

Court and
Related
Officers
Group

Annual
Determination

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

**7 August
2018**

Court and Related Officers Group

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Section 1

Background

1. Section 13 of the *Statutory and Other Offices Remuneration 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. Section 10A defines 'remuneration' as salary or allowances paid in money.
2. The Court and Related Officers Group comprises those public offices listed in the Schedules of the Act (except for the Judges and Magistrates Group and the Public Office Holders 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.

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. 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).
4. In accordance with the 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

2017 Determination

5. On 29 August 2017, the Tribunal determined that officers in the Court and Related Officers Group would receive an increase in salary of 2.5 per cent.
6. The Tribunal determined that there would be no change to the quantum of the conveyance allowance as the annual percentage change from the 2016 March quarter to the 2017 March quarter in the CPI: Motor Vehicles – Sydney (Series ID A2328552A) had decreased by negative 3.7 per cent.
7. The Tribunal examined amendments to the *Land and Environment Court Act 1979* that allowed the Tribunal to determine the remuneration for an acting Commissioner of the Land and Environment Court. The Tribunal determined the rate of remuneration for an acting Commissioner of the Land and Environment Court would be \$1,190 per day.
8. The Tribunal noted matters relating to the restoration of internal relativities between office holders in the Court and Related Officers Group.
9. The Tribunal also repeated concerns about the operation of the SOOR Regulation and indicated an intention to raise these concerns with the Premier as outlined in paragraphs 21 and 22 of the 2017 determination as follows:
 21. *In 2015 the Tribunal noted that it was 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. The Tribunal remains of this view having considered as part of this review a request for an increase in excess of 2.5 per cent for an office holder in the Public Office Holders Group.*
 22. *The Tribunal will again draw these matters to the Premier’s attention prior to the repeal of the SOOR Regulation in September 2018. Any new*

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regulation should provide the Tribunal with greater flexibility in the undertaking of its statutory functions.

Section 3

2018 Annual Review

10. On 26 March 2018, the Tribunal wrote to office holders advising of the commencement of the 2018 annual review. The Tribunal did not hold meetings with office holders as part of the 2018 review.

Office Holder Submissions

11. For the 2018 review the Tribunal received three submissions from office holders in the Court and Related Officers Group.
12. The Director and Deputy Directors of Public Prosecutions, Crown Prosecutors and Public Defenders and Senior Commissioners of the Land and Environment Court all seek an increase of 2.5 per cent, noting that this is the maximum that can be expected within the current constraints.
13. The Director and Deputy Directors of Public Prosecutions and the Crown Prosecutors also foreshadowed that matters relating to the Early Appropriate Guilty Plea reforms will be addressed in the 2019 submissions.

Government Submission

14. The Secretary NSW Treasury provided the Government submission to the Tribunal on 9 July 2018. The submission outlines the applicability of the NSW Government's wages policy and provides an overview of the economic conditions of the State. Having regard to that advice the Tribunal considers that the budget position for the State of NSW supports an increase of 2.5 per cent. This increase is also consistent with wages growth for non-executive employees across the public sector.
15. The Tribunal notes that the Government submission states that offices in the public office holders group are subject to section 6AA of the SOOR Act which requires the Tribunal to give effect to the same policies as those that the Industrial Relations Commission (IRC) is required to give effect to under section 146C of the *Industrial*

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Relations Act 1996 when making or varying awards or orders relating to the conditions of employment of public sector employees. Offices in the public office holders group are not subject to the provisions of section 6AA of the SOOR Act. Instead these office holders are subject to the provisions of section 6AB of the SOOR Act and the SOOR Regulation.

Section 4

2018 Determination

General Increase

16. The Tribunal has not been asked to consider an increase, either a general increase or an increase based on work value assessment, in excess of 2.5 per cent, and therefore a detailed assessment of whether or not officer-related costs savings have been achieved has not been required for this group of office holders.
17. It is open to the Tribunal to determine an increase of up to 2.5 per cent without the need for office holders to offset any additional increase with officer-related cost savings.
18. The Tribunal finds that an increase of 2.5 per cent is justified having regard to the significant role court and related officers undertake in the State's justice system.
19. The Tribunal has previously discussed the difficulties associated with identifying and providing proof of officer related cost savings. The Tribunal has repeatedly raised concerns over the functionality of the SOOR Regulation.
20. As outlined in the 2017 determination the Tribunal has again written to the Premier on this matter and has also written to the Secretary of the Department of Premier and Cabinet (DPC).
21. On 6 August 2018 the Secretary of DPC advised that the automatic repeal of the SOOR Regulation has been postponed for a period of one year on the basis that it is appropriate for the Government to consider the remake of the SOOR Regulation at the same time that it considers the remake of the *Industrial Relations (Public Sector Conditions of Employment) Regulation 2014*, which is due to be repealed on 1 September 2019.
22. This is a matter for the Government and the Tribunal will continue to operate within the legislative framework, notwithstanding the limitations discussed.

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Conveyance Allowance

23. The annual percentage change from the 2017 March quarter to the 2018 March quarter in the CPI: Motor Vehicles – Sydney (Series ID A2328552A) is 0.50 per cent. To reflect this change there is a minor adjustment to the quantum of the conveyance allowance.

Conclusion

24. The Tribunal, after consulting with the Assessors, considers that an increase of 2.5 per cent in remuneration is appropriate and so determines. In respect to the conveyance allowance, an adjustment of 0.50 per cent is warranted in accordance with the Tribunal's methodology.
25. Pursuant to section 13 of the SOOR Act the Tribunal determines that the remuneration to be paid office holders in the Court and Related Officers Group, on and from 1 July 2018 shall be as specified in Determination Nos. 1-2.

The Statutory and Other Offices Remuneration Tribunal

Signed

Richard Grellman AM

Dated: 7 August 2018

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Section 5

Determinations

Determination No. 1- Annual Determination of Remuneration

Annual determination of the remuneration of the Court and Related Officers Group effective on and from 1 July 2018

Position	Salary per annum	Conveyance Allowance (NOTE 1)
Director of Public Prosecutions	\$446,320	\$23,720
Solicitor-General	\$446,320	\$23,720
Chairperson, Law Reform Commission	\$444,530	\$23,720
Crown Advocate	\$400,080	\$21,345
Deputy Director of Public Prosecutions	\$400,080	\$21,345
Senior Crown Prosecutor	\$360,070	\$17,075
Senior Public Defender	\$360,070	\$17,075
Deputy Presidents, Workers Compensation Commission	\$324,050	\$17,075
Deputy Senior Crown Prosecutor	\$324,050	\$17,075
Deputy Senior Public Defender	\$324,050	\$17,075
Solicitor for Public Prosecutions	\$324,050	\$17,075
Senior Commissioner Land and Environment Court	\$311,160	\$17,075
Crown Prosecutor	\$296,050	\$17,075
Public Defender	\$296,050	\$17,075
Commissioner Land and Environment Court	\$293,380	\$17,075
Acting Deputy President Workers Compensation Commission	\$1,345 per day	-
Acting Commissioner Land and Environment Court	\$1,220 per day	-

Conveyance Allowance

NOTE 1: The Conveyance Allowance determined here shall not count towards pension or for superannuation purposes.

METHODOLOGY: The Tribunal provides increases to the conveyance allowance based on the CPI: Motor Vehicles – Sydney (Series ID A2328552A) March quarter - having regard to the

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percentage change from the corresponding quarter of the previous year. In considering any adjustment the following conditions will apply:

- Should the March quarter data indicate a decrease in motor vehicle costs the conveyance allowance will remain unchanged (to comply with the requirements of section 21 of the SOOR Act).
- The annual adjustment will not exceed 2.5 per cent (to comply with section 6AB of the SOOR Act).

Determination No. 2- Annual Leave Loading

Leave Loading

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.

The Statutory and Other Offices Remuneration Tribunal

Signed

Richard Grellman AM

Dated: 7 August 2018