

## THE JUDICIAL SALARIES AND ALLOWANCES DETERMINATION 1991

PURSUANT to the Higher Salaries Commission Act 1977 and,—

- (a) In relation to the Chief Justice, the President of the Court of Appeal, the Judges of the Court of Appeal, and the other Judges of the High Court, to section 9A (1) (a) and (b) of the Judicature Act 1908 (as inserted by section 2 of the Judicature Amendment Act (No. 3) 1985):
  - (b) In relation to the Chief Judge of the Labour Court and the other Judges of the Labour Court, to section 290 of the Labour Relations Act 1987:
  - (c) In relation to the Chief Judge of the Maori Land Court and the other Judges of the Maori Land Court, to section 21 (1) (a) and (b) of the Maori Affairs Act 1953 (as substituted by section 2 of the Maori Affairs Amendment Act (No. 2) 1985):
  - (d) In relation to the Chief District Court Judge, the Principal Family Court Judge, the Principal Youth Court Judge, the Principal Planning Judge, and the other District Court Judges, to section 6 (1) (a) and (b) of the District Courts Act 1947 (as substituted by section 2 of the District Courts Amendment Act (No. 3) 1985):
  - (e) In relation to the Masters of the High Court, to section 26F (1) (a) and (b) of the Judicature Act 1908 (as inserted by section 5 of the Judicature Amendment Act 1986),—
- the Higher Salaries Commission hereby makes the following determination (to which is appended an Explanatory Memorandum).

### DETERMINATION

**1. Title and commencement**—(1) This determination may be cited as the Judicial Salaries and Allowances Determination 1991.

(2) This determination shall be deemed to have come into force on the 1st day of October 1990.

**2. Expiry**—This determination shall expire on the 30th day of September 1991.

**3. Salaries of Judges**—The salaries payable to the Judges specified in the Schedule to this determination shall be paid at the respective rates set out in that Schedule.

**4. Principal allowances of Judges**—Principal allowances for general expenses shall be paid to the Judges specified in the Schedule to this determination at the respective rates set out in that Schedule.

**5. Revocation**—The Judicial Salaries and Allowances Determination 1990\* is hereby revoked.

\*S.R. 1990/23

Cls. 3, 4

**SCHEDULE**  
**SALARIES AND PRINCIPAL ALLOWANCES**

	Yearly Rate of Salary Payable on and after 1 October 1990	Yearly Rate of Principal Allowance for general expenses payable on and after 1 October 1990
Chief Justice	181,500	7,900
President of the Court of Appeal	178,000	6,500
Judge of the Court of Appeal	168,000	5,600
Judge of the High Court	159,500	5,600
Chief District Court Judge	148,500	5,000
Principal Family Court Judge	138,000	4,700
Principal Youth Court Judge	130,500	5,000
Principal Planning Judge	130,500	4,700
District Court Judge	127,500	4,100
Chief Judge of the Labour Court	160,500	5,600
Judge of the Labour Court	150,500	4,700
Chief Judge of the Maori Land Court	143,000	5,000
Judge of the Maori Land Court	127,500	4,100
Master of the High Court	127,500	3,500

Dated at Wellington this 26th day of February 1991.

J. DUNMORE,  
Chairman.

M. A. FITZGERALD,  
Member.

G. L. JACKSON,  
Member.

## EXPLANATORY MEMORANDUM

*Background*

1. The Judicial Salaries and Allowances Determination is the outcome of a review undertaken by the Higher Salaries Commission following the expiry of the Judicial Salaries and Allowances Determination 1990, which came into force on 1 October 1989.

2. The present determination is deemed to have come into force on 1 October 1990.

*Expiry Date*

3. As required by section 19 of the Higher Salaries Commission Act 1977 (as substituted by section 8 of the Higher Salaries Commission Amendment Act 1988), an expiry date for the determination has been prescribed in clause 2 (30 September 1991). It should be noted, however, that section 19 also provides that a determination shall remain in force beyond its stated expiry date until superseded by another determination, and may, on the grounds stated in section 19 (4), be amended at any time.

*Jurisdiction*

4. The Commission's jurisdiction in respect of salaries and principal allowances is contained in section 12B (1) of the Higher Salaries Commission Act 1977 (as amended), which reads as follows:

**"12B. Functions of Commission in relation to judicial salaries and superannuation—**(1) The Commission shall have the function of considering and determining the salaries and principal allowances of—

"(a) The Chief Justice, the President of the Court of Appeal, the Judges of the Court of Appeal, and the Judges of the High Court; and

"(b) The Chief District Court Judge, the Principal Family Court Judge, the Principal Youth Court Judge, the Principal Planning Judge, and the other District Court Judges; and

"(c) The Chief Judge of the Labour Court and the other Judges of the Labour Court; and

"(d) The Chief Judge of the Maori Land Court and the other Judges of the Maori Land Court; and

"(e) The Masters of the High Court."

5. It is pertinent also to recognise that the Commission has a function of making recommendations to appropriate Ministers concerning superannuation provisions for the judiciary. The Commission's function in this regard is set out in section 12B (2), which reads as follows:

"(2) The Commission shall have the function of making recommendations to the Minister of Justice, the Minister of Labour, the Minister of Maori Affairs, and the Minister of Finance with respect to the matters to which Part IV or Part V of the Government Superannuation Fund Act 1956 applies."

*Criteria*

6. The Commission is bound by the criteria prescribed by section 18 of the Higher Salaries Commission Act 1977 (as substituted by section 7 of the Higher Salaries Commission Amendment Act 1988), which reads as follows:

"18. (1) In determining any remuneration under section 12 (1) (a) or section 12B (1) of this Act, or under any other enactment, the Commission shall have regard in particular to the following criteria:

"(a) The need to achieve and maintain fair relativity with the levels of remuneration received elsewhere; and

"(b) The need to be fair both—

"(i) To the persons or group of persons whose remuneration is being determined; and

"(ii) To the taxpayer or ratepayer; and

"(c) The need to recruit and retain competent persons.

"(2) In determining the remuneration of any persons or group of persons pursuant to any subparagraph of section 12 (1) (a) of this Act or in determining the remuneration of any persons or group of persons pursuant to section 12B (1) of this Act or under any other Act, the Commission shall take into account—

"(a) The requirements of the position concerned; and

"(b) 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 Commission, comparable with those of the persons or members of the group of persons whose remuneration is being determined."

*Principles*

7. The principles followed by the Commission in fixing salaries and allowances for the judiciary were enunciated in detail in the Explanatory Notes concerning reviews undertaken since 1978. The Commission considers that by and large those principles are still valid.

*Procedures Adopted*

8. Written submissions were received from Judges in respect of their salaries and allowances and, where requested, these submissions were discussed fully by the Commission with their representatives. Other information and opinions were obtained from various appropriate sources and the conditions of appointment of the various classes of Judges were taken into account.

9. Submissions were also received regarding relativities between various classes of the judiciary. Where these sought changes, an opportunity was given to appropriate groups to comment.

10. Two matters are still being considered by the Commission. First, the relationship between the Chief Judge and Judges of the Labour Court and other classes of Judges will be decided in the light of any changes effected by the proposed Employment Contracts Act, envisaged to come into force on 1 May 1991. Second, in view of the Law Commission's report on *The Structure of the Courts* and the proposed Courts Amendment Bill with the possibility of changes in jurisdiction and responsibilities, the question of other relativities, apart from those relating to Masters of the High Court and those of some District Court Judges, has been deferred.

11. The office of Master of the High Court was established in 1986 and many submissions have been received relating to the salary. The Commission has accepted that this should now be set at a more appropriate level relative to that determined for High Court Judges.

12. At the suggestion of Judges of the District Courts, salary margins between the Principal Family Court Judge, the Principal Planning Judge, and the Principal Youth Court Judge have been adjusted.

*Principal Allowances*

13. The Commission found that a small increase in principal allowances is justified. Allowances for Masters of the High Court have been increased by a greater figure after representations received and accepted by the Commission. Principal allowances are considered by the Commission to be reimbursement allowances for expenses which are incurred on circuit and elsewhere and which are not easily accounted for.

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Issued under the authority of the Acts and Regulations Publication Act 1989 and section 12B (3) of the Higher Salaries Commission Act 1977.

Date of notification in *Gazette*: 28 February 1991.