



No. 13 of 2019

**REPORT OF THE REMUNERATION TRIBUNAL**  
**OVERSEAS ACCOMMODATION AND DAILY ALLOWANCE**  
**JUDICIAL CASE MANAGEMENT AND ETHICS PROGRAMME - JUDGE DART**

**INTRODUCTION AND BACKGROUND**

1. On 5 December 2019, the Remuneration Tribunal (“the Tribunal”) received a request from His Honour Judge Graham Dart (“Judge Dart”) for a Determination in relation to overseas travel entitlements applicable to official travel for the purposes of professional development scheduled for February 2020.
2. The Tribunal’s Determination 9 of 2019<sup>1</sup> provides for the payment of accommodation and meal allowances for members of the Judiciary. That Determination does not apply to official travel for journeys undertaken outside of Australia. The Tribunal has therefore decided to consider the travel as advised and make a Determination relevant to meals and accommodation therefore.
3. The most recent Determination in relation to overseas official travel entitlements was Determination 10 of 2016. That Determination was made by the Tribunal on 13 September 2016.

**PROCEDURAL HISTORY**

4. Section 10(2) of the *Remuneration Act 1990* (“the Act”) provides that prior to the making of a Determination, the Tribunal must allow an affected person, or persons of an affected class, a reasonable opportunity to make submissions orally or in writing to the Tribunal.
5. Section 10(4) of the Act provides that the Honourable Premier of South Australia (“the Premier”), as the Minister responsible for the Act may intervene, personally or by counsel or other representative, in proceedings before the Tribunal for the purpose of introducing evidence, or making submissions, on any question relevant to the public interest.
6. The Tribunal, by letters dated 9 December 2019, wrote to Judge Dart, the Judicial Remuneration Coordinating Committee (“JRCC”), and the Magistrates Association of South Australia (“MASA”) notifying of the Tribunal’s intention to consider a Determination in relation to overseas travel entitlements for Judge Dart, and inviting submissions accordingly.
7. The Tribunal, by letter dated 9 December 2019, wrote to the Premier, as the Minister responsible for the Act, inviting submissions in relation to the Tribunal’s consideration of a Determination of official overseas travel entitlements for Judge Dart.

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<sup>1</sup> *Remuneration Tribunal of South Australia Determination 9 of 2019 – Accommodation and Meal Allowances for Judicial Officers, Court Officers and Statutory Officers.*

8. In addition, on 9 December 2019, a notification of the review was also placed on the Tribunal’s public website.

## SUBMISSIONS

9. Submissions were received from Judge Dart and the JRCC. A summary of those submissions is provided as follows:
  - 9.1. Judge Dart submitted that:
    - 9.1.1. Accommodation and daily allowance provisions are sought in relation to official travel to London in February 2020 for the purpose of attending a Judicial Case Management and Ethics Training Programme.
    - 9.1.2. The travel being undertaken is a mixture of official and personal travel. Travel entitlements are only sought for those periods which relate to official travel.
    - 9.1.3. In previous Determinations, the Tribunal has made reference to accommodation and daily allowance provisions in Commonwealth Remuneration Tribunal Determinations.
  - 9.2. The Judicial Remuneration Coordinating Committee submitted that:
    - 9.2.1. The JRCC supports the application for Judge Dart’s overseas travel in respect of fixing an appropriate daily allowance and accommodation rate.
10. No other submissions were received by the Tribunal.

## CONSIDERATION AND CONCLUSION

11. 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.
12. The Tribunal notes that no Determination of overseas travel entitlements has been sought since the previous request was made in the later part of 2016. That request resulted in the making of Determination 10 of 2016<sup>2</sup>, which was applicable to the Chief Justice, who undertook overseas travel specified in Report 10 of 2016.
13. 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 Magistrate in the course of his or her duties as a judicial officer.
14. Accordingly, the accompanying Determination provides that Judge Dart shall be entitled to be paid accommodation and daily allowance provisions, equivalent to those prescribed by *Commonwealth Remuneration Tribunal (Official Travel) Determination 2019*, for the purpose of Official Travel to London, as undertaken by Judge Dart in February 2020. The costs of such accommodation and daily allowance provisions will be borne by the State.
15. For the avoidance of doubt and for the purposes of this Report and the accompanying Determination, the term “Official Travel” means travel of an official nature undertaken in the course of a judicial officer’s duties as determined by the Chief Justice.
16. Relevantly, the *Commonwealth Remuneration Tribunal (Official Travel) Determination 2019* currently provides as follows:

**“25 Travel allowance for overseas travel**

*Accommodation*

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<sup>2</sup> *Remuneration Tribunal Determination 10 of 2016 – Overseas Accommodation and Daily Allowance for the Chief Justice of the Supreme Court – Travel to Papua New Guinea in September 2016.*

(1) *When travelling overseas on official business, an office holder is entitled to accommodation at Commonwealth expense. Accommodation is to be at a standard reasonably equivalent to that provided for the office holder in Australia.*

*Meals and incidentals*

(2) *An office holder travelling overseas on official business is to be paid, for meals and incidentals, the total meals and incidentals amounts set out in the Taxation Determination TD 2019/11 (**the taxation determination**) for the destinations in Table 9 of the taxation determination.”*

**DATE OF OPERATION**

17. The accompanying Determination will have operative effect on 23 December 2019.



John Lewin  
**PRESIDENT**



Peter Alexander  
**MEMBER**



Pamela Martin  
**MEMBER**

Dated this 23<sup>rd</sup> day of December 2019