

**SUPPLEMENTARY GAZETTE**



**THE SOUTH AUSTRALIAN  
GOVERNMENT GAZETTE**

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**All public Acts appearing in this gazette are to be considered official, and obeyed as such**

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Department of the Premier and Cabinet  
Adelaide, 23 December 2019

His Excellency the Governor in Executive Council has been pleased to issue directions to the State Emergency Relief Fund Committee to administer the fund as set out below, pursuant to Section 37(4) of the Emergency Management Act 2004.

GOVERNOR'S DIRECTIONS TO THE MEMBERS OF THE COMMITTEE APPOINTED TO ADMINISTER THE STATE EMERGENCY RELIEF FUND

*Governor's Directions in Relation to the Emergency Arising from the Cudlee Creek Fire*

The State Emergency Relief Fund (the Fund) provides a publicly accountable mechanism for the receipt and disbursement of donated funds following a declared emergency or proclaimed situation. The Fund is an administered item of the Department for Human Services (the department). Monies provided to persons and/or organisations are gifts from the community in recognition of injury, loss or damage arising from the emergency, not a form of compensation. The department provides administrative and policy support to the Fund.

The committee to administer the State Emergency Relief Fund is appointed by the Minister under section 37(3) of the *Emergency Management Act 2004* (the Act) and is subject to broad directions by the Governor.

In these directions, the Cudlee Creek Fire is a proclaimed situation in accordance with section 37(2) of the Act.

In these directions 'family' means a parent, spouse or domestic partner and children of a person killed or injured in the Cudlee Creek Fire; and, 'injury' will include both physical and psychological injury.

Ongoing members of the SERF Committee are appointed for a term of three years. Other members (particular members) are appointed for a period of six months to provide knowledge and judgment in relation to administration of the fund in response to a particular emergency.

One of the ongoing members of the committee is also appointed as Fund Administrator (the administrator) and will chair meetings of the committee unless a direction given by the Governor in relation to a particular emergency otherwise provides.

A direction given by the Governor may nominate a particular member of the committee to chair its meetings in so far as those meetings relate to the distribution of funds for a particular emergency and matters incidental thereto. If such a direction is not given, relevant or applicable, then the person appointed as the administrator will chair meetings of the committee.

A quorum of the committee will consist of the chairperson and three members of the committee. A further direction may provide that only members appointed to participate in the administration of the fund in relation to a particular emergency will be counted in forming the quorum for a meeting relating to that emergency (ongoing and particular members).

Where possible the committee should reach decisions by consensus. However, if a vote is required, and the results are tied, the chairperson will have a deliberative and casting vote. Particular members may only vote on issues relating to the administration and distribution of the funds in respect of the emergency to which their appointment relates.

Members of the committee are obliged to maintain confidentiality in relation to the deliberations of the committee and in relation to personal information that may be made available to the committee by or about potential recipients of fund monies.

Any member who believes they may have a conflict of interest in relation to their duties as a committee member must declare that interest.

Pursuant to the Act, and these directions, the committee is responsible for the appropriate disbursement of the monies in the Fund for the relief of persons who suffer injury, loss or damage as a result of a declared emergency or proclaimed situation, or otherwise, to assist communities adversely affected by the impact of a declared emergency or proclaimed situation.

Upon a request from the Premier or Minister, the committee may coordinate a public appeal for donations for the SA Cudlee Creek Fire subject to the *Collections for Charitable Purposes Act 1939* (Section 6) Licence issued to the Fund.

The committee may adopt any fair and reasonable assessment scheme for disbursement of monies, whether of its own design or that which has been developed wholly or in part by any government or non-government agency.

The committee may consult with individuals, organisations or groups, government and non-government agencies, as appropriate, on the impacts of the emergency and the resulting needs of the persons and communities affected.

The committee will be responsible for ensuring:

- Monies received by the fund are disbursed equitably and fairly for the relief of persons who suffer injury, loss or damage as a result of the SA Cudlee Creek Fire. Monies may be paid directly to such persons or otherwise to assist the communities that are adversely affected;
- Administrative processes developed for the management and disbursement of the monies are transparent and meet all appropriate legal, probity and procedural requirements;
- Appropriate information is provided to affected parties and to the community regarding the availability of relief, eligibility and funds disbursement processes, and any other matters that the committee determines should be communicated in order to assist the proper administration of the fund;
- A written report is provided to the Minister when the committee is satisfied that it has appropriately disbursed the available monies in relation to the SA Cudlee Creek Fire. The written report should include an audit of all monies disbursed, an evaluation of the effectiveness of the fund in meeting identified need and recommendations on any issues, which should be addressed to streamline processes and policy for future use of the fund following an emergency;
- That monies are allocated in an equitable, fair and culturally appropriate manner, and may take into account the following principles:
  - priority is given to those most affected by the event as assessed by criteria established by the committee;
  - priority is given in the allocation of monies to persons whose primary place of residence at the time of the Cudlee Creek Fire was within the areas as defined and approved by the relevant authority, i.e. Chief Officer of the SA Country Fire Service;
  - available monies can be used to provide relief over the short-term and/or long-term for persons who have suffered injury, loss or damage as determined by the committee or as a result of the Cudlee Creek Fire or within the council areas of Adelaide Hills Council and Mount Barker District Council;
  - defined circumstances for recipients affected by the emergency whose primary residence is outside the affected area may also be considered where the recipient has directly suffered injury, loss or damage from the emergency (provided that they meet assessment criteria to be determined by the committee);
  - community rebuilding and encouragement of individual resilience to deal with the consequences of the emergency may also be considered by the committee;
  - monies may be made available to corporate bodies, such as, small businesses that have suffered injury, loss or damage, if other sources of assistance are exhausted, and to community organisations where there has been a direct loss or

damage to community facilities from the emergency or where a facility, or community program or service is proposed to be offered for the purpose of the relief of affected persons;

- monies provided may complement or recognise other forms of assistance received by those affected by the emergency, including any insurance payments, government grants, other gifts from public donations or other sources of known tangible support;
- monies may be provided irrespective of the insurance status of the recipient;
- where the committee is of the opinion that a person who suffered injury, loss or damage as a result of the emergency has been overcompensated for that injury, loss or damage by reason of being paid money from the fund and damages for compensation from another source, the committee may, by notice in writing given personally or by post to the person, require the person to pay the fund the amount of the overcompensation as determined by the committee and specified in the notice; and
- there will be a maximum and minimum amount that any recipient can receive from the fund, which will be determined by the committee from time to time.

By command,

STEVEN SPENCE MARSHALL  
Premier

DHSCS19020

South Australia

## **Emergency Management (Proclaimed Situation—Cudlee Creek Fire) Proclamation 2019**

under section 37 of the *Emergency Management Act 2004*

### **1—Short title**

This proclamation may be cited as the *Emergency Management (Proclaimed Situation—Cudlee Creek Fire) Proclamation 2019*.

### **2—Commencement**

This proclamation comes into operation on the day on which it is made.

### **3—Proclaimed situation**

The bushfire commonly known as the Cudlee Creek Fire is a proclaimed situation for the purposes of section 37 of the *Emergency Management Act 2004*.

### **Made by the Governor**

with the advice and consent of the Executive Council  
on 23 December 2019

## REMUNERATION TRIBUNAL

REPORT NO. 13 OF 2019

*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.
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*

- (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.”*

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

<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.

**DATE OF OPERATION**

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

Dated: 23 December 2019

JOHN LEWIN  
President  
PETER ALEXANDER  
Member  
PAMELA MARTIN  
Member

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**REMUNERATION TRIBUNAL**

DETERMINATION NO. 13 OF 2019

*Overseas Accommodation and Daily Allowance Judicial Case Management And Ethics Programme—Judge Dart*

**SCOPE OF DETERMINATION**

1. This Determination applies to His Honour Judge Graham Dart, Master of the Supreme Court of South Australia.

**DETERMINATION**

2. His Honour 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, undertaken by Judge Dart in February 2020. The costs of the accommodation and daily allowance provisions shall be borne by the State.
3. For the purpose of this 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.

**DATE OF OPERATION**

4. This Determination shall have operative effect on and from 23 December 2019.

Dated: 23 December 2019

JOHN LEWIN  
President  
PETER ALEXANDER  
Member  
PAMELA MARTIN  
Member

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