

Public Office Holders Group

Annual
Determination

*Report and determination under
section 13 of the Statutory and Other
Offices Remuneration Act 1975*

**25 June
2015**

Public Office Holders Group

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Section 1

Introduction

1. The role of the Statutory and Other Offices Remuneration Tribunal (the Tribunal), pursuant to section 6 of the *Statutory and Other Offices Remuneration Act 1975* (the SOOR Act) was undertaken by Ms Helen Wright from 12 July 2011 until the expiration of her appointment on 11 July 2014. The Tribunal wishes to express its appreciation of Ms Wright's contributions over those years.
2. On 6 August 2014, Mr Richard Grellman AM was appointed to the role of Tribunal pursuant to section 6 of the SOOR Act. The two roles of Assessor assisting the Tribunal pursuant to sections 7 (1) (a) and 7 (1) (b) of the SOOR Act have been undertaken by Mr Blair Comley PSM, Secretary, Department of Premier and Cabinet and Mr Ken Baxter, respectively.

Background

3. Section 13 of the SOOR Act, requires the Tribunal, each year, to make a determination on the remuneration to be paid to office holders on and from 1 July in that year (formerly 1 October). "Remuneration" is defined in section 10A as salary or allowances paid in money.
4. The Public Office Holders Group comprises those public offices, listed in the Schedules of the Act (except for the Judges and Magistrates Group and the Court and Related Officers Group), which have been grouped together by the Tribunal for remuneration purposes. The remuneration for these office holders is determined as a fixed salary amount. Employer on-costs, such as the Superannuation Guarantee Contribution, are additional to the salary amount determined. This Group also comprises a small number of office holders who, pursuant to Section 11A of the SOOR Act, have elected to receive, and for whom the Minister has approved access to, remuneration packaging arrangements identical to the Chief and Senior Executive Service (SES).

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Government Wages Policy

5. The Tribunal is required, when making determinations under Part 3 of the SOOR Act, to give effect to any policy concerning the remuneration of office holders as declared by the regulations, rather than those policies that the Industrial Relations Commission is required to give effect to under section 146C of the Industrial Relations Act 1996 (the IR Act).
6. Section 6AB of the SOOR Act applies to the Tribunal's determinations in respect of office holders in the Judges and Magistrates Group, the Court and Related Officers Group and the Public Office Holders Group. Government policy concerning the remuneration of office holders to which Part 3 of the SOOR Act applies is declared in the *Statutory and Other Offices Remuneration (Judicial and Other Office Holders) Regulation 2013* (the SOOR Regulation).
7. In accordance with SOOR Regulation any increase the Tribunal may determine in excess of 2.5 per cent, be it a general increase available to all office holders, or an increase provided to an individual office holder or group of office holders based on changes in work value, can only be paid if officer-related cost savings for the office holder (or group of office holders) have been achieved to fully offset the increased officer-related costs resulting from increased payment.

Section 2

2014 Determination

8. On 11 July 2014 the Tribunal made its 2014 annual determination and concurrently a special determination for the Public Office Holders Group.

Special Determination (pursuant to section 14 of the SOOR Act)

9. The special determination was made following a direction from the Premier, the Hon Mike Baird MP, in respect to office holders who did not receive an annual adjustment following the disallowance of the 2013 determination - being those office holders who were not the subject of the Tribunal's special determination of 19 December 2013.

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10. The special determination provided an increase for office holders in receipt of a salary of 2.27 per cent, and office holders in receipt of a total remuneration package of 2.5 per cent, for the period 1 October 2013 to 30 June 2014, in accordance with the Premier's direction.

Annual Determinations (pursuant to section 13 of the SOOR Act)

11. The annual determination provided an increase of 1.70 per cent for office holders in receipt of a salary, and an increase of 1.88 per cent for office holders in receipt of a total remuneration package on and from 1 July 2014.
12. The increases of 1.70 per cent and 1.88 per cent were discounted amounts to reflect the start date of 1 July rather than the later date of 1 October, at which date the Tribunal's previous determinations have taken effect. The Tribunal adjusted the increase to ensure the office holders salaries or remuneration packages did not increase by more than 2.5 per cent over a twelve month period.

Section 3

2015 Annual Review

Invitation for Submissions

13. As is the usual practice, prior to making its Reports and Determinations, the Tribunal invited submissions from office holders on 20 March 2015 and from the Secretary NSW Treasury on 19 March 2015.
14. Office holders were advised that, should any office holder or group of office holders wish to submit that an increase in excess of 2.5 per cent was warranted, it would be necessary for such office holder or group of office holders to identify and propose to the Tribunal the "officer-related cost savings" (as defined) which it or they intended to achieve. In due course the Tribunal would be responsible for determining whether or not those savings had been achieved.
15. Under current legislation the Tribunal determines remuneration for office holders, which is either a salary or a total remuneration package. Information on other employment entitlements and/or personal appointment benefits provided to

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individual office holders or groups of office holders by their employer is not readily available to the Tribunal. Further, the overall cost to the State of engaging these office holders is not readily quantifiable by the Tribunal.

16. Should office holders, or groups of office holders, consider that the Tribunal in determining whether officer-related cost savings will or have been achieved, should have regard to other employment entitlements and/or personal appointment benefits, the types and costs of those entitlements would need to be made available (and independently verified) to the Tribunal.

Office Holder Submissions

17. No submissions were received from office holders requesting an increase greater than 2.5 per cent.

Government Submission

18. The Secretary NSW Treasury provided the Government submission to the Tribunal on 7 May 2015. The Government submits that the Tribunal should determine an increase of 2.5 per cent for office holders in the Public Office Holders Group, both office holders in receipt of a salary and those who have elected to receive a remuneration package pursuant to section 11A of the SOOR Act, on the basis that it is consistent with the NSW Wages Policy and reflects the NSW Government's intent, pursuant to section 6AB of the SOOR Act and the SOOR Regulation.

Section 4

2015 Determination

19. The requirements of the SOOR Act and the SOOR Regulation limit the way this Tribunal makes its determinations. It is the obligation of the Tribunal to undertake its duties consistent with the legislation. No submissions were received from office holders seeking an increase greater than 2.5 per cent. On that basis the Tribunal, after considering the views of the Assessors, considers that an increase of 2.5 per cent is appropriate and so determines.
20. The Tribunal notes however that the amendments to the SOOR Act and SOOR

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Regulation make it difficult for office holders, and, in particular, groups of office holders, to demonstrate that sufficient officer-related cost savings can be achieved to justify an increase of more than 2.5 per cent.

21. The Tribunal has reviewed the intent of the SOOR Regulation and reviewed comments made by the former Tribunal in previous determinations. Having regard to the information before it, the Tribunal is drawn to the view that increases of more than 2.5 per cent may not be achievable as the SOOR Regulation, as presently constructed, would appear to make the identification and assessment of officer-related cost savings prohibitively complex and difficult.
22. The Tribunal notes that the *Industrial Relations (Public Sector Conditions of Employment) Regulation 2014* and SOOR Regulation were introduced to require the Tribunal to give effect to the Government's wages policy and to require the same policies on increases in remuneration as apply to public service workers to also apply to those officers whose remuneration is determined by the Tribunal. However, as a consequence of a number of factors, increases have not been applied uniformly to all office holder groups and a possible unintended consequence has been the erosion of long standing salary relativities.
23. The Tribunal notes that the SOOR Regulation will expire on 1 September 2018. The Tribunal intends to write to the Premier to seek his views on the restoration of internal relativities, for the Judges and Magistrates and Court and Related Officer Groups, and whether or not there is any intention to repeal, or amend, the SOOR Regulation before 2018 which may enable office holders to seek increases of more than 2.5 per cent.

Section 11A office holders

24. For the 2015 determination the Tribunal will continue to identify, in Determination No.2 of the Public Office Holders report and determination, those offices which are held by individuals who have elected to receive a total remuneration package pursuant to section 11A of the SOOR Act.
25. The Tribunal will also make a salary-only determination for those particular offices and list that salary in the general determination for Public Office Holders in

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Determination No. 1. This is to ensure that a current determination exists for these roles should the incumbent officer revoke his/her election or if a new officer is appointed to the role.

26. Since the making of the 2014 Public Office Holders report and determination the office of Valuer General was vacated and on that basis is removed from Determination No.2.

Conclusion

27. Pursuant to Section 13 of the SOOR Act the Tribunal determines that the remuneration to be paid to office holders in the Public Office Holders Group on and from 1 July 2015 shall be as specified in Determination Nos. 1 and 2.

The Statutory and Other Offices Remuneration Tribunal

(Signed)

Richard Grellman AM

Dated: 25 June 2015

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Section 5

Determinations

Determination No. 1-Public Office Holder Group

Annual determination of the remuneration of the Public Office Holder Group effective on and from 1 July 2015

Public Office Holder	Salary per annum
Public Service Commissioner	\$490,450
Commissioner Police Integrity Commission	\$467,725
Auditor General	\$456,240
Ombudsman	\$455,065
Commissioner, NSW Crime Commission (Note 1)	\$451,535
Assistant Commissioner, NSW Crime Commission	\$427,775
Full time Member and CEO, Independent Pricing and Regulatory Tribunal	\$406,675
President, Mental Health Review Tribunal	\$369,240
Electoral Commissioner (Note 1)	\$355,125
Valuer General	\$328,515
Workcover Independent Review Officer	\$327,820
Deputy President Mental Health Review Tribunal	\$323,055
Information Commissioner	\$320,340
Privacy Commissioner	\$309,135
Mental Health Commissioner	\$297,225
Parliamentary Budget Officer	\$292,955
Principal Claims Assessor (Motor Accidents Compensation Act)	\$291,820
Inspector of Custodial Services	\$282,510
Small Business Commissioner	\$278,330
Deputy Chairperson, Law Reform Commission	\$275,555
Commissioner, Law Reform Commission	\$262,210
Clerk of the Legislative Assembly	\$257,280
Clerk of the Parliaments	\$257,280
Registrar Workers Compensation Commission	\$257,280
Executive Manager, Parliamentary Services	\$257,280

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Public Office Holder	Salary per annum
Senior Arbitrator, Workers Compensation Commission (legally qualified)	\$238,800
Deputy Clerk, Legislative Assembly	\$220,860
Deputy Clerk, Legislative Council	\$220,860
Senior Arbitrator, Workers Compensation Commission (not legally qualified)	\$219,930
Arbitrator, Workers Compensation Commission (legally qualified)	\$210,840
Registrar, Aboriginal Land Rights Act 1983	\$204,035
Assessor (<i>Local Court Act 2007</i>)	\$195,225
Arbitrator, Workers Compensation Commission (not legally qualified)	\$189,545
Chairperson, Board of the Aboriginal Housing Office	\$152,340
Member of the New South Wales Aboriginal Land Council (Note 2)	\$135,910
Chairperson, Infrastructure NSW	\$78,450
President Mental Health Review Tribunal (part time daily rate)	\$1,535
Deputy President Mental Health Review Tribunal (part time daily rate)	\$1,340
Assessor <i>Local Court Act 2007</i> (daily rate)	\$810

Note 1 The Public Office Holders of these public offices have elected to be provided with employment benefits pursuant to section 11A of the Act and the remuneration packages are listed in Determination 2.

Note 2 The Chairperson shall receive an allowance of 10% (i.e. a total of \$149,500 per annum) and the Deputy Chairperson shall receive an allowance of 5% (i.e. a total of \$142,705 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.

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Determination No. 2-Public Office Holder Group, Section 11a

Determination of the remuneration of Public Office Holders who have elected to be provided with employment benefits pursuant to section 11a of the SOOR Act effective on and from 1 July 2015

The Tribunal determines that the remuneration packages per annum for Public Office Holders who have elected to be provided with employment benefits pursuant to section 11A of the SOOR Act shall be:

Public Office Holder	Remuneration
Commissioner, NSW Crime Commission	\$472,770
Electoral Commissioner	\$375,200

The Statutory and Other Offices Remuneration Tribunal

(Signed)

Richard Grellman AM

Dated: 25 June 2015