

Public Office Holders Group

Annual
Determination

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

**15 July
2016**

Public Office Holders Group

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Section 1

Background

1. Section 13 of the *Statutory and Other Offices Remuneration Tribunal Act 1975* (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. “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 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 any 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 that are provided to Secretaries of Departments under the *Government Sector Employment Act 2013*.

Government Wages Policy

3. 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).
4. 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).

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5. 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

2015 Determination

6. On 25 June 2015 the Tribunal determined that officers in the Public Office Holders Group would receive an increase in salary and total remuneration package (where applicable) of 2.5 per cent.
7. The Tribunal noted that the introduction of the SOOR Regulation has had an impact on the Tribunal's ability to determine increases across the Judges and Magistrates Group, Court and Related Officers Group and the Public Office Holders Group. The Tribunal made the following comments in respect of the impact of the SOOR Regulation in the 2015 Public Office Holders Determination:
 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*

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Tribunal intends to write to the Premier to seek his views on the restoration of internal relativities 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 and/or for the Tribunal to determine increases of more than 2.5 for the purpose of restoring long standing salary relativities.

Special Determinations

8. The Tribunal has made three special determinations, pursuant to section 14(2) of the SOOR Act, since the making of the 2015 annual determination.
9. On 27 November 2015 the Tribunal determined that the office of Part-time member of a Board of Governors of a Corporation constituted by the *Electricity Retained Interest Corporations Act 2015*, receive annual remuneration of \$150,000 for the Chair and \$85,000 for Members. The determination is to take effect from the proclamation of the *Electricity Retained Interest Corporations Act 2015*.
10. On 17 December 2015 the Tribunal determined that the office of Full-time Deputy Mental Health Commissioner shall receive a salary of \$237,980 per annum. The Tribunal had not previously made a determination for this role as it had been undertaken on a part time basis.
11. On 19 February 2016 the Tribunal made a determination in respect of the remuneration payable to the office of the President of the Mental Health Review Tribunal in circumstances where a judge of the District Court or Supreme Court of NSW (a sitting judge) holds the office and is continuing to be remunerated in their judicial office. To ensure that a sitting judge is not paid both judicial remuneration and the salary as President, the Tribunal determined that remuneration of \$1.00 per annum would apply to the President in these circumstances.

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12. Special determinations are published on the [NSW Remuneration Tribunals](#) website.

Section 3

2016 Annual Review

13. As foreshadowed in the 2015 determination, on 4 February 2016 the Tribunal wrote to the Premier, the Hon Mike Baird MP, to seek his views, if any, on how the Tribunal can restore the internal relativities before then. In addition, whether there is any proposal to amend the SOOR Regulation to enable the Tribunal to consider an increase based on work value, where warranted, which may exceed 2.5% (without the need to identify officer-related cost savings).
14. In the Premier's response of 27 April 2016 the Premier advised that the Government does not intend to repeal or amend the SOOR Regulation before its staged repeal in 2018. Also, that the Government does not support increasing certain wages in order to match historical salary relativities.
15. Having considered the Premier's response the Tribunal finds no reason to alter the view already expressed that increases of more than 2.5 per cent may not be achievable.
16. On 3 May 2016 the Tribunal wrote to office holders advising of the commencement of the 2016 annual review. Having regard to the advice received from the Premier, the Tribunal advised office holders that for 2016 it is practical to only consider a general increase of up to 2.5 per cent. Office holders were invited to make submissions on the quantum of the general increase. If office holders or groups of office holders felt they had a strong enough case to seek an increase based on work value assessment of more than 2.5 per cent it would be a matter for such office holders or groups of office holders to identify and propose to the Tribunal the officer-related cost savings which it or they intend to achieve.

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Office Holder Submissions

17. The Tribunal received one response to its request for submissions. With the Senior Arbitrator of the Workers Compensation Commission advising that neither she nor the Arbitrators would be seeking an increase in remuneration of more than 2.5 per cent.

Government Submission

18. The Secretary NSW Treasury provided the Government submission to the Tribunal on 11 July 2016. 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. This recommendation 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

2016 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 annual increase will not apply to the Part-time members of a Board of Governors of a Corporation constituted by the *Electricity Retained Interest Corporations Act 2015*. The Tribunal notes that the Act has yet to be proclaimed and that the roles have not been filled since the making of the special determination in November 2015. On that basis no additional increase in remuneration is warranted.

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Section 11A office holders

21. For the 2016 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.
22. 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 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.
23. Since the making of the 2015 Public Office Holders determination the office of Electoral Commissioner was vacated and on that basis is removed from Determination No.2.

Conclusion

24. 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 2016 shall be as specified in Determination Nos. 1 and 2.

The Statutory and Other Offices Remuneration Tribunal

(Signed)

Richard Grellman AM

Dated: 15 July 2016

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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 2016

Public Office Holder	Salary per annum
Public Service Commissioner	\$502,710
Commissioner Police Integrity Commission	\$479,420
Auditor General	\$467,645
Ombudsman	\$466,440
Commissioner, NSW Crime Commission (Note 1)	\$462,825
Assistant Commissioner, NSW Crime Commission	\$438,470
Full time Member and CEO, Independent Pricing and Regulatory Tribunal	\$416,840
President, Mental Health Review Tribunal	\$378,470
President, Mental Health Review Tribunal (remuneration applicable only while a Judge of the District Court of NSW or Judge of the Supreme Court of NSW holds the office of President and continues to be remunerated for their judicial role)	\$1
Electoral Commissioner	\$364,005
Valuer General	\$336,730
Workcover Independent Review Officer	\$336,015
Deputy President Mental Health Review Tribunal	\$331,130
Information Commissioner	\$328,350
Privacy Commissioner	\$316,865
Mental Health Commissioner	\$304,655
Parliamentary Budget Officer	\$300,280
Principal Claims Assessor (Motor Accidents Compensation Act)	\$299,115
Inspector of Custodial Services	\$289,575
Small Business Commissioner	\$285,290
Deputy Chairperson, Law Reform Commission	\$282,445
Commissioner, Law Reform Commission	\$268,765

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Public Office Holder	Salary per annum
Clerk of the Legislative Assembly	\$263,710
Clerk of the Parliaments	\$263,710
Registrar Workers Compensation Commission	\$263,710
Executive Manager, Parliamentary Services	\$263,710
Senior Arbitrator, Workers Compensation Commission (legally qualified)	\$244,770
Deputy Mental Health Commissioner	\$243,930
Deputy Clerk, Legislative Assembly	\$226,380
Deputy Clerk, Legislative Council	\$226,380
Senior Arbitrator, Workers Compensation Commission (not legally qualified)	\$225,430
Arbitrator, Workers Compensation Commission (legally qualified)	\$216,110
Registrar, Aboriginal Land Rights Act 1983	\$209,135
Assessor (<i>Local Court Act 2007</i>)	\$200,105
Arbitrator, Workers Compensation Commission (not legally qualified)	\$194,285
Part-time Chairperson of a Board of Governors of a Corporation constituted by the <i>Electricity Retained Interest Corporations Act 2015</i>	\$150,000
Chairperson, Board of the Aboriginal Housing Office	\$156,150
Member of the New South Wales Aboriginal Land Council (Note 2)	\$139,310
Part-time Member of a Board of Governors of a Corporation constituted by the <i>Electricity Retained Interest Corporations Act 2015</i>	\$85,000
Chairperson, Infrastructure NSW	\$80,365
President Mental Health Review Tribunal (part time daily rate)	\$1,570
Deputy President Mental Health Review Tribunal (part time daily rate)	\$1,375
Assessor <i>Local Court Act 2007</i> (daily rate)	\$830

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 \$153,240 per annum) and the Deputy Chairperson shall receive an allowance of 5% (i.e. a total of \$146,275 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 2016

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	\$484,590

The Statutory and Other Offices Remuneration Tribunal

(Signed)

Richard Grellman AM

Dated: 15 July 2016