribunal also advertised its intention to review this, and other determinations applicable to members of Parliament, on its website from 22 June 2022. Submissions were also invited by 19 August 2022.
  5. On 16 August 2022, the Premier’s representative confirmed that no submission would be made. No other submissions were received in respect of this review.

#### CONSIDERATIONS

6. The determination under review sets allowances to cover the costs of commercial accommodation and meals associated with official travel by Ministers, the Leader of the Opposition and Deputy.
7. In considering this matter, the Tribunal has had regard to the following economic data relevant to the costs of commercial accommodation and meals:
  - a. The Consumer Price Index (All groups Adelaide) shows the following percentage changes from the corresponding quarters of previous years:
    - i. 3.3% for December 2021
    - ii. 4.7% for March 2022
    - iii. 6.4% for June 2022
    - iv. 8.4% for September 2022.
  - b. As at November 2022 the Reserve Bank of Australia forecast of the Consumer Price Index is:
    - i. 8% for December 2022 quarter
    - ii. 6.3% for June 2023
    - iii. 4.7% for December 2023
    - iv. 4.2% for June 2024
    - v. 3.2% for December 2024.
8. The Tribunal has noted the steps being taken to reduce the current inflationary trend and has adopted a cautionary approach to recognition of inflationary movements.
9. The Tribunal has also had regard to the Australian Taxation Office Taxation Determinations 2021/6 and 2022/10, which respectively set for taxation purposes reasonable accommodation, meal and incidental expenses for the 2021-22 and 2022-23 income years. The Tribunal has noted the following percentage changes between those respective Taxation Determinations, for the highest earners:
  - a. 0% increase to accommodation costs for all capital cities, and most country centres
  - b. 1.9% increase to breakfast costs
  - c. 1.8% increase to lunch and dinner costs
  - d. 3.6% increase to incidentals
  - e. overall 0.8% to 1% increase for daily total (which includes accommodation, meals and incidentals)
10. Having regard to these factors, the Tribunal has decided that these allowances should be increased by 2.5%, with effect from 1 January 2023.

Dated: 14 December 2022

MATTHEW O’CALLAGHAN  
President

DEBORAH BLACK  
Member

PETER DE CURE AM  
Member

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#### THE REMUNERATION TRIBUNAL

DETERMINATION—NO. 16 OF 2022

*Accommodation and Meal Allowances for  
Ministers of the Crown and the Leader and Deputy Leader of the Opposition*

#### SCOPE OF DETERMINATION

1. This Determination applies to Ministers of the Crown, and to the Leader and Deputy Leader of the Opposition.

#### DATE OF OPERATION

2. In this Determination, unless the contrary appears:

“**Commercial Accommodation**” means short term (not permanent) accommodation in a commercial establishment such as a hotel, motel or serviced apartment and must be a genuine arms-length commercial transaction. Commercial Accommodation does not include AirBnB or other “sharing economy” type accommodation.

“**Incurs Actual Expenditure**” means an amount of money spent by a Minister, Member or Officer of the Parliament.

“**Metropolitan Adelaide**” bears the same meaning as defined in the *Development Act 1993*.

“**Meals**” means food or drink purchased by a Minister, Member or Officer of the Parliament in connection with an allowance payable under this Determination.

“**Minister**” means a Minister of the Crown in right of the State of South Australia.

“**Official Duties**” means activities undertaken by a Member of Parliament in relation to their role as a Minister, or their role as the Leader or acting Leader of the Opposition.

“**Per Diem**” means per day in relation to the allowances payable under this Determination.

“**Sydney**” means locations which are less than 10km by road from the Sydney General Post Office (by the most direct route), or less than 5km by road from Sydney’s principal airport (by the most direct route).

#### ACCOMMODATION AND MEAL ALLOWANCES

3. A Minister who incurs actual expenditure for both commercial accommodation and meals when travelling as part their official duties and which necessitates absence from home overnight shall be entitled to be paid a per diem accommodation and meal allowance, as follows:
  - 3.1. Outside Metropolitan Adelaide, but within South Australia:
    - 3.1.1. An allowance at the rate of \$312 per day for the purpose of meeting expenditure in relation to commercial accommodation and meals.
  - 3.2. Outside South Australia, but within Australia (other than Sydney):
    - 3.2.1. An allowance at the rate of \$465 per day for the purpose of meeting expenditure in relation to commercial accommodation and meals.
  - 3.3. Sydney:
    - 3.3.1. An allowance at the rate of \$525 per day for the purpose of meeting expenditure in relation to commercial accommodation and meals.
  - 3.4. Provided that, where it is necessary and appropriate, reasonable additional expenditure to that prescribed by the allowances in 3.1, 3.2 and 3.3 for the purposes of commercial accommodation and meals may be reimbursed on the basis evidence being produced of that additional expenditure.
4. The allowances provided by this Determination shall also be payable to the Leader of the Opposition, and to the Deputy Leader of the Opposition when he or she deputises, at the Leader’s request, for the Leader of the Opposition in his or her official capacity.

#### DATE OF OPERATION

5. This Determination operates from 1 January 2023. It supersedes Determination 9 of 2021.

Dated: 14 December 2022

MATTHEW O’CALLAGHAN  
President

DEBORAH BLACK  
Member

PETER DE CURE AM  
Member

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THE REMUNERATION TRIBUNAL  
REPORT—NO. 17 OF 2022  
*2022 Review of Electorate Allowances for  
Members of the Parliament of South Australia*

#### REPORT

##### INTRODUCTION

1. The Remuneration Tribunal (**Tribunal**) has conducted a review of Determination 8 of 2021<sup>1</sup> which sets an electorate allowances for members of Parliament.
2. As explained in this report, the Tribunal has determined to increase the allowances by 4%. The Tribunal has issued an accompanying determination, which applies from 1 October 2022.

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<sup>1</sup> Electorate Allowances for Members of the Parliament of South Australia.

##### THE REVIEW PROCESS

3. On 22 June 2022, in accordance with sections 10(2) and 10(4) of the *Remuneration Act 1990 (Act)*, the Tribunal wrote to and invited submissions by 19 August 2022 in respect of this review from:
  - e. the Honourable Premier of South Australia – as the Minister responsible for the Act who may make submissions or introduce evidence in the public interest
  - f. members of Parliament
  - g. the Treasurer
  - h. the Independent Commissioner Against Corruption
4. The Tribunal also advertised its intention to review this, and other determinations applicable to members of Parliament, on its website from 22 June 2022. Submissions were also invited by 19 August 2022.
5. On 16 August 2022, the Premier’s representative confirmed that no submission would be made. No other submissions were received in respect of this review.

##### CONSIDERATION AND CONCLUSION

6. Electorate allowances predate the *Parliamentary Remuneration Act 1990 (PR Act)* which commenced in April 1990, and have been set by the Tribunal since and before that time.
7. Consistent with section 4(2) of the PR Act, electorate allowances incorporate expenses associated with discharging parliamentary duties by members of Parliament. While they are part of a member’s remuneration, these allowances are intended to compensate members for the expenses they necessarily incur in the performance of their duties.

8. The Tribunal does not have current data on how members currently spend the electorate allowance, and acknowledges that this may vary substantially depending on the electorate and the member. Historically the Tribunal has recognised that a significant component of the allowance covers the cost of running a motor vehicle in the servicing of electorates. The Tribunal has noted changes in motor vehicle arrangements for members of Parliament which are likely to impact on this historical element of electorate costs imposts. Without attempting to give a fully exhaustive list the Tribunal has also previously noted other items of expense, including accommodation and travelling expenses (not otherwise covered), donations, subscriptions, telephone, printing, stationery and postage.
9. Accordingly, the Tribunal has consistently reviewed electorate allowances against cost of living increases rather than against wage setting criteria. Absent any indication that this approach is no longer applicable, the Tribunal has adopted a but generally consistent approach this year.
10. The Tribunal has taken the following economic data into account:
  - c. The Consumer Price Index (All groups Adelaide) shows the following percentage changes from the corresponding quarters of previous years:
    - i. 3.3% for December 2021
    - ii. 4.7% for March 2022
    - iii. 6.4% for June 2022
    - iv. 8.4% for September 2022.
  - d. As at November 2022 the Reserve Bank of Australia forecast of the Consumer Price Index is:
    - i. 8% for December 2022 quarter
    - ii. 6.3% for June 2023
    - iii. 4.7% for December 2023
    - iv. 4.2% for June 2024
    - v. 3.2% for December 2024.
11. The Tribunal has noted the steps being taken to reduce the current inflationary trend and has adopted a cautionary approach to recognition of inflationary movements.
12. In reviewing this entitlement, the Tribunal has also had due regard to the necessary statutory considerations under section 4(2)(a) of PR Act. That section of the PR Act provides that the Tribunal must, in determining electorate allowances and other remuneration for members of Parliament, have regard not only to their parliamentary duties, but also to:
  - a. their duty to be actively involved in community affairs, and
  - b. their duty to represent and assist their constituents in dealings with governmental and other public agencies and authorities.
13. The Tribunal has decided that the electorate allowances should be increased by 4%, with effect from 1 October 2022. If more accurate information about electorate expenditures had been available to the Tribunal, a higher percentage increase may have applied.
14. The Tribunal proposes to review the basis for electorate allowances in 2023. That review is expected to include consideration of the cost of items and amounts to be covered by the electorate allowance to ensure an appropriate basis for the allowance amount in the future. Submissions in this respect will be invited.

Dated: 14 December 2022

MATTHEW O'CALLAGHAN  
President

DEBORAH BLACK  
Member

PETER DE CURE AM  
Member

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THE REMUNERATION TRIBUNAL

DETERMINATION—NO. 17 OF 2022

*Accommodation and Meal Allowances for  
Ministers of the Crown and the Leader and Deputy Leader of the Opposition*

**SCOPE OF DETERMINATION**

1. This Determination applies to members of the Parliament of South Australia.

**INTERPRETATION**

2. In this Determination, unless the contrary appears:

“**Community Duties**” means any activities of the Member in connection with their duty to be actively involved in community affairs, including, amongst other things, attendance at community events and functions.

“**Electoral Duties**” means any activities of the Member that support or serve their constituents. This includes, amongst other things, the Member’s duty to represent and assist their constituents in dealings with governmental and other public agencies and authorities.

“**Member**” or “**Member of Parliament**” means a Member of the Parliament of South Australia (except where used in relation to a Tribunal Member).

“**Parliamentary Duties**” means any activities of the Member that relate directly to the Member’s role as a Member. This includes, amongst other things, activities in connection with sittings of the Parliament or sittings as a Member on parliamentary committees.

“**Party Political Duties**” means activities of the Member in connection with both their political party and their own, or another Member’s, membership of the Parliament.

“**Tribunal**” means the Remuneration Tribunal of South Australia established by the *Remuneration Act 1990*.

**ELECTORATE ALLOWANCES FOR MEMBERS OF PARLIAMENT**

3. There shall be payable to a Member, in respect of expenses associated with discharging either parliamentary, electoral or community duties (but not party political duties) in the electoral district the Member represents, an electorate allowance payable at the following annual rate.

	<u>ELECTORAL DISTRICT</u>	<u>RATE PER ANNUM</u>
3.1	<b>HOUSE OF ASSEMBLY</b>	
	(a) Adelaide, Badcoe, Black, Bragg, Cheltenham, Colton, Croydon, Davenport, Dunstan, Elder, Elizabeth, Enfield, Florey, Gibson, Hartley, Hurtle Vale, Kaurna, King, Lee, Light, Morialta, Morphett, Newland, Playford, Port Adelaide, Ramsay, Reynell, Torrens, Unley, Waite, West Torrens and Wright.	\$17,815
	(b) Heysen, Kavel and Taylor	\$24,989
	(c) Finniss, Frome, Mount Gambier and Schubert	\$29,202
	(d) Chaffey, Hammond, Mawson, Narungga	\$37,735
	(e) MacKillop	\$42,674
	(f) Flinders	\$49,013
	(g) Giles and Stuart	\$54,416
3.2	<b>LEGISLATIVE COUNCIL</b>	
	Members of the Legislative Council	\$24,101
4.	The electorate allowance payable to a Member under this Determination shall be calculated from the day on which he or she commences to be a Member, and except as provided by clause 5 of this Determination, shall cease to be payable on the day on which such person ceases to be a Member.	
5.	A former member of the Parliament shall be deemed to continue as a member of the Parliament until a successor is elected in his or her place.	

**OPERATIVE DATE**

6. This Determination operates from 1 October 2022. It supersedes Determination 8 of 2021.

Dated: 14 December 2022

MATTHEW O'CALLAGHAN  
President

DEBORAH BLACK  
Member

PETER DE CURE AM  
Member

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THE REMUNERATION TRIBUNAL

REPORT—NO. 18 OF 2022

*2022 Review of Accommodation Expense Reimbursement and Allowances for Country Members of Parliament*

**REPORT****INTRODUCTION**

1. The Remuneration Tribunal (**Tribunal**) has conducted a review of Determination 6 of 2021<sup>1</sup> which provides for eligible members of Parliament to claim allowances or reimbursements for overnight accommodation costs from commercial accommodation or a second residence in Metropolitan Adelaide.
2. As explained in this report, the Tribunal has determined to increase the commercial accommodation expense reimbursement by 1.5% and the second residence accommodation allowance by 3.4%. The Tribunal has issued an accompanying determination, which applies from 1 January 2023.

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<sup>1</sup> Accommodation Expense Reimbursement and Allowance for Country Members of Parliament.

**THE REVIEW PROCESS**

3. On 22 June 2022, in accordance with sections 10(2) and 10(4) of the *Remuneration Act 1990 (Act)*, the Tribunal wrote to and invited submissions by 19 August 2022 in respect of this review from:
  - a. the Honourable Premier of South Australia – as the Minister responsible for the Act who may make submissions or introduce evidence in the public interest
  - b. members of Parliament

- c. the Treasurer
- d. the Independent Commissioner Against Corruption
4. The Tribunal also advertised its intention to review this, and other determinations applicable to members of Parliament, on its website from 22 June 2022. Submissions were also invited by 19 August 2022.
5. On 16 August 2022, the Premier's representative confirmed that no submission would be made.
6. The only submission received was from the ICAC, the Hon Ann Vanstone KC, by letter dated 29 June 2022. Commissioner Vanstone asked the Tribunal to reconsider the submission she put in 2021. In that submission, the Commissioner suggested the Tribunal consider altering the scheme to a yearly fixed amount for country members, with members claiming the allowance required to make a statutory declaration as to their place of residence and its distance from the General Post Office. The Commission suggested that this would reduce compliance costs and efforts, facilitate simpler administration and audit requirements, and would address her concerns that the current criteria for purpose of travel were extremely subjective and were difficult to enforce.
7. While the Tribunal did not adopt this proposal in its 2021 determination, it did adopt the suggestion by the Commissioner to require members to provide a statutory declaration, instead of a mere declaration, as to residence arrangements and the minimum number of nights per year spent at the member's second residence.
8. Separately, on 26 October 2022, the Clerk of the House of Assembly raised an issue about how the current determination would apply in circumstances where a member of Parliament started to rent out their second residence after they had already made eligible claims for the second residence allowance in a financial year. The Tribunal understands this was a hypothetical question raised to assist members of Parliament comply with the determination.

#### **A BACKGROUND TO THIS REVIEW**

9. The history of the previous allowance arrangements is set out in detail in Report 9 of 2020. In summary form, the Tribunal noted that the long standing allowance entitlement existed to facilitate journeys of an official nature from a country member's usual place of residence to Adelaide. The allowance was directed to ensuring that country members were not disadvantaged for fully and properly carrying out their official parliamentary, community or electoral duties in Adelaide.
10. In 2020 the Tribunal made significant changes to the previous allowance system. These changes followed consideration of the arrangements applicable in other States and Territories and recognition of the requirement for an administratively efficient system that was demonstrably reflective of the actual costs incurred by country members of Parliament. As a result of this review, the Tribunal adopted a reimbursement based system for commercial accommodation expenses and an allowance based approach for those country members of Parliament who chose to purchase, or rent on a long term basis, a second Adelaide based residence to enable them to undertake their Parliamentary, community and electoral duties.
11. In its 2021 review the Tribunal made some changes to the administrative requirements for the reimbursement and allowance payment arrangements. The Tribunal noted that significant changes to the system established in 2020 were not sought by members of Parliament. The Tribunal decided to apply a modest inflationary adjustment to amounts established in 2020.

#### **THE CURRENT SYSTEM**

12. The scheme established by the Tribunal's 2020 determination and marginally modified by the 2021 determination differentiates between benefits provided to country members of Parliament whose usual place of residence is outside of the metropolitan Adelaide boundary but within 75 km of the General Post Office and those whose usual place of residence is beyond 75 km from the General Post Office. The first category of members are able to claim a reimbursement amount for accommodation expenses incurred because they need to stay overnight in Adelaide to attend to parliamentary business, or community or electoral activities. A limit is set on the number of night's accommodation which can be claimed each year.
13. The second category of country members can also claim reimbursement of accommodation expenses incurred for the same reasons, or can receive an allowance determined by the Tribunal in the event that they purchase or rent on a long-term basis, a residence as an alternative to incurring nightly accommodation expenses.
14. In its 2020 Report the Tribunal reviewed the 75 km distance provisions and noted inherent difficulties in assessing some locations. A map showing specific locations for the purposes of differentiating between the two groups was adopted

#### **CONCLUSIONS ABOUT THE SCHEME**

15. The Tribunal is cognizant of the need to strike a balance between the adoption of a system which minimizes uncertainty and the potential for inadvertent misuse and is administratively efficient.
16. In this respect the Tribunal believes that administrative improvements could conceivably be made to the existing system. These could particularly apply to reporting arrangements. However, in the absence of any request from either the members of Parliament who benefit from and apply the current system, or from those responsible for administering this system, the Tribunal is not inclined to make a significant change this year.
17. Instead, the Tribunal is minded to consider potential improvements to the scheme and to put out a draft proposal ahead of next year's review.
18. The Tribunal has considered Commissioner Vanstone's proposition that country members might be required to provide an annual statutory declaration confirming that their usual place of residence is either within the 75 km zone or outside of that zone. The Tribunal is cognizant of the significance of the map designating this area rather than road measurements. If a statutory declaration relative to the location of a member of Parliament's usual place of residence is applied as an additional reporting requirement, the Tribunal is not convinced that it will alter factual circumstance of that location. If, however, the statutory declaration is applied to effectively replace a specific claim for reimbursement, the Tribunal is concerned this will diminish the overall accountability of the system and result in a change from an inherently reimbursement based system to a general allowance that does not represent the degree of accountability that prompted the 2020 scheme. Consequently, the Tribunal has decided against any significant change to the structure of the scheme at the present time. In reaching this conclusion the Tribunal appreciates the enforcement difficulties identified by Commissioner Vanstone, particularly in relation to which activities are legitimately encompassed within the purpose of the allowance but has concluded that the obligation should remain vested with members of Parliament to determine, and, if necessary, validate claims made in this respect. The Tribunal will however give further consideration to these submissions in preparing any draft proposal for next year's review.

19. In respect of the matter raised by the Clerk of the House of Assembly, the Tribunal notes that clause 4.2.4 of the current determination provides as follows

*If a Member's usual place of residence or second residence is rented out (i.e. rented to a person in exchange for a monetary payment or pecuniary benefit of any kind) for any period within a financial year, then the Member will not be entitled to a second residence allowance for that financial year. This clause (4.2.4) will come into operation commencing from the 2021/22 financial year.*

20. The Tribunal believes this clause is unambiguous, and in practice requires a member of Parliament to decide at the start of a financial year whether they intend to rent out their usual or second place of residence for any period in that financial year, and hence to only claim the allowance if they do not intend to rent out either residence. Renting out a residence after claiming the allowance would undermine their eligibility to have claimed that allowance. The Tribunal acknowledges that this aspect of the determination could cause issues for members of Parliament, but believes this issue is best addressed as part of the foreshadowed proposed amendments for next year's review, which will allow affected persons a proper opportunity to comment on proposed amendments to the scheme as a whole.

#### Amounts

21. The Tribunal has reviewed the allowances and reimbursement amounts in the context of the following data on cost increases.
22. The Consumer Price Index (All groups Adelaide) shows the following percentage changes from the corresponding quarters of previous years:
- 3.3% for December 2021
  - 4.7% for March 2022
  - 6.4% for June 2022
  - 8.4% for September 2022.
23. The Australian Bureau of Statistics (ABS) assessment of Adelaide rental cost increases shows the following percentage changes from the corresponding quarters of previous years:
- 2.5% for December 2021
  - 2.8% for March 2022
  - 3.4% for June 2022
  - 4.4% for September 2022.
24. While the Tribunal has reviewed data on overall housing cost changes, no definitive conclusion can be extracted from the ABS material.
25. The Tribunal has also had regard to the Australian Taxation Office Taxation Determinations 2021/6 and 2022/10, which respectively set for taxation purposes reasonable accommodation, meal and incidental expenses for the 2021-22 and 2022-23 income years. The Tribunal has noted there was a 0% increase to accommodation costs for all capital cities, and most country centres, between those respective Taxation Determinations. The Tribunal has also taken note of the number of recent interest rate rises.
26. Having regard to these factors, and the Australian Taxation Office Taxation Determinations in particular, the Tribunal has decided to increase the commercial accommodation expense reimbursement amount by 1.5%. The information on rental cost increases, and significant interest rate rises, justifies a higher increase for the second residence accommodation allowance. The Tribunal has accordingly decided to increase that allowance by 3.4%. The increases will apply from 1 January 2023.

Dated: 14 December 2022

MATTHEW O'CALLAGHAN  
President

DEBORAH BLACK  
Member

PETER DE CURE AM  
Member

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THE REMUNERATION TRIBUNAL  
DETERMINATION—NO. 18 OF 2022

*Accommodation Expense Reimbursement and Allowances for Country Members of Parliament*

#### SCOPE OF DETERMINATION

1. This Determination applies to certain specified Members of Parliament who meet the eligibility criteria for a Part A or Part B accommodation reimbursement or allowance.

#### INTERPRETATION

2. In this Determination, unless the contrary appears:

**“Overnight Accommodation Costs”** means costs incurred by a Member that have a direct nexus to the provision of overnight accommodation for the Member, including booking fees and transactions fees.

**“Clerk of the House”** means a person who holds the office of, or is acting in the office of, either the Clerk of the Legislative Council or the Clerk of the House of Assembly, as the case may be.

**“Commercial Accommodation”** means short term (not permanent) accommodation in a commercial establishment such as a hotel, motel or serviced apartment and must be a genuine arms-length commercial transaction. Commercial Accommodation does not include AirBnB or other “sharing economy” type accommodation.

**“Community Duties”** means any activities of the Member in connection with their duty to be actively involved in community affairs, including, amongst other things, attendance at community events and functions.

**“Country Member”** means a Member of Parliament who is eligible for the payment of an accommodation reimbursement or allowance under the terms of this Determination.

**“Electoral Duties”** means any activities of the Member that support or serve their constituents. This includes, amongst other things, the Member's duty to represent and assist their constituents in dealings with governmental and other public agencies and authorities.

“**House of Parliament**” means either the Legislative Council or the House of Assembly, as the case may be.

“**Incurred/incurs Actual Expenditure**” means an amount of money spent by a Member.

“**Member**” or “**Member of Parliament**” means a Member of the Parliament of South Australia (except where used in relation to a Tribunal Member).

“**Metropolitan Adelaide**” bears the same meaning as defined in the *Development Act 1993*.

“**Ministerial Duties**” means activities undertaken by a Member of Parliament in relation to their role as a Minister.

“**Parliamentary Duties**” means any activities of the Member that relate directly to the Member’s role as a Member. This includes, amongst other things, duties in connection with sittings of the Parliament or sittings as a Member on parliamentary committees.

“**Party Political Duties**” means activities of the Member in connection with both their political party and their own, or another Member’s, membership of the Parliament.

“**Second Residence**” means a residence where a Member resides other than the Member’s usual place of residence. That residence must be owned by the Member and/or the Member’s Spouse, or the Member and/or the Member’s Spouse must have a rental agreement for the second residence for a minimum period of six months or more.

“**Signed Declaration**” means a statutory declaration made by the Member confirming that a second residence is maintained by the Member in Metropolitan Adelaide, including the address of that second residence.

“**Spouse**” means a person with whom a Member is married, or a person with whom a Member is in a relationship, as a couple, between two adults, who meet certain eligibility criteria for entry into a registered relationship under the *Relationships Register Act 2016*.

“**Tribunal**” means the Remuneration Tribunal of South Australia established by the *Remuneration Act 1990*.

“**Usual Place of Residence**” means the Member’s home residence where the Member is enrolled to vote on the electoral roll

## **PART A - ELIGIBILITY CRITERIA AND ENTITLEMENT**

### **3. Part A Eligibility Criteria**

- 3.1. A Member of either House of Parliament whose usual place of residence is greater than 75km by road from the General Post Office at Adelaide (by the most direct route); and
- 3.2. The Member has incurred actual expenditure for overnight accommodation costs in relation to:
  - 3.2.1. Commercial accommodation in Metropolitan Adelaide; or
  - 3.2.2. Renting or owning, either jointly or severally by the Member and/or the Member’s Spouse, a second residence in Metropolitan Adelaide; and
- 3.3. The Member has a requirement to stay in Metropolitan Adelaide overnight for the primary purpose of performing either parliamentary, electoral, community, or ministerial duties (but not for the primary purpose of party political duties).

### **4. Part A Entitlement**

- 4.1. Commercial Accommodation Expense Reimbursement:
  - 4.1.1. The Member shall be entitled to be paid an expense reimbursement in relation to commercial accommodation, based on the actual rate of the Member’s expenditure, up to a maximum amount of \$242 for each eligible night.
  - 4.1.2. Prior to payment of the reimbursement, the Member must provide to the Clerk of the House:
    - 4.1.2.1. a receipt as evidence of the amount of actual expenditure for each eligible night; and
    - 4.1.2.2. a claim form confirming any relevant particulars that the Clerk of the House deems necessary to ensure compliance with the terms of this Determination.
- 4.2. Second Residence Accommodation Allowance:
  - 4.2.1. The Member shall be entitled to be paid a second residence accommodation allowance at the rate of \$194 for each eligible night.
  - 4.2.2. Prior to payment of the allowance, the Member must provide to the Clerk of the House:
    - 4.2.2.1. a signed declaration confirming that a second residence is maintained by the Member in Metropolitan Adelaide, including the address of that second residence; and
    - 4.2.2.2. a certificate of title or rental agreement showing the Member and/or the Member’s Spouse as the registered owner or tenant of the second residence; and
    - 4.2.2.3. a claim form confirming any relevant particulars that the Clerk of the House deems necessary to ensure compliance with the terms of this Determination.
  - 4.2.3. The Member must notify the Clerk of the House within 30 days of a change of circumstances in relation to their second residence, which includes establishing, changing or ceasing to maintain the second residence.
  - 4.2.4. If a Member’s usual place of residence or second residence is rented out (i.e. rented to a person in exchange for a monetary payment or pecuniary benefit of any kind) for any period within a financial year, then the Member will not be entitled to a second residence allowance for that financial year. This clause (4.2.4) will come into operation commencing from the 2021/22 financial year.
- 4.3. Maximum Amount of Reimbursement and Allowance Payable under Part A:
  - 4.3.1. A maximum cap of 135 nights, per Member, per financial year, applies to the combined total of all Part A reimbursements and allowances, commencing from financial year 2020/21.
  - 4.3.2. A member is not entitled to receive both a commercial accommodation expense reimbursement and a second residence accommodation allowance for the same night.
  - 4.3.3. If a Member is not a Member of Parliament for a whole financial year, the maximum number of nights per financial year available under Part A shall be reduced on a pro-rata basis, based on the number of days served as a Member of Parliament in the relevant financial year, as a proportion of the total number of days in that financial year. The pro-rata amount shall be rounded to the nearest whole number.

**PART B – ELIGIBILITY CRITERIA AND ENTITLEMENT****5. Part B Eligibility Criteria**

- 5.1. A Member of either House of Parliament whose usual place of residence is less than 75km by road from the General Post Office at Adelaide (by the most direct route), but is outside of Metropolitan Adelaide; and
- 5.2. The Member has incurred actual expenditure for overnight accommodation costs in relation to commercial accommodation within Metropolitan Adelaide; and
- 5.3. The Member has a requirement to stay in Metropolitan Adelaide overnight for the primary purpose of performing either parliamentary, electoral, community, or ministerial duties (but not for the primary purpose of party political duties).

**6. Part B Entitlement**

- 6.1. Commercial Accommodation Expense Reimbursement:
  - 6.1.1. The Member shall be entitled to be paid an expense reimbursement in relation to commercial accommodation, based on the actual rate of the Member's expenditure, up to a maximum amount of \$242 for each eligible night.
  - 6.1.2. Prior to payment of the reimbursement, the Member must provide to the Clerk of the House:
    - 6.1.2.1. a receipt as evidence of the amount of actual expenditure for each eligible night; and
    - 6.1.2.2. a claim form confirming any relevant particulars that the Clerk of the House deems necessary to ensure compliance with the terms of this Determination.
- 6.2. No entitlement for second residence under Part B:
  - 6.2.1. There is no entitlement to an allowance or reimbursement for a Member's second residence under Part B.
- 6.3. Maximum Amount of Reimbursement under Part B:
  - 6.3.1. A maximum cap of 15 nights, per Member, per financial year, applies to the total of all Part B reimbursements commencing from financial year 2020/21.
  - 6.3.2. If a Member is not a Member of Parliament for a whole financial year, the maximum number of nights per financial year available under Part B shall be reduced on a pro-rata basis, based on the number of days served as a Member of Parliament in the relevant financial year, as a proportion of the total number of days in that financial year. The pro-rata amount shall be rounded to the nearest whole number.

**OPERATIVE DATE**

7. This Determination operates from 1 January 2023. It supersedes Determination 6 of 2021.

Dated: 14 December 2022

MATTHEW O'CALLAGHAN  
President  
DEBORAH BLACK  
Member  
PETER DE CURE AM  
Member

**THE REMUNERATION TRIBUNAL****REPORT—NO. 19 OF 2022***2022 Review of Berri Country Magistrate Housing Allowance***REPORT****INTRODUCTION**

1. The Remuneration Tribunal (**Tribunal**) has conducted a review of Determination 8 of 2019<sup>1</sup> which allows the member for the Mawson Electorate to claim reimbursements up to \$3,380 per annum in respect of expenses necessarily incurred travelling by ferry or aircraft between Kangaroo Island and the Fleurieu Peninsula for electoral purposes.
2. As explained in this report, the Tribunal has determined not to change the current determination which will continue to apply.

<sup>1</sup> Reimbursement of Expenses Applicable to the Electorate of Mawson – Travel to and from Kangaroo Island by Ferry and Aircraft.

**THE REVIEW PROCESS**

3. On 22 June 2022, and in accordance with sections 10(2) and 10(4) of the *Remuneration Act 1990 (Act)*, the Tribunal wrote to and invited submissions by 19 August 2022 in respect of this review from:
  - a. the Honourable Premier of South Australia – as the Minister responsible for the Act who may make submissions or introduce evidence in the public interest
  - b. members of Parliament
  - c. the Treasurer
  - d. the Independent Commissioner Against Corruption
4. The Tribunal also advertised its intention to review this, and other determinations applicable to members of Parliament, on its website from 22 June 2022. Submissions were also invited by 19 August 2022.
5. On 16 August 2022, the Premier's representative confirmed that no submission would be made. No other submissions were received in respect of this review.

**CONSIDERATION AND CONCLUSION**

6. In reviewing this entitlement, the Tribunal has had due regard to the necessary statutory considerations under section 4(2)(a) of the *Parliamentary Remuneration Act 1990 (PR Act)*. That section of the PR Act provides that the Tribunal must, in determining electorate allowances and other remuneration for members of Parliament, have regard not only to their parliamentary duties, but also to:

- a. their duty to be actively involved in community affairs; and
  - b. their duty to represent and assist their constituents in dealings with governmental and other public agencies and authorities.
7. The Tribunal has also given due regard to the cost of journeys between Fleurieu Peninsula and Kangaroo Island for the relevant period. The Tribunal notes that the cost of travel on the SeaLink Kangaroo Island Ferry Service has increased by approximately 12% since Determination 8 of 2019 was issued.
8. Despite these cost increases, the Tribunal does not consider it appropriate to adjust the amount of the entitlement at the time of this review in circumstances where the Member for Mawson:
- a. has not sought an increase to the allowance, and has not provided evidence of how often they travel to and from Kangaroo island and the usual costs incurred
  - b. can meet the costs of ferry or air travel (if over \$3,380) using other allowances set by the Tribunal, including the electorate allowance.
9. Accordingly, Determination 8 of 2019 will continue to apply.

Dated: 14 December 2022

MATTHEW O'CALLAGHAN  
President

DEBORAH BLACK  
Member

PETER DE CURE AM  
Member

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## LOCAL GOVERNMENT INSTRUMENTS

### DISTRICT COUNCIL OF FRANKLIN HARBOUR

#### *Change of Meeting Date*

NOTICE is hereby given that the Ordinary January Council Meeting will now be held on Wednesday, 18 January 2023, commencing at 1.00pm in the Council Chambers of Main Street, Cowell, in lieu of Wednesday, 11 January 2023.

Dated: 15 December 2022

S. A. GILL  
Chief Executive Officer

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### DISTRICT COUNCIL OF KIMBA

#### *Assignment of name to a new road*

NOTICE is hereby given that the District Council of Kimba (the **Council**), at its meeting held on 14 December 2022 and pursuant to section 219 of the *Local Government Act 1999*, resolved to assign the name "Mayfield Court" to the section of new road extending south off Nugent Road in Kimba.

A plan delineating the new road and a copy of the Council resolution, are available for inspection on the Council's website at [www.kimba.sa.gov.au/](http://www.kimba.sa.gov.au/).

Dated: 22 December 2022

DEB LARWOOD  
Chief Executive Officer

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## PUBLIC NOTICES

### NATIONAL ELECTRICITY LAW

#### *Notice of Final Rule*

#### *Extension of Final Determination*

The Australian Energy Market Commission (AEMC) gives notice under the National Electricity Law as follows:

Under s 107, the time for the making of the final determination on the *Operational security mechanism* (Ref. ERC0290) proposal has been extended to **27 July 2023**.

Under s 107, the time for the making of the final determination on the *Establishing revenue determinations for Intending TNSPs* (Ref. ERC0343) proposal was extended from **1 December 2022** to **22 December 2022**.

Under ss 102 and 103, the making of the *National Electricity Amendment (Establishing revenue determinations for Intending TNSPs) Rule 2022 No. 12* (Ref. ERC0343) and related final determination. All provisions commence on **20 January 2023**.

Documents referred to above are available on the AEMC's website and are available for inspection at the AEMC's office.

Australian Energy Market Commission

Level 15, 60 Castlereagh St

Sydney NSW 2000

Telephone: (02) 8296 7800

[www.aemc.gov.au](http://www.aemc.gov.au)

Dated: 22 December 2022

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# NOTICE SUBMISSION

The South Australian Government Gazette is published each Thursday afternoon.

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- Subtitle—a summary of the notice content
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