



No. 6 of 2016

## DETERMINATION AND REPORT OF THE REMUNERATION TRIBUNAL

### REMUNERATION FOR MEMBERS OF THE JUDICIARY, MEMBERS OF THE INDUSTRIAL RELATIONS COURT AND COMMISSION, THE STATE CORONER, AND COMMISSIONERS OF THE ENVIRONMENT, RESOURCES & DEVELOPMENT COURT

#### 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.

This Determination varies Determination 5 of 2016, in relation to the offices of Chief Magistrate and Magistrate.

#### REPORT

On 23 March 2016, the Tribunal received correspondence from Magistrate Kitchin, on behalf of the Magistrates Association of South Australia, in relation to the salary payable to the office of the Chief Magistrate within the Tribunal’s Determination 5 of 2016. Magistrate Kitchin’s correspondence brought to the attention of the Tribunal a number of amendments to the *Magistrates Act 1983* by the *Statutes Amendment (Courts Efficiency Reforms) Act 2012* (“the amending Act”).

Section 6A of the *Magistrates Act 1983*, as amended, provides that the Chief Magistrate shall be “*taken to have been appointed as a magistrate and as a Judge of the District Court of South Australia...*”.

It is noted that a judicial officer who holds both the office of the Chief Magistrate and the office of a District Court Judge is to be paid a salary commensurate with the primary office, which in this instance is the office of a District Court Judge. Section 6A of the *Magistrates Act 1983* and section 6 of the *Judicial Administration (Auxiliary Appointments and Powers) Act 1988* provide accordingly.

The Tribunal has decided to vary its Determination in relation to a judicial officer who is appointed to the office of the Chief Magistrate and taken to be appointed to the office of a District Court Judge. By force of the relevant legislative provisions, the salary for this circumstance is the salary payable to a District Court Judge.

Magistrate Kitchin’s correspondence also refers to a textual anomaly within the nomenclature of the Tribunal’s Determination 5 of 2016. The anomaly relates to the Tribunal’s nomenclature in respect of the judicial office of magistrate. The nomenclature does not accurately reflect the description of this office as a result of the changes arising from the amending Act.

The Tribunal has decided to vary Determination 5 of 2016 to reflect the appropriate nomenclature by removing all instances of the term “*Stipendiary*”.

## DETERMINATION

The Tribunal hereby varies Determination 5 of 2016 as follows:

- A. By adding an asterisk after the term “Chief Magistrate” in the salary schedule at paragraph 1.1.1 as follows:

*“Chief Magistrate\*”*

- B. By adding the following text within paragraph 1.1.1 after the words “Other Industrial Magistrates”, which corresponds to the asterisk after the word “Chief Magistrate\*”:

*“\*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.”*

- C. By removing all instances of the word “Stipendiary”.

Dated this 4<sup>th</sup> day of April 2016.



John Lewin  
**PRESIDENT**



Nicola Vincent  
**MEMBER**



Peter Alexander  
**MEMBER**