

REPORT OF THE REMUNERATION TRIBUNAL

CONVEYANCE ALLOWANCE

1. INTRODUCTION

- 1.1 The Conveyance Allowances for Judges, Court Officers and Statutory Officers is currently prescribed in the Remuneration Tribunal's Determination 5 of 2005.
- 1.2 Determination 5 of 2005 provides Conveyance Allowances based on the following South Australian manufactured vehicles: the Holden Calais, the Holden Berlina and the Mitsubishi 380 Sedan.
- 1.3 In April 2008 the Judicial Remuneration Coordinating Committee (JRCC) requested the Remuneration Tribunal review the Conveyance Allowance, given the Mitsubishi 380 Sedan is no longer available from Fleet SA.

2. SUBMISSIONS

- 2.1 In reviewing the Conveyance Allowance, the Remuneration Tribunal received written submissions from:
 - The Chair of the JRCC, on behalf of all the Justices and Masters of the Supreme Court, the Judges and Masters of the District Court, the Judges of the Industrial Relations Court, Stipendiary and Industrial Magistrates, the lay Deputy Presidents and Commissioners of the Industrial Relations Commission, the Commissioners of the Environment Resources and Development Court; the State Coroner, and the Deputy State Coroner; and
 - The Crown Solicitor's Office on behalf of the Minister in the public interest.
- 2.2 The Remuneration Tribunal convened a hearing on the 30 May 2008 to hear verbal submissions from the following attendees:
 - On behalf of the JRCC: Justice David Bleby; Judge Wayne Chivell; State Coroner Mark Johns; Stipendiary Magistrate Theodore Iuliano and Stipendiary Magistrate Kym Millard.
 - On behalf of the Minister, in the public interest, Mr Craig Stevens, Managing Solicitor, Crown Solicitor's Office.
- 2.3 In summary, the JRCC submitted that:

Benchmark Vehicles:

 - 2.3.1 With the demise of the Mitsubishi 380 sedan and the introduction of the Holden Commodore VE Series range in August 2006 with a claimed reduction in equipment level and relative lowering of prices, the benchmark vehicles for all three levels of office holders should be reviewed to reflect these changes.
 - 2.3.2 The Commodore Omega is not considered an appropriate benchmark vehicle in substitution of the Mitsubishi 380 as it does not have the equivalent features including alloy wheels, front fog lamps and side impact airbags.

- 2.3.3 The revised benchmark vehicles should be the Calais V, the Calais and the VE Berlina V6 in lieu of the vehicles prescribed in 5 of 2005 with Fleet SA making up any additional capital outlay at the time of re-sale of a vehicle.

Increasing the Range of Vehicles:

- 2.3.4 The range of available vehicles should be expanded to include the full range of vehicles sold in Australia by companies which assemble some or all of their vehicles in Australia.
- 2.3.5 In the interest of reducing greenhouse gas emission, reducing fuel costs through the use of alternative fuels and of informed vehicle selection, the full range of diesel powered Holden vehicles and other fuel efficient vehicles should now be made available.

Entitlement to Purchase:

- 2.3.6 While Clauses 4.13 and 4.14 of Determination 5 of 2005 provide the right to purchase the vehicle at any time during the 12 months immediately preceding the date of retirement these should now be amended to include resignation.
- 2.3.7 Consequently Clause 2.1 of Determination 5 of 2005 should be amended to include the following definitions of resignation and retirement.
- “Resigns” has the same meaning as in the *Judges’ Pensions Act 1971*
 - “Retires” has the same meaning as in the *Judges’ Pensions Act 1971*
- 2.4 In summary, the Crown Solicitor’s Office on behalf of the Minister in the public interest, submitted that:

Benchmark Vehicles:

- 2.4.1 In February 2008, Holden updated the Commodore Omega Sedan and the safety features are now superior to those of the Mitsubishi 380 including six airbags (driver, front passenger, curtain and side impact), alloy wheels and electronic stability program. The benchmark vehicle for the Magistrates Conveyance Allowance should be the Commodore Omega Sedan.
- 2.4.2 Given Fleet SA advice that with the introduction of the Commodore VE Series there has been a relative downgrading of the Berlina model, the submission of the JRCC to determine the Calais V and the Calais as the other benchmark vehicles is reasonable.

Increasing the Range of Vehicles:

- 2.4.3 Until further consideration occurs at a whole-of-Government level the Remuneration Tribunal should not make any determination on this issue.

Entitlement to Purchase:

- 2.4.4 Fleet SA has advised that the South Australian Motor Vehicle Policy contains a clause which allows an Executive to purchase their remuneration vehicle at the end of the lease period upon resignation or retirement. In light of this, the Premier supports a Determination in the manner sought by the JRCC.

3. TRIBUNAL DECISION

The Tribunal has considered the submissions made, conducted additional enquiries and has decided that changes are warranted to the existing Determination.

3.1 Benchmark Vehicles & Allowances:

The Tribunal has concluded that the Holden Calais VE Sedan is now the appropriate vehicle for the Judges of the District Court group and that the Holden VE Omega Sedan for the Magistrates group, the latter replacing the Mitsubishi 380 Sedan.

Accordingly, the Tribunal has decided that Judges, Court Officers and Statutory Officers are entitled to receive a Conveyance Allowance payable fortnightly at an annual rate as follows:

3.1.1 For:

Judges of the Supreme Court;
the Chief Judge of the District Court;
the Senior Judge of the Industrial Relations Court;
the President of the Industrial Relations Commission; and
the Auditor General;

an amount which is the higher of:

- a) \$17,727; and
- b) the amount determined from time to time by Fleet SA as the annual charge payable by Executives for a Holden Calais VE V-Series Sedan, less the sum of \$758.

3.1.2 For:

Judges of the District Court;
Judges of the Industrial Relations Court;
Judges of the Environment, Resources and Development Court;
Masters of the Supreme Court;
the Electoral Commissioner;
the Ombudsman; and
the Health and Community Services Complaints Commissioner;

an amount which is the higher of:

- a) \$15,620; and
- b) the amount determined from time to time by Fleet SA as the annual charge payable by Executives for a Holden Calais VE Sedan, less the sum of \$758.

3.1.3 For:

The Chief Magistrate;
the Deputy Chief Magistrate;
Supervising Magistrates;
Stipendiary Magistrates;
Industrial Magistrates;

Masters of the District Court;
the State Coroner;
the Deputy State Coroner;
Deputy Presidents (other than Judges) and Commissioners of the Industrial Relations Commission; and
Commissioners of the Environment, Resources and Development Court;
the Employee Ombudsman;
the Deputy Electoral Commissioner;

an amount which is the higher of:

- a) \$13, 443; and
- b) the amount determined from time to time by Fleet SA as the annual charge payable by Executives for a Holden Commodore VE Omega Sedan, less the sum of \$758.

3.2 Increasing the Range of Vehicles:

The Remuneration Tribunal will not make a determination to increase the range of vehicles at this stage but considers that this issue needs to be addressed by the Government particularly having regard to the fact that many other vehicles are purchased by Fleet SA for use by Government officers.

The Remuneration Tribunal will continue to consider requests for vehicles outside of the specified range on a case by case basis, taking into consideration the rationale for such a request.

In the meantime the range of vehicles in the Schedule to the Determination will be amended to delete reference to the Mitsubishi 380 Sedan.

3.3 Entitlement to Purchase:

The Remuneration Tribunal will amend clauses 4.13, 4.14 and 2.1 of Determination 5 of 2005 to provide that a vehicle may be purchased within the 12 months immediately preceding resignation or retirement or at the end of the lease period.

3.4 Date of Operation:

The Conveyance Allowance shall operate on and from 1 April 2008.

H.R. BACHMANN
PRESIDENT

July 2008