



No. 13 of 2016

DETERMINATION AND REPORT OF THE REMUNERATION TRIBUNAL
2016 JUDICIAL SECURITY ALLOWANCE

A. REPORT

1. Scope of Determination

The Remuneration Tribunal (“the Tribunal”) is given jurisdiction under section 13 of the *Remuneration Act 1990* (“the Act”) to determine the remuneration payable to the judiciary and holders of the public offices listed in that section of the Act. The Tribunal is also given jurisdiction under section 14 of the Act to determine the remuneration payable to holders of certain other public offices where jurisdiction is conferred on the Tribunal by any other Act, or by proclamation by the Governor.

This Determination and report sets out the security allowance payable to:

The Chief Justice, Judges and Masters of the Supreme Court;
The Chief Judge, Judges and Masters of the District Court;
The Senior Judge, Judges and Magistrates of the Industrial Relations Court;
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; and
The President, Deputy Presidents and Commissioners of the Industrial Relations Commission.

2. Procedural History

The Judicial Remuneration Coordinating Committee (“JRCC”) in submissions made in 2014 and 2015, foreshadowed an allowance for the provision of personal and home security for judicial officers. Subsequently, on 13 May 2016, the JRCC made an application to the Tribunal for a Determination in relation to an annual allowance payable for the purposes of judicial security.

In accordance with section 10(2) of the Act, the Tribunal, by letter dated 16 May 2016, invited the JRCC to make submissions in relation to the claim for judicial security allowance. The Tribunal also invited the Premier, as Minister responsible for the Act, to make a submission in the public interest.

The JRCC, as well as the Crown Solicitor’s Office on behalf of the Premier, were given the opportunity to make oral submissions at a hearing convened on 24 May 2016. A further hearing was conducted by the Tribunal on 7 September 2016, at which time the Tribunal considered more comprehensive submissions from the parties.

3. Submissions

The JRCC submitted the following:

- The allowance is intended to meet some of the costs incurred for security at judicial officers' private residences;
- There have been at least two occasions recently in which the houses of judges have been invaded;
- The basis on which the claim is fixed at \$1,000 per annum reflects the cost of providing security monitoring on an annual basis but it will be for the member of the judiciary to determine how the allowance is used for security purposes;
- That the operative date of the proposed allowance be 1 July 2016;
- This is just one of a number of measures being taken to increase the security of judicial infrastructure and the judiciary. Other measures include security risk assessments of the court precinct; and
- Approximately 80 to 90 members of the judiciary already have arrangements for alarm monitoring systems so a 'one-size fits all' arrangement will not work. The use of the allowance needs to be discretionary for each member.

The Crown Solicitor's Office, on behalf of the Premier, submitted the following:

- The Premier supports the claim made by the JRCC to award an annual allowance of \$1,000 per annum for judicial security to: all Judges; Magistrates; Commissioners of the Industrial Relations Commission of South Australia; the State Coroner and Deputy State Coroner; the Masters of the Supreme Court of South Australia and the District Court of South Australia;
- The proposed security allowance is the result of a consultation and budgetary process undertaken by officers of the Courts Administration Authority ("CAA") and the JRCC. This is just one of a range of security measures implemented to address security issues for the judiciary both at the courts precinct and at the residences of judicial officers;
- An allowance, as opposed to a reimbursement of costs incurred, is the preferred method of payment to members of the judiciary as it will avoid unnecessary administrative complexity; and
- The operative date for the allowance should be from 1 July 2016, as submitted by the JRCC.

4. Summary and Conclusions

Based on the submissions of the parties and all of the information before it, the Tribunal is of the view that the claim for the provision of a judicial security allowance is an appropriate measure in the context of the overall chain of security applicable to those persons within the scope of this Determination.

In the early 21st Century, what might comprise the place of employment has attracted a broader perception than simply a workshop, office, construction site, or other similar geographically defined location. With the growth of the service economy and contemporary employment practices, such as working from home and more mobile employment activity,

the law has grown to accommodate a more expansive conception of where work is performed.

The Tribunal has noted that prevalent use of information technology and remote access has become a feature of judicial officers' employment and that judicial officers frequently, if not consistently, perform their duties not only at the court buildings and their chambers, but commonly are required to work from home in the performance of their duties. The Tribunal considers it appropriate that the employer, in this case the state of South Australia, should have due regard to the Work Health and Safety ("WHS") risks associated with judicial officers' employment.

On the material before it, the Tribunal is satisfied that a substantive level of risk to the personal safety of judicial officers exists, which should be recognised as extending to the time a judicial officer performs work at the courts, their chambers and at their private residence.

The Tribunal is substantially influenced by the consent of the parties in relation to the means by which the WHS risks to judicial officers are to be managed. Had the Tribunal approached this matter *de novo* it may have determined a different solution. However, there is no case before the Tribunal which presents an alternative to the consent of the parties and the Tribunal defers to that consensus.

B. DETERMINATION

1. The Tribunal determines that a security allowance of one thousand dollars (\$1,000) per annum for expenditures for the purpose of personal security at the judicial officers residence shall be payable to the following office holders:

The Chief Justice, Judges and Masters of the Supreme Court;
The Chief Judge, Judges and Masters of the District Court;
The Senior Judge, Judges and Magistrates of the Industrial Relations Court;
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; and
The President, Deputy Presidents and Commissioners of the Industrial Relations Commission.

2. The allowance is payable fortnightly and at a fortnightly rate of the annual amount payable at clause 1 of this Determination.
3. The operative date of this Determination shall be 1 July 2016.



John Lewin
PRESIDENT



Peter Alexander
MEMBER



Pamela Martin
MEMBER

Dated this 27th day of September 2016