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Judicial Entitlements Act 2015  
**CERTIFICATE PURSUANT TO SECTION 35**  
**Certificate 1/2022**

I certify that, pursuant to section 35 of the *Judicial Entitlements Act 2015*, the conditions of service set out in the attached schedule are authorised. Unless otherwise provided, the conditions take effect from 1 July 2022.

**Jaclyn Symes MP**  
Attorney-General

Date: 08 / 07 / 2022

Schedule															
Condition of Service	Entitlement														
Professional development allowance	<p>(1) A judicial officer is entitled to a professional development allowance if the officer is specified in:</p> <ul style="list-style-type: none"> <li>a column 1 of the table in clause (3) below; or</li> <li>b clause (4) below.</li> </ul> <p>(2) The professional development allowance of a judge of the Supreme Court:</p> <ul style="list-style-type: none"> <li>a was, immediately before 1 July 2019, \$10,347 per annum; and</li> <li>b is to increase annually (on 1 July of each year, including 1 July 2019) in accordance with the Consumer Price Index (All Groups Melbourne), comparing the relevant June quarters.</li> </ul> <p>(3) A judicial officer who is specified in Column 1 of the following table is entitled to the percentage of the professional development allowance of a judge of the Supreme Court, specified in Column 2 of the following table:</p> <table border="1"> <thead> <tr> <th>Column 1</th><th>Column 2</th></tr> </thead> <tbody> <tr> <td>Judge of the Supreme Court (including the Chief Justice, the President of the Court of Appeal, a Judge of Appeal and the Chief Judge (where the Chief Judge is a dual commission holder as a Judge of the Supreme Court)) and the Chief Magistrate (where the Chief Magistrate is, or has been, a dual commission holder as a Judge of the Supreme Court)</td><td>100.00%</td></tr> <tr> <td>Associate judge of the Supreme Court who is the Senior Master</td><td>89.00%</td></tr> <tr> <td>Associate judge of the Supreme Court who is a Specialist Supreme Court Master</td><td>80.50%</td></tr> <tr> <td>Associate judge of the Supreme Court (other than a Senior Master or a Specialist Supreme Court Master)</td><td>84.65%</td></tr> <tr> <td>Judge of the County Court (including the Chief Judge (where the Chief Judge is not a dual commission holder))</td><td>86.64%</td></tr> <tr> <td>Magistrate (including a Deputy Chief Magistrate and the Deputy State Coroner)</td><td>69.29%</td></tr> </tbody> </table> <p>(4) The professional development allowance of a reserve magistrate is calculated in accordance with clauses (9) and (10) below.</p> <p>(5) The professional development allowance may be used for:</p> <ul style="list-style-type: none"> <li>(a) the purchase of books and periodicals;</li> <li>(b) the cost of acquiring and maintaining electronic facilities for official purposes;</li> <li>(c) the subscription costs to relevant online resources; and</li> <li>(d) the cost of attending professional conferences, courses, tuition, or other activities that are similarly directed towards the professional development of the judicial officer.</li> </ul> <p>(6) An activity to which clause (5)(d) above applies, must be:</p> <ul style="list-style-type: none"> <li>(a) directly relevant to the duties, or the proposed duties, of the judicial officer; and</li> <li>(b) approved by the head of jurisdiction of the judicial officer.</li> </ul> <p>(7) A judicial officer must seek prior written approval from the head of</p>	Column 1	Column 2	Judge of the Supreme Court (including the Chief Justice, the President of the Court of Appeal, a Judge of Appeal and the Chief Judge (where the Chief Judge is a dual commission holder as a Judge of the Supreme Court)) and the Chief Magistrate (where the Chief Magistrate is, or has been, a dual commission holder as a Judge of the Supreme Court)	100.00%	Associate judge of the Supreme Court who is the Senior Master	89.00%	Associate judge of the Supreme Court who is a Specialist Supreme Court Master	80.50%	Associate judge of the Supreme Court (other than a Senior Master or a Specialist Supreme Court Master)	84.65%	Judge of the County Court (including the Chief Judge (where the Chief Judge is not a dual commission holder))	86.64%	Magistrate (including a Deputy Chief Magistrate and the Deputy State Coroner)	69.29%
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	<p>jurisdiction of the judicial officer to use the professional development allowance for the cost of an activity to which clause (5)(d) above applies.</p> <p>(8) When determining whether to approve a request to use the professional development allowance for the cost of an activity to which clause (5)(d) above applies, the head of jurisdiction of the judicial officer must consider:</p> <ul style="list-style-type: none"> <li>(a) whether the professional development activity represents value for money, having regard to the needs of the court;</li> <li>(b) whether a comparable professional development activity is offered by the Judicial College of Victoria and, if so, whether there are special reasons to justify why the similar activity offered by the Judicial College of Victoria is not to be chosen; and</li> <li>(c) if the professional development activity is to take place overseas, whether there are special circumstances to justify attendance at the activity overseas.</li> </ul>
Additional provisions regarding professional development allowance for reserve magistrates	<p>(9) The professional development allowance of a reserve magistrate is calculated on the following basis:</p> <ul style="list-style-type: none"> <li>(a) for a reserve magistrate who has been a reserve magistrate for at least one full financial year, the professional development allowance is calculated in accordance with the following formula: <math display="block">\left(\frac{A}{365} \times \text{Mag PD}\right) + \left(\frac{B}{235} \times \text{Mag PD}\right)</math> </li> <li>(b) for a reserve magistrate who has not been a reserve magistrate for at least one full financial year, the professional development allowance is calculated in accordance with the following formula: <math display="block">\left(\frac{C}{235} \times \text{Mag PD}\right)</math> </li> </ul> <p>(10) For the purposes of the formulae in clause 9 above:</p> <ul style="list-style-type: none"> <li>(a) 'A' means the number of days that the reserve magistrate was engaged on a full time basis in the previous financial year;</li> <li>(b) 'B' means the number of days that the reserve magistrate was engaged on a sessional basis in the previous financial year;</li> <li>(c) 'C' means the average number of days that 'relevant reserve magistrates' were engaged on a sessional basis in the previous financial year – for the purpose of this definition, a reserve magistrate is a 'relevant reserve magistrate' if the person: <ul style="list-style-type: none"> <li>• was a reserve magistrate for the whole of the previous financial year; and</li> <li>• was not engaged on a full time basis during that financial year;</li> </ul> </li> <li>(d) 'Mag PD' means the professional development allowance of a magistrate in the current financial year.</li> </ul> <p>(11) A reserve magistrate who is engaged on a sessional basis and attends a professional development day approved by the Chief Magistrate will be paid for their attendance as a sitting day.</p> <p>(12) In addition to the matters noted in clauses (5) to (8)(b) above, in approving the attendance of a reserve magistrate at a professional development day, the Chief Magistrate must consider the following factors:</p> <ul style="list-style-type: none"> <li>(a) the appropriateness of the training having regard to its</li> </ul>

	<p>connection to the role of the reserve magistrate; and</p> <p>(b) that it would not be appropriate for a reserve magistrate to undertake professional development where it involves attendance at the activity overseas.</p>
Previous entitlements	<p>(13) In relation to the condition of service entitled 'Acting Judges' in schedule 1 to the 2007 Certificate (<b>AJ condition of service</b>):</p> <p>(a) the reference to 'judicial library allowance', in the AJ condition of service is amended to read 'judicial professional development allowance';</p> <p>(b) a reserve judge of the Supreme Court will continue to receive the judicial professional development of a judge of the Supreme Court on a pro rata basis, under the AJ condition of service; and</p> <p>(c) a reserve judge of the County Court will continue to receive the judicial professional development of a judge of the Supreme Court on a pro rata basis, under the AJ condition of service.</p> <p>(14) This schedule:</p> <p>(a) does not affect the entitlements of an associate judge of the County Court;</p> <p>(b) supersedes the entitlement entitled 'Library Allowance' in schedule 1 to the 2007 Certificate; and</p> <p>(c) supersedes the entitlement entitled 'Professional development allowance' in schedule 5 to the 2019 Certificate.</p>
Definitions	<p>(15) For the purposes of this schedule (including the notes):</p> <p><b>2007 Certificate</b> means the certificate signed by the Attorney-General on 19 July 2007, under section 15 of the <b>Judicial Remuneration Tribunal Act 1995</b>;</p> <p><b>2019 Certificate</b> means the entitlement certificate signed by the Attorney-General on 26 August 2019, under section 35 of the <b>Judicial Entitlements Act 2015</b>;</p> <p>a reserve magistrate is not <b>engaged on a sessional or full time basis</b> when the person is:</p> <ul style="list-style-type: none"> <li>engaged under section 9EA of the <b>Magistrates' Court Act 1989</b>; or</li> <li>a serving magistrate of a court of another State, the Northern Territory or the Australian Capital Territory, who receives a salary in relation to his or her office in that other State or Territory; or</li> <li>not otherwise paid a Victorian salary for their service as a reserve magistrate;</li> </ul> <p><b>reserve judge</b> of the County Court does not include a reserve associate judge;</p> <p><b>reserve judge</b> of the Supreme Court does not include a reserve associate judge;</p>
Commencement	<p>(16) This schedule commences on 1 July 2022.</p>

#### Notes to Schedule:

- Section 43 of the **Judicial Entitlements Act 2015 (JE Act)** provides that a certificate issued under section 15 of the **Judicial Remuneration Tribunal Act 1995**, as in force immediately before its repeal (**JRT certificate**), is taken to be an entitlement certificate under the JE Act.
- Under section 10(1AA) of the **Magistrates' Court Act 1989** and section 82(3B) of the **Constitution Act 1975**, a Chief Magistrate who is or has been a dual commission holder as a Judge of the Supreme Court (**dual commission Chief Magistrate**):
  - is entitled to the salary and the allowances and other conditions of service of a dual commission Chief Magistrate, under the **Magistrates' Court Act 1989**;

- and
- b. is not entitled to receive any salary, allowances or other conditions of service as a Judge of the Supreme Court during the period of being a dual commission holder.
3. However, section 46 of the JE Act provides:
- (1) Subject to subsection (2), on and from the commencement of Part 3 of the **Justice Legislation Amendment (Criminal Procedure Disclosure and Other Matters) Act 2022** [i.e. 29 March 2022] a reference in an entitlement certificate that was in effect immediately before that commencement—
- (a) to a Judge of the Supreme Court, is taken to include a reference to the Chief Magistrate who is or has been, on or after that commencement, a dual commission holder as a Judge of the Supreme Court; and
- (b) to the Chief Magistrate, is taken to not include a reference to the Chief Magistrate who is, on or after that commencement, a dual commission holder as a Judge of the Supreme Court.
- (2) Subsection (1) does not apply to a reference in an entitlement certificate that relates to a matter that is not an entitlement of the Chief Magistrate.
4. The interaction of the above provisions results in the following:
- a. any reference in an entitlement certificate that was made before 29 March 2022 (or any reference in a JRT certificate):
- i. that refers to a Chief Magistrate would not apply to a dual commission Chief Magistrate; and
- ii. that refers to a judge of the Supreme Court would apply to a dual commission Chief Magistrate; and
- b. any reference in an entitlement certificate that was made on or after 29 March 2022:
- i. that refers to a dual commission Chief Magistrate would apply to a dual commission Chief Magistrate; and
- ii. that refers to a judge of the Supreme Court would not apply to a dual commission Chief Magistrate.
5. Given the above:
- a. the references in this schedule to a dual Commission Chief Magistrate (i.e. a Chief Magistrate who is or has been a dual commission holder as a Judge of the Supreme Court) would apply to a dual commission Chief Magistrate;
- b. the references in this schedule to a judge of the Supreme Court would not apply to a dual commission Chief Magistrate; and
- c. the entitlements of a dual commission Chief Magistrate in this schedule reflect the entitlements of the dual commission Chief Magistrate that existed immediately before the commencement of this schedule.

### Examples for Schedule 1:

Example 1 - Determining the professional development allowance for Mr Black in the 2022/2023 financial year.

- Mr Black was appointed as a reserve magistrate on 10 June 2021.
- Since Mr Black (as at the commencement of the 2022/2023 financial year) has been a reserve magistrate for at least one full financial year, clause 9(a) above applies.
- During the previous financial year (i.e. 1 July 2021 to 30 June 2022), Mr Black:
  - was not engaged to undertake the duties of a magistrate on a full time basis; and
  - was engaged to undertake the duties of a magistrate for 25 days, on a sessional basis.
- Applying clause 9(a) above, for the financial year commencing 1 July 2022 (i.e. the

current financial year), Mr Black's professional development allowance is:

$$\begin{aligned}
 &= \left(\frac{A}{365} \times \text{Mag PD}\right) + \left(\frac{B}{235} \times \text{Mag PD}\right) \\
 &= \left(\frac{0}{365} \times \text{Mag PD}\right) + \left(\frac{25}{235} \times \text{Mag PD}\right) \\
 &= \left(\frac{25}{235} \times \text{Mag PD}\right) \\
 &= \frac{25}{235} \times 69.29\% \text{ of a Supreme Court judge's professional development allowance} \\
 &= 7.37\% \text{ of a Supreme Court judge's professional development allowance.}
 \end{aligned}$$

**Example 2** - Determining the professional development allowance for Ms D'Souza in the 2022/2023 financial year.

- Ms D'Souza was appointed as a reserve magistrate on 6 August 2021.
- Since Ms D'Souza (as at the commencement of the 2022/2023 financial year) has not been a reserve magistrate for at least one full financial year, clause 9(b) above applies.
- In the 2021/2022 financial year, there were five reserve magistrates who:
  - were reserve magistrates for the whole of the 2021/2022 financial year; and
  - were not engaged on a full time basis in that financial year.
- In the 2021/2022 financial year, those reserve magistrates were engaged on a sessional basis for, on average, 20 days (i.e. in 2021/2022, the 5 reserve magistrates were engaged on a sessional basis for, respectively, 10, 24, 0, 40 and 26 days).
- Applying clause 9(b) above, for the financial year commencing 1 July 2022 (i.e. the current financial year), Ms D'Souza's professional development allowance is:

$$\begin{aligned}
 &= \frac{C}{235} \times \text{Mag PD} \\
 &= \frac{20}{235} \times \text{Mag PD} \\
 &= \frac{20}{235} \times 69.29\% \text{ of a Supreme Court judge's professional development allowance} \\
 &= 5.90\% \text{ of a Supreme Court judge's professional development allowance.}
 \end{aligned}$$