

Hon Andrew Little
Minister for Courts

Proactive release – Community Magistrates (Remuneration and Allowances) Order 2019

Date of issue: 27 November 2019

The following documents have been proactively released in accordance with Cabinet Office Circular CO (18) 4.

Some information has been withheld on the basis that it would not, if requested under the Official Information Act 1982 (OIA), be released. Where that is the case, the relevant section of the OIA has been noted and no public interest has been identified that would outweigh the reasons for withholding it.

No.	Document	Comments
1	Community Magistrates (Remuneration and Allowances) Order 2019 <i>Cabinet paper</i> Office of the Minister for Courts	The legislative instrument referred to is publicly available from www.legislation.govt.nz .
2	Community Magistrates (Remuneration and Allowances) Order 2019 <i>Cabinet Minute</i> Cabinet Office Meeting date: 22 October 2019	Released in full.

In Confidence

Office of the Minister for Courts

Cabinet Legislation Committee

Community Magistrates (Remuneration and Allowances) Order 2019

Proposal

1. This paper seeks Cabinet agreement to authorise the submission to the Executive Council of the Community Magistrates (Remuneration and Allowances) Order 2019.

Background

Community Magistrates

2. Community Magistrates are judicial officers who represent their communities based on their skills and experience. They sit on a wide range of cases in the criminal jurisdiction of the District Court, freeing up District Court Judges to deal with more complex matters. Community Magistrates are appointed under section 39 of the District Court Act 2016 (the Act). There are currently 18 Community Magistrates nationwide.
3. Remuneration and allowances for Community Magistrates are authorised pursuant to section 60(2) of the Act and are determined, on my advice, by the Governor-General by Order in Council.
4. The maximum remuneration payable per day to a Community Magistrate is currently \$455.00. This is authorised by the Community Magistrates (Remuneration and Allowances) Order 1998.

2017/18 Judicial and Statutory Officer Fee Review

5. The Ministry of Justice (the Ministry) administers the payment of fees to a wide range of judicial and statutory roles. The fees are set in accordance with the recently reviewed Cabinet Fees Framework (CFF) Cabinet Office Circular (19)1.
6. Since 2006, reviews of these fees have been commissioned by the Ministry on a biennial basis.
7. These fees reviews help to ensure that judicial and statutory officers, including Community Magistrates, continue to be paid appropriately given the nature and complexity of their roles and to maintain some level of relatively with other similar roles (for example other courts or tribunals remunerated by the Remuneration Authority).
8. On 12 June 2019, the Appointments and Honours Cabinet Committee (APH) approved a 5.75% percent remuneration increase for Community Magistrates, back-dating this increase to 5 November 2017 [APH-19-MIN-0109 refers].
9. This increased Community Magistrates' daily remuneration from \$455.00 to \$481.00.

10. APH also agreed to formalise the circumstances in which a Community Magistrate may be paid a sitting day fee or part thereof, along with a range of additional allowances. These circumstances include when a Community Magistrate is attending a seminar or course of training or where a rostered sitting day is cancelled at short notice.
11. The expanded allowances for Community Magistrates include minor health-related expenses (a biennial eye-test, annual medical examination and counselling). This will bring Community Magistrates into line with entitlements received by District Court Judges.
12. Cabinet confirmed these decisions on 17 July 2019 [CAB-19-MIN-0283 refers].

Proposed amendments to the Community Magistrates (Remuneration and Allowances) Order 1998

13. The Community Magistrates (Remuneration and Allowances) Order 2019 implements the APH decisions described above in paras 10 and 11.

Timing and 28-day rule of Order

14. This Order will come into force 28 days after its publication in the New Zealand Gazette.

Compliance

15. The Order is consistent with:
 - 15.1. The principles of the Treaty of Waitangi;
 - 15.2. The rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 15.3. The principles and guidelines set out in the Privacy Act 1993;
 - 15.4. Relevant international standards and obligations; and
 - 15.5. The Legislative Advisory Committees' Guidelines on Process and Content of Legislation.

Regulations Review Committee

16. There are no apparent grounds for the Regulations Review Committee to draw the Order to the attention of the House under Standing Order 319.

Certification by Parliamentary Counsel

17. The proposed Amendment Order was certified by Parliamentary Counsel as being in order for submission to Cabinet.

Impact analysis

18. A regulatory impact analysis is not required.

Publicity

19. No publicity is required. Decisions will be communicated to the Chief District Court Judge and Community Magistrates.

Proactive Release

20. I propose proactively releasing this paper 30 business days after the date the order is gazetted.

Consultation

21. Treasury have been consulted and had no comments to make.

Recommendations

22. I recommend that the Cabinet Legislation Committee:
 1. **Note** that on 12 June 2019 Cabinet:
 2. approved an increase to the Community Magistrate's daily remuneration rate from \$455.00 to \$481.00;
 3. agreed the circumstances in which Community Magistrates can be paid remuneration; and
 4. agreed to additional allowances they can claim in the discharge of their judicial duties.
 5. **Note** that the Community Magistrates (Remuneration and Allowances) Order 2019 will give effect to the decisions referred to in paragraph 1 above.
 6. **Authorise** the submission to the Executive Council of the Community Magistrates (Remuneration and Allowances) Order 2019.

Authorised for lodgement

Hon Andrew Little

Minister for Courts



Cabinet Legislation Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Community Magistrates (Remuneration and Allowances) Order 2019

Portfolio **Courts**

On 22 October 2019, the Cabinet Legislation Committee:

- 1 **noted** that in June 2019, the Cabinet Appointments and Honours Committee:
 - 1.1 agreed to a 5.75 per cent daily fee increase for Community Magistrates, backdated to 5 November 2017;
 - 1.2 agreed that the circumstances in which daily fees can be paid to Community Magistrates should be formalised by way of an amended Order in Council as follows:
 - 1.2.1 that if a Community Magistrate is rostered to preside over a Saturday Court and is subsequently advised that morning that he or she is not required, the Community Magistrate may claim the appropriate sitting fee;
 - 1.2.2 that if a Community Magistrate is given less than two working days' notice of cancellation of a rostered sitting day (other than a Saturday), the Community Magistrate shall be paid their sitting fee for each cancelled day;
 - 1.2.3 that where a Community Magistrate is rostered for a full day, they may claim a full day fee even where the full number of hours were not fully utilised by the Court;
 - 1.2.4 that if any Community Magistrate attending a seminar or course of training relevant to their jurisdiction and approved by the Chief District Court Judge, shall receive a full day's fee for each day of the course or part thereof;
 - 1.3 agreed that Community Magistrates should be permitted to claim reimbursement of actual and reasonable out-of-pocket medical expenses, when directly attributable to the discharge of their functions of a Community Magistrate, for a biennial eye test, an annual medical test and for counselling/supervision session(s);
 - 1.4 agreed that a Community Magistrate can seek reimbursement of:
 - 1.4.1 up to \$32 per month of their monthly call plan, where they choose not to have a Ministry of Justice-supplied mobile phone;

- 1.4.2 the cost of business toll calls made from a Community Magistrate's private domestic phone or personal mobile phone;
- 1.4.3 a Koru Club membership (or similar) where a Community Magistrate is regularly required to travel by air in the discharge of their functions;

[APH-19-MIN-0109]

- 2 **noted** that the Community Magistrates (Remuneration and Allowances) Order 2019 give effects to the above decisions;
- 3 **authorised** the submission to the Executive Council of the Community Magistrates (Remuneration and Allowances) Order 2019 [PCO 22229/15.0];
- 4 **noted** that:
- 4.1 the Order comes into force on 5 December 2019;
- 4.2 clauses 4(1)(a) and 4(4) are taken to have come into force on 5 November 2017.

Gerrard Carter
Committee Secretary

Present:

Rt Hon Winston Peters
Hon Chris Hipkins (Chair)
Hon David Parker
Hon Stuart Nash
Hon Tracey Martin
Hon Eugenie Sage
Michael Wood MP (Senior Government Whip)

Officials present from:

Office of the Prime Minister
Officials Committee for LEG

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