

Magistrates Court (Conditions of Appointment) Decision 2019

Notifiable Instrument NI2019–262

made under the

Magistrates Court Act 1930, s 7C (Conditions of appointment of magistrates)

1 Name of instrument

This instrument is the *Magistrates Court (Conditions of Appointment) Decision 2019*.

2 Commencement

This instrument commences on the day it is signed.

3 Application

This instrument replaces the *Magistrates Court (Conditions of Appointment) Decision 2009* made under the *Magistrates Court Act 1930*.

This instrument applies to a Chief Magistrate or a magistrate (whether appointed on a full-time or part-time basis) to the extent that it does not diminish the remuneration or allowances of a person holding these offices prior to the commencement of this instrument.

Note: This instrument does not apply to a person appointed as a special magistrate.

4 Decision

The Executive determines that, subject to determinations made from time to time by the Remuneration Tribunal under the *Remuneration Tribunal Act 1995* relevant to the Magistrates Court, the Chief Magistrate or a magistrate (whether appointed on a full-time or part-time basis) hold office on the conditions set out in schedule 1 to this instrument.

5 Special condition

If legislation changes the name and/or function of the office of a Chief Magistrate or magistrate, conditions in this instrument are taken to be amended to:

- a) reflect the changes in the name and/or function; and
- b) reflect changes in the relationship between the office and other offices.

6 Administration of this instrument

In administering this instrument, the Principal Registrar and Chief Executive Officer of the ACT Courts and Tribunal may:

- a) issue procedural instructions, developed in consultation with the Chief Magistrate, to assist in the administration of this instrument, and
- b) elect to apply the same instructions (including policies and procedures in relation to the administration of annual leave) as the ACT Courts and Tribunal does for employees, except where those instructions are not in accordance with this instrument.

Gordon Ramsay MLA
Attorney-General
2 May 2019

Chris Steel MLA
Minister
2 May 2019

SCHEDULE 1: Conditions of appointment

Note: Entitlements to remuneration, salary packaging, superannuation and travel allowances for a Chief Magistrate or a magistrate (whether full-time or part-time) are provided in determinations of the ACT Remuneration Tribunal.

Unless otherwise provided, reference to a magistrate refers to both magistrates working on a full-time and part-time basis.

Type	Condition
Full-time duty requirements	Subject to this instrument and any law applicable in the Territory, a full-time magistrate is to be available for duty, at the reasonable direction of the Chief Magistrate, on all days the Magistrates Court is open for and conducts normal business, and on such other days as the Chief Magistrate may reasonably require for the magistrate to conduct the business of the court.
Part-time duty requirements	<p>A magistrate working on a part-time basis is to be available for duty, at times to be determined at the reasonable direction of the Chief Magistrate and consistently with their part-time arrangement or part-time appointment.</p> <p>A part-time arrangement must state the duration of the arrangement and may only be varied, extended, or ended as agreed between the magistrate and Chief Magistrate and approved by the Attorney-General during the period of the arrangement.</p> <p>The Chief Magistrate and a magistrate working on a part-time basis must agree a standard work pattern, variable by further agreement, within the parameters of the part-time arrangement or part-time appointment.</p>
Leave – Annual	<p>A Chief Magistrate or a full-time magistrate is entitled to 20 working days of annual leave per 12 month period.</p> <p>A magistrate working on a part-time basis is entitled to annual leave to be provided on a pro-rata basis in accordance with a full-time equivalent expressed as a percentage and otherwise on the same conditions as a full-time magistrate.</p> <p>Annual leave credit accrues on a daily basis.</p> <p>A Chief Magistrate or a magistrate may be granted annual leave up to their available credit from the first day of service.</p> <p>Annual leave will count as service for all purposes. Public holidays for which a Chief Magistrate or a magistrate is entitled to payment that fall during periods of absence on annual leave will be paid as a normal public holiday and will not be deducted from the employee’s annual leave balance.</p> <p>A Chief Magistrate or a magistrate’s annual leave credit</p>

Type	Condition
	<p>includes any existing annual leave accrued either through prior service with the Commonwealth or an Australian State or Territory, or through employment in a Commonwealth or Territory authority, that in any case ceased not more than two months prior to being appointed as a Chief Magistrate or a magistrate.</p> <p>The Chief Magistrate must give reasonable written notice to the Attorney-General of planned annual leave, which leave may be for a period up to the Chief Magistrate's existing annual leave credit.</p> <p>A magistrate's planned annual leave (which may be for a period up to the magistrate's existing annual leave credit) is subject to reasonable duty requirements determined by the Chief Magistrate.</p> <p>If a magistrate's annual leave is cancelled without reasonable notice, or they are recalled to duty from leave, the magistrate will be entitled to be reimbursed reasonable travel costs and incidental expenses not otherwise recoverable under any insurance or from any other source.</p> <p>Where a Chief Magistrate or a magistrate ceases to be a Chief Magistrate or a magistrate, other than by death, and does not carry forward an annual leave credit to other Commonwealth or Territory employment, they are entitled to be paid the salary equivalent of any annual leave credit unused at the time they ceased to be a Chief Magistrate or a magistrate.</p> <p>If a Chief Magistrate or a magistrate has died, the Attorney-General may authorise payment of this amount to a dependant of the Chief Magistrate or a magistrate, or to the legal representative of the estate of the Chief Magistrate or magistrate.</p>
Leave - Personal	<p>A Chief Magistrate or magistrate is entitled to personal leave which may be accessed at full or half-pay to accommodate personal illness or injury, to care for a family member, or to meet family responsibilities of an emergency and unscheduled nature.</p> <p>A Chief Magistrate or a full-time magistrate is entitled to 18 working days of personal leave accrued at the time of appointment, and a further 18 days accruing at the end of each 12 months service.</p> <p>A magistrate working on a part-time basis is entitled to personal leave to be provided on a pro-rata basis in accordance with a full-time equivalent expressed as a percentage and otherwise on the same conditions as a full-time magistrate.</p>

Type	Condition
	<p>A Chief Magistrate or a magistrate is entitled to an additional three days full paid personal leave (non-accumulative) on each occasion of a death of a member of their immediate family or household.</p> <p>The Chief Magistrate must notify and provide reasons to the Attorney-General for absences of three days or more personal leave.</p> <p>The Chief Magistrate must consider and may approve a Magistrate’s personal leave for absences of three days or more.</p> <p>In addition to the personal leave entitlement specified above, a Chief Magistrate or a magistrate’s sick leave entitlements accrued either through prior service in the Commonwealth or State or Territory, or through employment in a Commonwealth or Territory authority, that in either case ceased not more than two months prior to being appointed a Chief Magistrate or a magistrate will be recognised as if accrued while as a Chief Magistrate or a magistrate and will be paid at full pay or half pay as originally accrued.</p> <p>Neither unused personal leave nor unused sick leave accrued through prior service referred to above will be paid out where a Chief Magistrate or a magistrate ceases for whatever reason to be a Chief Magistrate or a magistrate.</p> <p>The Attorney-General may grant additional personal leave to a Chief Magistrate or a magistrate at the Attorney-General’s discretion.</p>
Leave – Long Service	<p>A Chief Magistrate or a full-time magistrate is entitled to long service leave accrued at the rate of three months on full-pay for each ten years of recognised service.</p> <p>A magistrate working on a part-time basis is entitled to long service leave to be provided on a pro-rata basis in accordance with a full-time equivalent expressed as a percentage and otherwise on the same conditions as a full-time magistrate.</p> <p>Long service leave may be taken on double, full or half pay. Leave may be granted to the extent that a Chief Magistrate or magistrate’s pro-rata long service leave credits have accrued after seven years of completed service.</p> <p>A period of leave taken without pay of one day or more will not count towards long service accrual, but does not break a period of service for the purpose of determining a Chief Magistrate or magistrate’s eligibility for long service</p>

Type	Condition
	<p>leave.</p> <p>The Chief Magistrate is to give reasonable written notice to the Attorney-General before taking long service leave.</p> <p>Application by a magistrate to take long service leave must be made to the Chief Magistrate.</p> <p>A Chief Magistrate or a magistrate will receive payment on separation of any pro-rata long service leave entitlements after seven years of completed eligible service.</p> <p>Where a Chief Magistrate or a magistrate whose period of eligible service is less than seven years but not less than one year ceases to be Chief Magistrate or magistrate:</p> <ul style="list-style-type: none"> a) otherwise than because of death, on, or after, the attainment of the minimum retiring age; or b) because of cessation due to ill health, <p>the Attorney-General will authorise payment to the Chief Magistrate or magistrate of long service leave in accordance with Part 4.3 of the Public Sector Management Standards.</p>
Leave – Maternity or Parental	<p>A Chief Magistrate or a full-time magistrate is entitled to maternity or parental leave as if the Chief Magistrate or Magistrate were an officer for the purposes of the <i>Public Sector Management Act 1994</i> and applicable Public Sector Management Standards.</p> <p>A magistrate working on a part-time basis is entitled to maternity or parental leave to be provided on a pro-rata basis in accordance with a full-time equivalent expressed as a percentage and otherwise on the same conditions as a full-time magistrate.</p> <p>The Chief Magistrate is to give reasonable written notice to the Attorney-General before taking maternity or parental leave.</p> <p>Application by a magistrate to take maternity or parental leave must be made to the Chief Magistrate.</p>
Leave – Miscellaneous	<p>A Chief Magistrate or a magistrate's leave for any other purpose must be considered by the Attorney-General. If the Attorney-General is satisfied it is in the interests of the Territory, such leave of absence may be with or without pay and subject to conditions at the discretion of the Attorney-General.</p>
Vehicle	<p>A Chief Magistrate or a magistrate who works on a full-time basis is entitled to:</p> <ol style="list-style-type: none"> 1. receive a Territory provided vehicle

Type	Condition
	<p data-bbox="703 248 1347 367"> 2. lease a 4 cylinder vehicle to the total package value (including GST) of \$25 500 per annum, or 3. payment in lieu of the entitlement to the vehicle. </p> <p data-bbox="651 389 1262 526"> A magistrate who is working on a part-time basis is entitled to \$25 500 payment per annum in lieu of a vehicle, pro-rated in accordance with a full-time equivalent expressed as a percentage. </p> <p data-bbox="651 548 1342 790"> A magistrate who was working on a full-time basis and received a vehicle as part of their remuneration, and who arranges to work on a part-time basis, may enter an agreement with the Territory to retain the vehicle until the expiry of the lease. Such an agreement must include conditions about the contribution the magistrate will make to the cost of the lease. </p> <p data-bbox="651 813 1350 880"> Upon expiry of the lease, the magistrate is only entitled to payment in lieu of a vehicle as described above. </p> <p data-bbox="651 902 1342 1144"> During a year a Chief Magistrate or a magistrate may vary an election under the scheme (by changing to/from the relevant vehicle scheme from/to payment in lieu), provided that no additional administrative or other expenses are incurred by the Territory as a result of the variation. The entitlement under the relevant vehicle scheme is determinable at the time an election is made. </p>
Official travel	<p data-bbox="651 1167 1337 1272"> A Chief Magistrate or a magistrate is entitled to travel on official business (including for judicial education) within Australia and internationally as follows: </p> <ul data-bbox="699 1294 1310 1503" style="list-style-type: none"> <li data-bbox="699 1294 1262 1361">• Domestic air travel or parts of travel under 4 hours in the air – economy class; <li data-bbox="699 1384 1310 1451">• Domestic air travel or parts of travel exceeding 4 hours in the air – business class; <li data-bbox="699 1473 1219 1503">• International air travel – business class. <p data-bbox="651 1525 1342 1630"> The Chief Magistrate must give reasonable written notice to the Attorney-General of planned absences of more than one day from the Territory for official business. </p> <p data-bbox="651 1653 1350 1758"> A magistrate’s absence from the Territory on official business must be considered and may be approved by the Chief Magistrate. </p> <p data-bbox="651 1780 1321 1944"> A Chief Magistrate or a magistrate’s international travel on official business must be considered and may be approved by the Attorney-General if satisfied by the Chief Magistrate or magistrate that the travel is in the interests of the Territory. </p> <p data-bbox="651 1966 1337 2024"> The Chief Magistrate may be accompanied by their domestic partner on one occasion of official travel within </p>

Type	Condition
	Australia each year at Territory expense, however no other magistrate is entitled to domestic partner accompanied travel at Territory expense.
Relocation assistance	<p>If, at the time a Chief Magistrate or a magistrate takes office, the normal place of residence of the Chief Magistrate or magistrate is more than 100km from Canberra City and, as a result of the appointment, the Chief Magistrate or magistrate is relocated to the Canberra area, the director-general may approve reimbursement of reasonable costs of relocating the residence.</p> <p>An amount payable for relocation expenses shall not be taken as remuneration for any purpose.</p>
Business support	A Chief Magistrate or a magistrate is entitled to communications, information technology and other office facilities or resources necessary for the efficient conduct of Magistrates Court business.
Judicial education	The Territory will provide the Chief Magistrate and each magistrate with judicial education in accordance with standards set by the National Judicial College of Australia.