



Attorney-General

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JUDICIAL REMUNERATION TRIBUNAL ACT 1995 Section 14(2)

STATEMENT OF REASONS

The Judicial Remuneration Tribunal (JRT) delivered its Report entitled *Judicial Allowances and Conditions of Service: Report 1 of 2007* (the Report) on 17 May 2007. The Report is laid before each House of the Parliament pursuant to s.14(1) of the *Judicial Remuneration Tribunal Act 1995* (the Act).

The Act allows the Attorney-General to accept, reject or vary recommendations made by the JRT.

The Report makes 23 recommendations concerning the allowances and conditions of service of the State's judges, masters and magistrates. In making these recommendations, the Report regularises a number of existing practises within the framework of the Act. On this basis, most of the JRT's recommendations can be readily accepted.

The Report also gives judicial officers access to many of the employment conditions readily available to workers in the public sector. These include purchased leave (referred to as "48/52 leave" in the Report) for magistrates, and parental, bereavement and special leave.

The Report also recommends that my certificate form the basis for a handbook or manual covering judicial officers' conditions of office. This is a particularly useful suggestion. The proposed manual would create a single repository for all conditions of office and create a degree of transparency around judicial officers' entitlements which has simply not existed in the past. I have asked my Department to work with the Courts to develop such a manual.

After carefully considering the Report's recommendations and receiving advice from the Department of Justice and an Interdepartmental Committee, I have decided to accept 20 recommendations, to vary one recommendation and not to accept two recommendations.

Although I have decided to accept recommendations 10, 12, 18 and 19, I have asked my Department to work with the Courts and the JRT to clarify aspects of their current drafting and to report back to me, prior to finally certifying the recommendations.

Recommendation 10 reflects the existing practice of providing masters and magistrates with a motor vehicle allowance. Technical concerns have been raised about certain aspects of the JRT's recommendation. I have accordingly requested further advice in relation to those concerns.

Recommendation 12 reflects an informal policy within the Magistrates' Court that magistrates receive a living away from home allowance for up to two years when they are assigned to a regional court by the Chief Magistrate. Some concerns have been raised about the recommendation and the drafting of the Court's current policy. Magistrates are appointed on the understanding and expectation that their duties include assignments to regional postings at the direction of the Chief Magistrate. Accordingly, I have asked that the JRT's recommendation be clarified to ensure that the allowance is not only technically correct but also reflects the understanding and expectation of magistrates and regional assignment.

Recommendations 18 and 19 attempt to formulate an equitable way of recognising judges' prior service in public office for long service leave purposes. While the recommendations can be readily accepted in principle, the recommendations as currently drafted may not give effect to the JRT's intention of ensuring that judges who have served a minimum of four years service in a public office immediately prior to their judicial service, but who have not yet accrued an entitlement, will have this service recognised for long service leave purposes. I have asked my Department and Industrial Relations Victoria to work with the JRT to address aspects of the current wording of the recommendation.

I have decided to vary the JRT's recommendation concerning home telephone allowances (Recommendation 4). The JRT has recommended that judges and magistrates be reimbursed for 50% of the cost of calls from elected mobiles or home telephones plus 50% of line rentals when the latter is elected.

I agree that judicial officers should be reimbursed for business related telephone expenses. I have decided to adopt the Government practice of providing judicial officers with access to mobile telephone handsets and accounts on the basis that any personal calls made on these accounts would be paid by the individual judicial officer. This alternative process of reimbursement is more convenient to administer and will ensure that judicial officers are not out of pocket.

I have decided not to accept the JRT's recommendation that judges have access to up to six months long service leave after five years of service (Recommendation 15).

If accepted, the recommendation would come at a significant cost to Government without any productivity off-sets. It would also have potentially significant operational impacts on the Supreme and County Courts. I do not consider the recommendation reasonable having regard to the relatively generous conditions of office otherwise available to judges, and having regard to the level of long service leave benefits available to other members of the workforce.

I do consider this issue to be of sufficient importance for it to be considered on a national level. It is important that judges' conditions are transferable between jurisdictions as our court systems become increasingly integrated. Accordingly, I will ask that this question be considered by the Standing Committee of Attorneys-General (SCAG) with a view to developing a national standard.

Finally, I have decided not to accept the JRT's recommendation that my certificate have 12 month's retrospective effect (Recommendation 23). Adjustments in salaries and terms and conditions of employment generally do not operate retrospectively. I can see no basis for departing from this general practice.

All other recommendations will be accepted without variation and will be certified to come into effect from 1 July 2007. A further certificate will be issued in relation to the recommendations requiring clarification in due course.

I would like to take this opportunity to thank the JRT for their careful and considered report which has made a number of recommendations to regularise judicial allowances and terms of office.

A handwritten signature in black ink, appearing to read 'Rob Hulls', with a long horizontal stroke extending to the right.

ROB HULLS MP
Attorney General

6 JUN 2007