



## **Judicial Salaries, Allowances, and Superannuation (Court Martial Appeal Court and Court Martial) Determination 2019**

Pursuant to section 12B(2) of the Remuneration Authority Act 1977 and,—

- (a) in relation to the appointed Judges of the Court Martial Appeal Court, section 12B(1)(aa) of the Remuneration Authority Act 1977 and section 3(3B) of the Court Martial Appeals Act 1953; and
- (b) in relation to the Chief Judge and other Judges of the Court Martial, section 12B(1)(ba) of the Remuneration Authority Act 1977 and section 20 of the Court Martial Act 2007,—

the Remuneration Authority makes the following determination (to which is appended an explanatory memorandum).

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## Determination

### 1 Title

This determination is the Judicial Salaries, Allowances, and Superannuation (Court Martial Appeal Court and Court Martial) Determination 2019.

### 2 Commencement

This determination is deemed to have come into force on 1 January 2019.

### 3 Expiry

This determination expires on 31 December 2019.

### 4 Interpretation

(1) In this determination, unless the context otherwise requires,—

**appointed Judge of the Court Martial Appeal Court** means a Judge of the Court Martial Appeal Court appointed under section 3(1)(b) of the Court Martial Appeals Act 1953

**Judge of the Court Martial** includes a Deputy Chief Judge but does not include the Chief Judge of that court

**new GSF scheme** means the new Government service superannuation scheme established under Part 2A of the Government Superannuation Fund Act 1956

**retirement scheme** means a retirement scheme as defined in section 6(1) of the Financial Markets Conduct Act 2013, other than the new GSF scheme

**year** means a period of 12 months ending on 31 December.

(2) In this determination, a Judge is presumed to act on a part-time basis unless the Judge performs the functions of the Judge's office for 226 or more full working days in a calendar year.

### 5 Salary and allowance of appointed Judge of Court Martial Appeal Court

(1) The salary and allowance payable to an appointed Judge of the Court Martial Appeal Court are set out in Schedule 1.

(2) For the purpose of calculating the salary payable for a period during which an appointed Judge of the Court Martial Appeal Court acts on a part-time basis, the daily rate is the yearly rate of salary applicable to that Judge divided by 226 pro-rated in proportion to the amount of the day worked.

**6 Salary and allowance of Chief Judge of Court Martial**

- (1) The Chief Judge of the Court Martial must be paid \$147,240 (which is four-tenths of the yearly salary rate set out in Schedule 2).
- (2) The allowance payable to the Chief Judge is set out in Schedule 2.
- (3) If the Chief Judge performs the functions of that office for more than 90.4 days (being four-tenths of 226 full working days in a calendar year), then, in addition to the salary under subclause (1), salary is payable to the Chief Judge at a daily rate of \$1,628.76 (which is the yearly rate set out in Schedule 2 divided by 226) pro-rated in proportion to the amount of the day worked.
- (4) The maximum amount payable under subclauses (1) and (3) is the yearly rate set out in Schedule 2.
- (5) A District Court Judge who holds the office of Chief Judge of the Court Martial must be paid the higher of the following:
  - (a) the salary payable to the Chief Judge under this clause; and
  - (b) the salary payable to a District Court Judge provided for in the Judicial Salaries and Allowances (2018/19) Determination 2018 (or another determination of the Remuneration Authority made under section 34(a) of the District Court Act 2016 that supersedes that determination).

**7 Salaries and allowances of Deputy Chief Judge and other Judges of Court Martial**

- (1) The salaries and allowances payable to a Judge of the Court Martial are set out in Schedule 3.
- (2) For the purpose of calculating the salary payable for a period during which a Judge of the Court Martial acts on a part-time basis, the daily rate is the yearly rate set out in Schedule 3 divided by 226 pro-rated in proportion to the amount of the day worked.
- (3) This clause does not apply to a District Court Judge who is also appointed a Judge of the Court Martial.

**8 Superannuation rights of appointed Judge of Court Martial Appeal Court**

An appointed Judge of the Court Martial Appeal Court is not eligible for the payment of any superannuation subsidy.

**9 Limited application of clause 10**

Clause 10 does not apply to the Chief Judge or any other Judge of the Court Martial who—

- (a) is also a District Court Judge; or
- (b) acts on a part-time basis; or
- (c) is a current contributor under Part 5A of the Government Superannuation Fund Act 1956; or

(d) is a current contributor to the new GSF scheme.

**10 Eligibility of Chief Judge or Judge of Court Martial for subsidy on retirement scheme contributions**

- (1) A Chief Judge or any other Judge of the Court Martial who chooses to contribute to a retirement scheme is eligible to have a subsidy paid on that contribution.
- (2) The maximum amount of superannuation subsidy (inclusive of any tax liability) that is payable in any year is 37.5% of the gross salary actually paid to the Judge in that year.
- (3) In order to qualify for a superannuation subsidy, the contribution that the Judge must make to the retirement scheme, when expressed as a ratio of the superannuation subsidy to the Judge's contribution, is 7.5:1.

**11 Other judicial determinations do not apply**

To avoid doubt, nothing in the Judicial Salaries and Allowances (2018/19) Determination 2018 or the Judicial Superannuation Determination 2019 applies to the appointed Judges of the Court Martial Appeal Court or to the Chief Judge and other Judges of the Court Martial (other than those Judges who are also District Court Judges).

**12 Revocation**

The Judicial Salaries, Allowances, and Superannuation (Court Martial Appeal Court and Court Martial) Determination 2018 (LI 2018/29) is revoked.

**Schedule 1**

**Salary and allowance of appointed Judge of Court Martial Appeal Court**

	Yearly rate of salary payable on and after 1 January 2019 (\$)	Hourly rate of allowance (\$)	cl 5
Judicial officer			
Appointed Judge	455,200	75	

**Schedule 2**

**Salary and allowance of Chief Judge of Court Martial**

	Yearly rate of salary payable on and after 1 January 2019 (\$)	Hourly rate of allowance (\$)	cl 6
Judicial officer			
Chief Judge	368,100	105	

**Schedule 3  
Salaries and allowances of Deputy Chief Judge and other Judges of  
Court Martial**

<b>Judicial officer</b>	<b>Yearly rate of salary payable on and after 1 January 2019 (\$)</b>	<b>Hourly rate of allowance (\$)</b>
Deputy Chief Judge	342,600	—
Judge	342,600	—
Deputy Chief Judge or Judge acting on a part-time basis	—	75
Additional amount if Deputy Chief Judge acting under section 13(3) of the Court Martial Act 2007	—	45

cl 7

Dated at Wellington this 24th day of January 2019.

Fran Wilde,  
Chairperson.

Len Cook,  
Member.

**Explanatory memorandum**

*This memorandum is not part of the determination, but is intended to indicate its general effect.*

This determination sets the salaries, allowances, and superannuation rights and obligations of appointed Judges of the Court Martial Appeal Court and the Chief Judge and other Judges of the Court Martial.

The Remuneration Authority (the **Authority**) is required to have regard to the following when setting remuneration for those judicial officers:

- the need to achieve and maintain fair relativity with the levels of remuneration received elsewhere; and
- the need to be fair both to the persons whose remuneration is being determined and to the taxpayer; and
- the need to recruit and retain competent persons.

In addition, the Authority must take into account—

- the requirements of the position concerned; and
- the conditions of service enjoyed by the persons whose remuneration is being determined and those enjoyed by the persons or members of the group of persons whose remuneration and conditions of employment are, in the opinion of the Authority, comparable with those of the persons or members of the group whose remuneration is being determined.

The Authority must also take into account any prevailing adverse economic conditions, based on evidence from an authoritative source, and may determine the remuneration at a rate lower than it would otherwise have determined.

During the last 18 months, the Authority has completed a significant review of its approach to setting remuneration, allowances, and superannuation entitlements for judicial officers (including the appointed Judges of the Court Martial Appeal Court and the Chief Judge and Judges of the Court Martial) listed in section 12B of the Remuneration Authority Act 1977. This determination implements the outcome of that part of the review that is related to the provision of salaries, allowances, and superannuation to the appointed Judges of the Court Martial Appeal Court and the Chief Judge and other Judges of the Court Martial.

The review took into account a wide range of information, including—

- submissions (written and oral) received from the various benches:
- the views of key stakeholders:
- remuneration data on comparable jobs in private sector legal practices requiring similar skills and experience and for groups from which it can be expected that the judicial officers could be recruited:
- remuneration data for senior positions in the public sector:
- remuneration arrangements covering judicial officers in international jurisdictions:
- terms and conditions of employment of members of the judiciary:
- information on the recruitment and retention of judicial officers:
- a survey of recurring and contemporary issues affecting the courts.

A key finding of the review was the importance of maintaining appropriate relativities between the salaries of the various judicial officer positions. While such relativities should not be regarded as fixed in perpetuity, the Authority recognised the risk in the significance that some might attribute to any change in relativities that have been stable for some time. As the superannuation subsidy for Judges of the Court Martial has changed in this determination to bring the subsidy into line with that of other judicial officers (who are covered by the Judicial Superannuation Determination 2019), the remuneration increase for these Judges is less this year than in previous years.

The Authority has set the salaries for the Judges at what it considers to be the appropriate rate for full-time positions. Judges acting on a part-time basis will be paid for the time they act, calculated on a pro rata basis as a proportion of the salary payable

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Determination 2019**

2019/10

Explanatory  
memorandum

to a Judge acting on a full-time basis. The salary divisor for calculating the part-time daily rate is 226 pro-rated in proportion to the amount of the day worked.

However, an outcome of the review suggested that remunerating the Chief Judge of the Court Martial on a reimbursement basis was no longer appropriate for the maintenance of a judicial resource that needs to be available at all times and for what can be quite variable levels of activity. The Authority has decided that it is more appropriate to set the part-time salary to be paid to the Chief Judge of the Court Martial at four-tenths of the full-time equivalent annual salary level. This remuneration is to be paid as annual salary rather than as a reimbursement. In addition, if the Chief Judge acts for more than four-tenths of full-time (which is 90.4 full working days), the Chief Judge will receive compensation for that extra time up to the maximum yearly rate payable.

The Judges, when fulfilling their statutory roles, continue to incur expenses in the running of their private practices. The Authority has accordingly specified allowances to be paid as a contribution towards the costs incurred by Judges in maintaining their practices while carrying out their statutory functions. These allowances are reviewed annually. The recently completed review of judicial officers' salaries, allowances, and superannuation indicated that the allowances currently covering the Judges are set appropriately and the Authority considered that there was no need to increase them at this time. However, the Authority intends to complete an in-depth review of the purpose, applicability, and rate of the relevant allowances during the coming year.

This determination is for a year from 1 January 2019. The making of the determination was delayed beyond the expiry of the previous determination in order to allow the Remuneration Authority to carry out preparatory work on the determination. The determination expires on 31 December 2019.

Issued under the authority of the Legislation Act 2012.  
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