

REPORT

and

DETERMINATION

under

SECTION 13

of the

STATUTORY AND OTHER OFFICES

REMUNERATION ACT, 1975

PUBLIC OFFICE HOLDER GROUP

8 September 2003

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PUBLIC OFFICE HOLDERS GROUP

Section 1 Background

1. Section 13 of the Statutory and Other Offices Remuneration Act 1975, (the Act), requires the Statutory and Other Offices Remuneration Tribunal, to make a determination of the remuneration to be paid to office holders on and from 1 October in that year. "Remuneration" is defined in section 10A as salary or allowances paid in money.
2. The Public Office Holders Group comprises those public offices, listed in the Schedules of the Act (except for the Judges Magistrates and Related Group), which have been grouped together by the Tribunal for remuneration purposes. The remuneration for this Group is determined as a fixed salary amount. Employer on costs such as Superannuation Guarantee Levy are, unlike the Senior Executive Service, additional to the salary amount determined. It is the Government's view that there be no direct nexus with the remuneration of the Judges Magistrates and Related Group. The Tribunal has supported this position in past Determinations.
3. Since the last review the Tribunal has also made a number of special determinations. In accordance with the Act the Reports and Determinations were published in the Government Gazette and tabled in Parliament. These determinations referred to the remuneration of the Registrar, Aboriginal Land Rights Act and the Registrar Workers Compensation Commission.
4. The Tribunal also made a separate determination for those office holders who elected to forego their employer provided motor vehicle by increasing their remuneration to an amount equivalent to the cost of a motor vehicle obtained under State contract. The Tribunal also undertook a similar review to determine whether it should adopt a similar approach for Members of the Aboriginal Land Council (ALC).
5. Members of the ALC are listed in Schedule 2 of the SOOR Act for the purpose of determining remuneration.

6. The Tribunal has examined the employment arrangements of the Members of the ALC and noted the following significant differences when compared with the other statutory office holders.
- The ALC is not a statutory body representing the Crown.
 - The ALC is not a budget sector agency but funded from moneys derived from the functions of the Council.
 - Councillors are elected to the ALC by members of Local ALCs and not appointed to the Council by the Minister. Elections are held approximately every 4 years.
7. As the vehicles are funded from a non budget sector source and are provided to elected representatives rather than Crown appointees, the Tribunal considers that, on balance, the motor vehicle arrangements for the Members of the ALC are more appropriately dealt with by the ALC itself rather than the Tribunal. The Tribunal will, therefore, be making no further determination in respect of this matter.

Section 2 Submissions Received

Government Submission

8. The Government has asked the Tribunal to consider various factors, including the economic outlook and has recommended a 3 percent increase for this Group.

Other Submissions Received.

9. For this review the Tribunal has received submissions from the Ombudsman, Registrar Workers Compensation Commission and the President Mental Health Review Tribunal. The Chairperson of the Transport Appeals Board also made an oral submission to the Tribunal on the role of his Office.

Section 3 2003 Tribunal Review

General

10. For the present review, the Tribunal has considered each of the submissions received and met with those officers who specifically requested meeting the Tribunal. After considering the information presented and after consulting the Assessor, the Tribunal considers those offices holders listed below should receive additional increases.

Ombudsman

11. The Ombudsman has sought an increase to reflect responsibilities, management and budgetary accountabilities of the position, including the additional responsibilities associated with the integration of the Community Services Commission into the Office of the Ombudsman.

12. The Tribunal has considered this matter and notes that significant increases in the scope of the jurisdiction of the Ombudsman have taken place over recent years. These include the additional oversight activities associated with police use of telecommunication devices by the police, child protection functions and in particular the oversight of the activities of government and non government organisation which come into contact with children. The Tribunal is also aware of the integration of the Community Services Commission into the Office. The Tribunal has also been advised that the Government recently decided to broaden the role of the Ombudsman by transferring to him the duties and responsibilities of the Inspector General of Corrective Services.

13. The extent of the increase in the responsibilities of the Ombudsman can be demonstrated by the size of the Office and its budget. In 1990 the Office employed 93 staff and had a budget of \$8 million pa. By 2003 the Office, to properly perform its expanded functions had grown to 200 staff and a budget \$16.2 million

14. On balance the Tribunal considers that the remuneration of the Ombudsman should equate to that of the Commissioner, Police Integrity Commission.

Registrar, Workers Compensation Commission

15. The Workers Compensation Commission (WCC) was established as part of the Government's workers compensation reforms in 2001 to provide a fair and cost effective system for the resolution of disputes under the Workers Compensation legislation. The WCC is intended to provide a timely service to ensure workers' entitlements are paid promptly and that where necessary it provides an independent dispute resolution service that is effective in settling matters between the parties in accordance with the legislation.
16. When the WCC was established the remuneration for the Registrar was determined by the Minister. Amendments contained in the Compensation Court Repeal Act 2002 transferred statutory responsibility for remuneration setting for these offices to SOORT. This section of the Act came into effect on and from 4 October 2002.
17. The Tribunal recently made a special determination in respect of this Office which essentially retained the Minister's remuneration level but increased the amount in line with general increases determined since October 2001.
18. This is the first opportunity to review the role and responsibilities of the Office and determine whether the remuneration level is appropriate now that the Commission is has been operating for over 12 months.
19. Having reviewed the position in greater detail the Tribunal considers that the breadth of responsibilities inherent in the position warrant an increase in remuneration.
20. The position has two main roles. As the CEO of the Commission the Registrar is responsible for the management of the Commission's budget of \$30 million and 80 full time staff, 85 Arbitrators, 34 Mediators and 113 Approved Medical Specialists. In addition the Registrar is responsible for and overall managerial responsibility for Mediators and Approved Medical Specialists.

21. In addition the Registrar has specific statutory functions under the Legislation. In the exercise of their functions, the Arbitrators are under the control and direction of the Registrar and are accountable to the Registrar. The Act also provides that the Registrar decides which Arbitrator is to constitute the Commission in any proceedings. The Registrar also has all the functions and duties of an Arbitrator.
22. In the case of appeals against medical assessments, the Registrar decides how an appeal is to be heard and determining the Arbitrator and Approved Medical Specialists to constitute the Appeal.
23. On the basis of the information before the Tribunal it is considered appropriate that the remuneration of the office be increased to the level shown in the determination.

Chairperson Transport Appeals Board.

24. The Chairperson provided details of the greater number of disciplinary appeals currently being heard by the Board. The Tribunal has considered this matter and is of the view that the role and responsibilities is now more onerous than was previously the case. On this basis the Tribunal considers that the remuneration of the Chairperson should be increased on this occasion but cannot agree with the Chairperson's assertion that remuneration should be equal to that of the Senior Chairperson of the Government and Related Employees Appeal Tribunal.

Section 4 Conclusion

25. In its determination for the SES and CES the Tribunal has set down the reasons for deciding to grant a wage increase of 3 percent to maintain the real value of wages and a 'catch up' of 1.7 percent to maintain relativity between SES and Senior Officers.
26. There is a difference between SES and Public Office Holders in that SES is a total package from which the officer contributes superannuation payments. The rates for SES are also set at ranges with progression available within each range. Also, Public Office Holders are not eligible for extra recruitment and retention allowances.

27. The Tribunal considers that in addition to an increase of 3 percent to maintain the real value of wages a further 'catch up' of 1 percent is justified in all the prevailing circumstances.

28. Pursuant to Section 13 of the Statutory and Other Offices Remuneration Act 1975, as amended, the Tribunal determines that the remuneration to be paid to office holders on and from 1 October 2003 shall be as specified in Annexure A.

**The Statutory and Other Offices
Remuneration Tribunal**

Gerry Gleeson

Dated: 8 September 2003

**DETERMINATION OF THE REMUNERATION OF THE PUBLIC OFFICE
HOLDERS GROUP ON AND FROM 1 OCTOBER 2003**

Salary	\$ per annum
Commissioner Police Integrity Commission	325,415
Ombudsman	316,605
President, Mental Health Review Tribunal	208,795
Chairperson, Consumer Trader and Tenancy Tribunal	208,795
Deputy Chairperson Consumer Trader and Tenancy Tribunal	193,105
Deputy Chairperson, Law Reform Commission	191,715
President, Guardianship Tribunal	190,460
Deputy President Administrative Decisions Tribunal	183,860
Deputy President Mental Health Review Tribunal	183,355
Registrar Workers Compensation Commission	179,000
Senior Chairperson (Government and Related Employees Appeals Tribunal) - not being a judicial office holder.	176,310
Commissioner, Law Reform Commission	172,165
Clerk of the Legislative Assembly	165,150
Deputy President, Guardianship Tribunal	159,940
Senior Member, Consumer Trader and Tenancy Tribunal	157,610
Clerk of the Parliaments	150,675
Chairman, Transport Appeals Board	146,660
Chairman, Local Land Boards	146,660
Registrar, Aboriginal Land Rights Act 1983	141,960
Deputy Clerk, Legislative Assembly	141,770
Chairperson, Government and Related Employees Appeals Tribunal <u>who is legally qualified</u> (not being the holder of a judicial office or a magisterial office)	135,830
Member, Consumer Trader and Tenancy Tribunal	135,830

ANNEXURE A (CONT'D)

**DETERMINATION OF THE REMUNERATION OF THE PUBLIC OFFICE
HOLDERS GROUP ON AND FROM 1 OCTOBER 2003**

Salary	\$ per annum
Assessor (Civil Claims)	135,830
Chairperson, Government and Related Employees Appeals Tribunal (not being the holder of a judicial office or a magisterial office)	128,250
Deputy Clerk, Legislative Council	128,250
Chairperson, Aboriginal Housing Authority	105,990
Member of the New South Wales Aboriginal Land Council	75,530 (Note 2)
Assessor Civil Claims (daily rate)	\$551 per day

Note 1 This rate of remuneration is payable only to those Chairpersons who are barristers admitted by, or solicitors of, the Supreme Court of NSW or who hold equivalent qualifications.

Note 2 The Chairperson shall receive an allowance of 5% (ie. a total of \$79,305 per annum) and the Secretary and Treasurer shall receive an allowance of 3% (ie. a total of \$77,795 per annum).

LEAVE LOADING

An annual leave loading shall be payable on the same terms and conditions as are applicable to officers and employees of the Public Service of New South Wales, as set out in Section 6-17.12 to 6-17.17 of the Premier's Department Personnel Handbook, to each of the office holders listed above who are provided, as a condition of their employment with approved annual leave.

**The Statutory and Other Offices
Remuneration Tribunal**

Gerry Gleeson

Dated: 8 September 2003