

Public Office Holders Group

Annual
Determination

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

**27 August
2019**

Public Office Holders Group

Contents

Contents	1
Section 1	2
Background	2
Government Wages Policy	2
Section 2	4
2018 Determination	4
Section 3	5
2019 Annual Review	5
Office Holder Submissions	5
Government Submission	7
Section 4	8
2019 Determination	8
General Increase	8
List of Office Holders	8
Statutory and Other Offices Remuneration (Judicial and Other Office Holders) Regulation 2013 (SOOR Regulation)	8
Conclusion	10
Section 5	11
Determinations	11
Determination No. 1-Public Office Holder Group	11

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 Public Office Holders Group comprises those public offices, listed in the schedules of the SOOR 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 Public Service senior executives 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. 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

Public Office Holders Group

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

2018 Determination

5. On 7 August 2018, the Tribunal determined that officers in the Public Office Holders Group would receive an increase in salary of 2.5 per cent.
6. As part of the 2018 annual determination the Tribunal determined that the remuneration for the Principal Claims Assessor under the *Motor Accidents Injuries Act 2017* and the Principal Claim Assessor under the *Motor Accidents Compensation Act 1999*, would receive the one salary while ever these offices are held concurrently by the same person.
7. The Tribunal also repeated concerns about the operation of the SOOR Regulation.

Section 3

2019 Annual Review

8. On 23 March 2019, the Tribunal wrote to office holders advising of the commencement of the 2019 annual review. The Tribunal did not hold meetings with office holders as part of the 2019 review.

Office Holder Submissions

9. The Tribunal received one submission from office holders for consideration in the 2019 annual review. Those office holders are the Chairperson, Deputy Chairperson and Members of the NSW Aboriginal Land Council (the NSW ALC) - together, Members of the NSW ALC. The Members of the NSW ALC have requested an increase in salary of 10 per cent with effect from 1 July 2019.
10. One of the declared policies in the SOOR Regulation is that an increase in an officer's remuneration that increases officer-related costs by more than 2.5 per cent can only be paid if "officer-related cost savings for the office holder have been achieved to fully offset the increased officer-related costs" (clause 6 of the SOOR Regulation).
11. The Members of the NSW ALC have identified officer-related cost savings resulting from changes in work practices as referred to in subclause 7(1)(b)(iii) of the SOOR Regulation. The changes in work practices relate to the governance of the Council, specifically the organisation of meetings and workshops. By reducing the number of meetings per annum and by holding workshops on the same day as Council meetings the Members of the NSW ALC have made significant savings attributed to reduced travel, accommodation and meal costs.
12. The Members of the NSW ALC have also identified further officer-related cost savings resulting from changes in personal appointment benefits as referred to in subclause 7(1)(b)(i) of the SOOR Regulation. These changes relate to Members of the NSW ALC

Public Office Holders Group

moving from the receipt of travel allowances to being reimbursed for the actual costs incurred during official travel.

13. The changes in work practices and personal appointment benefits identified by Members of the NSW ALC are considered by the Tribunal to be officer-related savings within the meaning of the SOOR Regulation.
14. The Members of the NSW ALC have sought an increase of 10 per cent in the salary payable to the Chairperson, Deputy Chairperson and Members. The salary for the Members of the NSW ALC was last adjusted above the annual increase in 2007.
15. The increase is sought to recognise additional responsibilities associated with governance, the diversification of economic activities and new enterprises, advocacy with both State and Federal governments and the implementation of the 2018-2022 Strategic Plan.
16. The Tribunal acknowledges the significant work undertaken by the Members of the NSW ALC to achieve cultural protection, social wellbeing and economic development for Aboriginal people in NSW and finds that the additional increase is warranted.
17. In accordance with subclause 6(2)(a) of the SOOR Regulation the Tribunal is responsible for determining whether the identified savings have been achieved.
18. The officer-related cost savings notified to the Tribunal are not sufficient to offset the entire additional cost of a 10 per cent increase from 1 July 2019. However, the Members of the NSW ALC have identified sufficient officer-related savings to offset an increase of 6.5 per cent from 1 July 2019. The Tribunal is of the view that the changes in work practices and personal appointment benefits (associated with meeting governance and travel costs) are likely to deliver further savings during 2019/2020 which will be sufficient to offset the additional cost to fund the full increase of 10 per cent.
19. Subclause 6(2)(c) of the SOOR Regulation provides for increases to be awarded before the relevant officer-related cost savings have been achieved, but that they are not payable until they are achieved. On that basis, the determination will award an increase

Public Office Holders Group

of 6.5 per cent to \$155,880 per annum payable from 1 July 2019. A further increase may be awarded to increase the salary to \$161,000 per annum (the full increase of 10 per cent) payable at a date to be determined by the Tribunal. That date will be determined after the Members of the NSW ALC provide the Tribunal with sufficient proof that the additional officer-related cost savings to offset the further increase have been achieved. If there is insufficient proof that these additional savings have been achieved the further increase to \$161,000 will not occur.

20. The conditions which attach to this determination for the Members of the NSW ALC are outlined in Section 5 of this determination.

Government Submission

21. The Secretary NSW Treasury provided the Government submission to the Tribunal on 28 June 2019. 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 a general increase of 2.5 per cent. This increase is also consistent with wages growth for non-executive employees across the public sector.
22. The Tribunal again 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 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

2019 Determination

General Increase

23. The Members of the NSW ALC are the only office holders in this group to ask the Tribunal to consider an increase in excess of 2.5 per cent (as outlined in paragraphs 9 to 20). In respect to the other office holders in this group, a detailed assessment of whether or not officer-related costs savings have been achieved has not been required. It is open to the Tribunal to determine an increase of up to 2.5 per cent without the need for other office holders to offset any additional increase with officer-related cost savings.

List of Office Holders

24. The Tribunal has removed the office of Full Time Member and Chief Executive Officer (CEO), Independent Pricing and Regulatory Tribunal from the 2019 Public Office Holders Group determination. The Tribunal was advised that the role of CEO is now undertaken by a Public Service senior executive. There are currently no Full Time Members. As the former determination for the Full Time Member has regard to the arrangement whereby that office holder also undertook the role of CEO, it is considered appropriate to make a new determination for the Full time Member if this role is filled in the future having regard to the roles and functions at that time.

Statutory and Other Offices Remuneration (Judicial and Other Office Holders) Regulation 2013 (SOOR Regulation)

25. As outlined in the 2018 annual determination the Tribunal sought advice from the Secretary of the Department of Premier and Cabinet (DPC) on the status of the SOOR Regulation. On 6 August 2018 the Secretary of DPC advised that the automatic repeal of the SOOR Regulation had been postponed for a period of one year on the basis that it was 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*

Public Office Holders Group

Conditions of Employment) Regulation 2014, which is due to be repealed on 1 September 2019.

26. The Tribunal has now been advised that the Government will recommend to the Premier that the repeal of the SOOR Regulation be postponed for a further period of 12 months, subject to the Governor's approval.
27. As previously stated, this is a matter for the Government and the Tribunal will continue to operate within the legislative framework.
28. The Tribunal acknowledges that the NSW Public Sector Wages Policy, and the application of that policy via the SOOR Regulation, supports the Government in managing employee expenses growth which is key to maintaining the State's strong fiscal position.
29. The State's leaders, key independent officer holders and judiciary play a crucial role in supporting the functions of the Government and providing services to the citizens of NSW.
30. While there are factors other than remuneration which attract people to public office, it is important that these roles are appropriately remunerated to ensure people of caliber apply and can be retained in these roles.
31. The remuneration for a role should as much as practical reflect the work value of that role. Office Holders should receive competitive and equitable remuneration that reflects the responsibilities and experience required of the roles.
32. While the Members of the NSW ALC have been successful in demonstrating sufficient officer-related cost savings to provide for an increase of more than 2.5 per cent, other office holders and groups of office holders have found it difficult to identify the necessary officer-related savings required of the SOOR Regulation.
33. The Tribunal continues to be of the view that the SOOR Regulation, as presently constructed, makes the identification and assessment of officer-related cost savings prohibitively complex and difficult. The Tribunal continues to encourage the

Public Office Holders Group

Government to review these provisions with the view to providing the Tribunal with greater flexibility in determining appropriate remuneration based on work value.

Conclusion

34. The Tribunal, after consulting with the Assessors, considers that an increase in excess of 2.5 per cent is appropriate for Members of the NSW ALC and an increase of 2.5 per cent is appropriate for other office holders in the Public Office Holders Group and so determines.
35. This determination is consistent with the Government's wages policy which the Tribunal is required to give effect to pursuant to the SOOR Regulation.
36. 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 2019 shall be as specified in Determination No. 1.

Statutory and Other Offices Remuneration Tribunal

Signed

Richard Grellman AM

Dated: 27 August 2019

Public Office Holders Group

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 2019

Public Office Holder	Salary per annum
Public Service Commissioner	\$541,365
Chief Commissioner of the Law Enforcement Commission	\$511,520
Auditor General	\$503,605
Ombudsman	\$502,300
Commissioner, NSW Crime Commission	\$498,410
Assistant Commissioner, NSW Crime Commission	\$472,180
President, Mental Health Review Tribunal	\$407,570
Electoral Commissioner	\$391,995
Full-time Commissioner for Integrity of the Law Enforcement Conduct Commission	\$383,640
Full-time Commissioner for Oversight of the Law Enforcement Conduct Commission	\$383,640
Valuer General	\$362,625
Workers Compensation Independent Review Officer	\$361,850
Deputy President Mental Health Review Tribunal	\$356,590
Information Commissioner	\$353,600
Privacy Commissioner	\$341,230
Mental Health Commissioner	\$328,075
Parliamentary Budget Officer	\$323,365
Principal Claims Assessor (<i>Motor Accidents Compensation Act 1999</i>), and Principal Claims Assessor (<i>Motor Accidents Injuries Act 2017</i>) (while ever these offices are held concurrently by the same person)	\$322,115
Inspector of Custodial Services	\$311,840
Small Business Commissioner	\$307,225
Deputy Chairperson, Law Reform Commission	\$304,165
Commissioner, Law Reform Commission	\$289,430
Clerk of the Legislative Assembly	\$283,990
Clerk of the Parliaments	\$283,990
Executive Manager, Parliamentary Services	\$283,990
Registrar Workers Compensation Commission	\$283,990
Senior Arbitrator, Workers Compensation Commission (legally qualified)	\$263,590
Deputy Mental Health Commissioner	\$262,685
Deputy Clerk, Legislative Assembly	\$243,785
Deputy Clerk, Legislative Council	\$243,785

Public Office Holders Group

Public Office Holder	Salary per annum
Senior Arbitrator, Workers Compensation Commission (not legally qualified)	\$242,760
Arbitrator, Workers Compensation Commission (legally qualified)	\$232,730
Registrar, Aboriginal Land Rights Act 1983	\$225,220
Assessor (<i>Local Court Act 2007</i>)	\$215,495
Arbitrator, Workers Compensation Commission (not legally qualified)	\$209,225
Chairperson, Board of the Aboriginal Housing Office	\$168,155
Part-time Chairperson of a Board of Governors of a Corporation constituted by the <i>Electricity Retained Interest Corporations Act 2015</i>	\$165,575
Member of the New South Wales Aboriginal Land Council (Note 1)	\$155,880 (Item a)
Member of the New South Wales Aboriginal Land Council (Note 2)	\$161,000 (Item b)
Part-time Member of a Board of Governors of a Corporation constituted by the <i>Electricity Retained Interest Corporations Act 2015</i>	\$88,305
Chairperson, Infrastructure NSW	\$86,545
President Mental Health Review Tribunal (part time daily rate)	\$1,690
Deputy President Mental Health Review Tribunal (part time daily rate)	\$1,480
Assessor <i>Local Court Act 2007</i> (daily rate)	\$895

Note 1	The Chairperson shall receive an allowance of 10% (i.e. a total of \$171,470 per annum) and the Deputy Chairperson shall receive an allowance of 5% (i.e. a total of \$163,675 per annum).
Note 2	The Chairperson shall receive an allowance of 10% (i.e. a total of \$177,100 per annum) and the Deputy Chairperson shall receive an allowance of 5% (i.e. a total of \$169,050 per annum), subject to Item b.
Item a	From 1 July 2019 salary is increased by 6.5 %; and
Item b	If the Tribunal determines that sufficient officer-related cost savings have been achieved for the Members of the NSW Aboriginal Land Council, a remuneration increase of an additional 3.3% (in addition to the 6.5% increase specified in Item (a)) is payable from the date of the Tribunal's determination that those savings have been achieved.

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.

Statutory and Other Offices Remuneration Tribunal

Signed

Richard Grellman AM

Dated: 27 August 2019