



No. 9 of 2017

REPORT OF THE REMUNERATION TRIBUNAL
CONVEYANCE ALLOWANCE – JUDGES, COURT OFFICERS AND STATUTORY
OFFICERS

INTRODUCTION

1. The Remuneration Tribunal (“the Tribunal”) has jurisdiction under section 13 of the *Remuneration Act 1990* (“the Act”), to determine the remuneration payable to judicial officers. The Tribunal also has jurisdiction, under section 14 of the Act, to determine the remuneration payable to holders of certain statutory public offices, some of whom are subject to this Report. The Act defines remuneration as including; salary, allowances, expenses, fees and any other benefit of a pecuniary nature.
2. Section 8(2) of the Act provides that the Tribunal must sit at least once in each year for the purpose of determining, or reviewing previous determinations of remuneration, made under the Act.
3. This report deals with the conveyance allowances payable to Judges, Court Officers and those statutory officers to whom it currently applies. Conveyance allowance is provided for meeting the costs associated with leasing a motor vehicle through Fleet SA.

BACKGROUND

4. The last review of the conveyance allowance was conducted in 2016, which resulted in the Tribunal making Determination 9 of 2016. The cost of leasing a particular vehicle is set by Fleet SA and is expressed as a monetary amount in terms of Total Remuneration Package Value (“TRPV”). Historically, the Tribunal has determined conveyance allowances having regard to TRPVs corresponding to Holden vehicles as scheduled in the Fleet SA Judicial Vehicle Schedule.
5. The Tribunal’s previous Determinations have provided for three levels of conveyance allowance for the various officers within the scope of its Determination, which were benchmarked to the TRPV of three different Holden vehicles. Those amounts are set out as follows:
 - An amount which is the higher of (a) \$17,541; and (b) the amount determined from time to time by Fleet SA as the annual charge payable by Executives for a Holden Calais VF II V-Series Sedan, less the sum of \$758.
 - An amount which is the higher of (a) \$16,551; and (b) the amount determined from time to time by Fleet SA as the annual charge payable by Executives for a Holden Calais VF II Sedan, less the sum of \$758.
 - An amount which is the higher of (a) \$15,298; and (b) the amount determined from time to time by Fleet SA as the annual charge payable by Executives for a Holden Commodore VF II Evoke Sedan, less the sum of \$758.

6. The effect of the previous Determinations was to provide that, should a judicial officer select one of the locally made vehicles and the TRPV of that vehicle was greater than the monetary allowance prescribed by the Determination, there would be no additional charge to a judicial officer who chose such a vehicle.
7. Previously, only in limited circumstances could judicial officers select a different vehicle to those listed in a schedule of vehicles compiled by Fleet SA (clause 3.2 of Determination 9 of 2016).

SUBMISSIONS

8. The Tribunal, by letters dated 6 July 2017, invited written and oral submissions from the affected parties for consideration by the Tribunal for the purposes of its review. Written submissions were filed by the Judicial Remuneration Coordinating Committee (“JRCC”) and the Crown Solicitor’s Office (“CSO”) on behalf of the Hon. Premier. The Tribunal also provided an opportunity for the making of oral submissions on 22 August 2017. The Tribunal heard oral submissions from the JRCC and the CSO on behalf of the Hon. Premier. A summary of the written and oral submissions put to the Tribunal is provided below.
9. The JRCC submitted that:
 - The current list of judicial vehicles is not an adequate selection for judicial officers, as part of the terms and conditions of the vehicle use are that the vehicle must be made available for the performance of judicial duties, which include overnight travel to circuit courts with files, luggage, and other Courts Administration Authority officers.
 - It makes no sense to fix the amount of conveyance allowance by using the TRPV of vehicles that are unavailable for lease.
 - If the Tribunal is minded to make a determination of a conveyance allowance that does not include the benchmarking of locally made vehicles, then the amounts of (1) \$18,975, (2) \$16,659, and (3) \$15,681 are appropriate for the three different levels of conveyance allowance within the Tribunal’s Determination. These amounts correspond to three similar vehicles from the current Judicial Vehicle Schedule.
 - The JRCC does not oppose any necessary amendments to the conveyance allowance Determination as a direct consequence of the commencement of the *Statutes Amendment (South Australian Employment Tribunal) Act 2016 (SA)* and the *South Australian Employment Tribunal Act 2014 (SA)*.
 - That the Tribunal not defer the conveyance allowance review to a later date, having regard to section 8(2) of the Act, which provides that the Tribunal must sit once in each year for the purpose of determining, or reviewing previous determinations of remuneration.
10. The CSO on behalf of the Honourable Premier, submitted that:
 - The current list of judicial vehicles is an adequate selection for judicial officers, and that the list of judicial vehicles is similar to those provided by Fleet SA to Public Sector Executives.
 - Historically, it is clear that the Tribunal has adopted a public policy position to fix the conveyance allowance in such a way that supports the local manufacturing industry. It may be necessary for the Tribunal to consider a new approach in light of the cessation of locally produced vehicles in South Australia.
 - The Tribunal should consider changes to its conveyance allowance Determination that are consistent with the provisions of the *Statutes Amendment (South Australian Employment Tribunal) Act 2016 (SA)* and the *South Australian Employment Tribunal Act 2014 (SA)*.

- That the Tribunal adjourn the current proceedings until the matter of Government fleet vehicles is resolved at a whole-of-government level.

EXPANSION OF THE SOUTH AUSTRALIAN EMPLOYMENT TRIBUNAL

11. As from 1 July 2017, the jurisdiction of the South Australian Employment Tribunal ("SAET") expanded upon the dissolution of the Industrial Relations Court and Industrial Relations Commission of South Australia. These changes were brought about by the *Statutes Amendment (South Australian Employment Tribunal) Act 2016* and make necessary a number of changes to the scope of the application of the Tribunal's conveyance allowance Determination. The submissions on behalf of the Premier and the JRCC are in accord in relation to the appropriate changes. Such changes will be made in the Determination arising from this Report. The consequence will be removal of some designated office holders to which Determination 9 of 2016 applied.
12. The effect of the legislative changes has resulted in the scope of application of the accompanying Determination being amended to cover the following office holders:
 - the Chief Justice of the Supreme Court;
 - the Puisne Judges of the Supreme Court;
 - the President of the South Australian Employment Tribunal;
 - the Judges of the South Australian Employment Tribunal;
 - the Magistrates of the South Australian Employment Tribunal;
 - the Judges of the Environment, Resources and Development Court;
 - the Deputy Presidents of the South Australian Employment Tribunal;
 - the Chief Judge of the District Court;
 - the other District Court Judges;
 - the Chief Magistrate;
 - the Deputy Chief Magistrate;
 - the other Magistrates;
 - the Masters of the Supreme Court;
 - the Masters of the District Court;
 - the State Coroner;
 - the Deputy State Coroners;
 - the Commissioners of the Environment, Resources and Development Court;
 - the Auditor-General;
 - the Electoral Commissioner;
 - the Deputy Electoral Commissioner; and
 - the Health and Community Services Complaints Commissioner.

THE HONOURABLE PREMIER'S APPLICATION FOR AN ADJOURNMENT

13. After commencement of the Tribunal's review, on 29 August 2017, the CSO on behalf of the Honourable Premier made an application for an adjournment to proceedings until such time as the matter of Government fleet vehicles can be resolved at a whole-of-Government level. The Tribunal has decided to conclude the current review without adjourning the proceedings. For reasons which will become apparent below, the Tribunal sees no necessity to defer the conclusion of the current review.

CONSIDERATION OF ALLOWANCE

14. The history of the conveyance allowance for the office holders within the scope of the Tribunal's Determination has featured a significant public policy concern to support local vehicle production in South Australia. At this point, no motor vehicles will be produced in South Australia. Accordingly, the Tribunal intends to remove reference to the Holden vehicles in the conveyance allowance Determination and provide only a money amount of allowance.

15. Moreover, the Tribunal accepts the Premier's submission that the current schedule of vehicles, compiled by Fleet SA, as tabled in the proceedings, is an adequate selection of vehicles. The Tribunal notes that the schedule of vehicles compiled and managed by Fleet SA may be updated from time-to-time by Fleet SA, to accommodate changing circumstances, should they arise. The Tribunal will remove the current provisions providing for selection of alternative vehicles. As a consequence, the choice of vehicle will be a matter for the judicial officers to select from the schedule of vehicles compiled by Fleet SA, as varied from time to time.
16. The Tribunal has given consideration to the information before it, which includes a schedule of vehicles and appropriate calculations of TRPV which provide a basis on which to determine an adequate monetary value of the conveyance allowance. The Tribunal has concluded that the conveyance allowance will no longer be dependent on the TRPV of any particular vehicle, and that the current monetary amounts of the conveyance allowance remain adequate.
17. A Determination will issue accordingly.



John Lewin
PRESIDENT



Peter Alexander
MEMBER



Pamela Martin
MEMBER

Dated this 8th day of November 2017