

**REPORT**

**and**

**DETERMINATION**

**under the**

**STATUTORY AND OTHER OFFICES**  
**REMUNERATION ACT, 1975**

**CHIEF EXECUTIVE AND SENIOR EXECUTIVE SERVICES**

**27 AUGUST 1999**

## **CHIEF EXECUTIVE SERVICE AND SENIOR EXECUTIVE SERVICE<sup>1</sup>**

### **Section 1 Background**

1. The Tribunal's 1998 Report (paragraphs 2-14) set out details of significant changes in the Senior Executive Service as they relate to the role of the Tribunal. These are summarised hereunder.
2. The SES was established by the Public Sector Management (Executives) Amendment Act 1989; the Statutory and Other Offices Remuneration Act 1975 (the Act), provides for the Tribunal to determine annual remuneration packages by 31 August each year; the key features of the SES include;
  - conditions of employment being fixed by contract
  - individual performance agreements
  - provision for performance pay based on performance assessment
  - remuneration packages expressed as total cost of employment.
3. In addition to the SES some officers in the Public Office Holders Group elected, pursuant to section 11A of the Act to receive remuneration packages under similar arrangements applicable to the SES.
4. In 1996 the Tribunal introduced a Recruitment and Retention Allowance to assist agencies attract and retain officers with specific skills. The Tribunal's 1996 Determination also introduced the concept of performance pay as a separate component of remuneration. This concept was extended by the Tribunal in its 1998 Determination where specific amounts were determined by the Tribunal as one off bonus payments for SES officers whose performance had been assessed as better than satisfactory. The 1998 Determination also increased each of the eight SES levels by 4 percent. The Tribunal determined a 6 percent increase for Section 11A Office Holders.

## **Section 2 1999 Submissions**

### ***Government submission***

5. For the current review, the Government submission focused on issues arising from the Tribunal's 1998 Determination. In particular, the Government has provided detailed comment on Performance Pay, the Recruitment Retention Allowance and wage and salary movements in other areas. The Government has also drawn the Tribunal's attention to the current and projected economic conditions both nationally and for New South Wales.
  
6. The Government provided statistical information of the performance pay as a result of the 1998 Determination. The Tribunal is pleased to note that it has been introduced responsibly. The figures provided by the Government show that approximately 40 percent of SES officers and 40 percent of CEOs received no performance bonus at all; the majority of officers received less than 50 percent of the bonus available to them and only 25 percent of SES officers and 39 percent of CEOs received the maximum performance pay.
  
7. As foreshadowed in its response to the Tribunal's 1997 Report the government has undertaken a review of performance pay systems including those put forward by the Tribunal. As a result of this review the Government has recommended a remuneration system for the SES that has two components. Firstly, Ministers and CEOs have the discretion to move SES officers' remuneration within the range of the applicable level. Second, where appropriate a one off lump sum payment based on performance may be paid to any officer. The Government has recommended that this system be introduced for three years to enable careful evaluation of its effectiveness.

8. The Government has also provided figures which show that to May 1999 a total of 63 SES officers were in receipt of the Recruitment and Retention Allowance, an increase of 13 from the previous year's figure. The Government also surveyed agencies to determine whether the Allowance was meeting its objectives. Then results of the survey show "*strong support*" for the Allowance and the quantum was "*thought to be sufficient in almost all cases.*"
9. The Government's survey also indicated that there was significant support at both Ministerial and CEO level for extending the availability of the Allowance mid contract rather than at the time of new contract negotiations. The Government has recommended to the Tribunal that the flexibility of the Allowance be enhanced by making it available during the course of the contract, subject to the approval of the Director General of Premier's Department.
10. The Senior Officer Classification was introduced in December 1996 to provide additional capacity for agencies to recognise work value of non SES positions. The Senior Officer structure is salary based, and provides for three grades. Each grade has the equivalent work value of the lowest three levels of the SES. Care must be taken in comparing remuneration since the SES amounts are expressed as a total cost of employment whereas Senior Officers receive benefits in addition to salary, eg. employer contributions to superannuation.
11. The Government has provided figures comparing the number of Senior Officer positions with their equivalently graded SES positions. As at May 1999 the number of SES level 1-3 positions was 696 and Senior Officer Grade 1-3 positions was 271. At SES level 1 there are 208 positions compared 206 Senior Officer Grade 1 positions. The Senior Officers Salaries Award ensures that the Senior Officers receive award increases equal to Crown Employees including the 5 percent increase received on and from 1 January 1999.

12. Figures provided by the Government compare wage and salary movements for the public sector with the SES over the past three years. These figures show that Administrative and Clerical Officers received award increases totalling 19 percent whereas the SES received increases of 16 percent over the same period. Independent consultants on remuneration movements in the private sector have forecast average national remuneration increases of about 4.2 percent across all job families and industry sectors.

13. As the table below shows, since 1994, the Tribunal has determined significant real increases in remuneration for the SES, when compared with increases in the Consumer Price Index and Average Weekly Earnings. These figures do not include the amounts determined for performance pay in 1998.

<b>YEAR</b>	<b>Senior Executive Service (October)</b>	<b>NSW Supreme Court Judges (October)</b>	<b>Public Office Holders (October)</b>	<b>Crown Employees (July)</b>	<b>Consumer Price Index (June Qtr)</b>	<b>Average Weekly Earnings (August Qtr)</b>
<b>1994</b>	4.00	8.45	6.00	3.00	1.70	4.30
<b>1995</b>	3.00	4.00	4.00	3.00	4.50	5.20
<b>1996</b>	6.00	4.25	4.50	3.00	3.10	3.80
<b>1997</b>	6.00	5.00	5.00	4.00	0.30	4.40
<b>1998</b>	4.00	5.50	5.50	7.00	0.70	4.20
<b>1999</b>				5.00	1.10	
<b>TOTAL</b>	<b>23.00</b>	<b>27.20</b>	<b>25.00</b>	<b>25.00</b>	<b>11.40</b>	<b>21.90</b>

14. The Government has also provided a detailed analysis from the NSW Treasury on the NSW budget strategy for the next 12 months. This strategy places a strong emphasis on restraining current outlays. Treasury also provided advice on the national economic forecast which shows that economic activity is expected to moderate during 1999/2000 due to the flow through of weaker world economic growth as well as cyclical downturns in business investment. Treasury expects inflation to remain low over the next 12 months.
15. Based on the above factors the Government has recommended that the Tribunal;  

*“...Determine that there is no increase to the current remuneration ranges at each level for chief and senior executives.”*

### **Section 3 1999 Review**

#### ***Performance Pay***

16. The Tribunal appreciates receiving the performance pay review attached to the submission. This is a well researched document to which much consideration has now been given. It is also important to have regard to the intentions of the Government when the new SES system was introduced in 1989.
17. The new system in 1989 allowed for flexibility for Ministers and Heads of Departments to move officers within remuneration ranges for each Level but with an imposed cap. At that time the differential at various levels between the minimum and maximum was 5 to 11 percent. This movement was to be a reward for performance and tied to annual performance reviews. There was no separate performance pay component although at the time of introduction it was stated that consideration would be given to the payment of a long term performance bonus possibly at the end of the contract period.

18. The Government's submission states that there is a clear trend in both public sector and private sector employment towards the use of dual component remuneration schemes for senior executives comprising a fixed component together with a variable component made up of short and long term incentive schemes. Also the further trend is towards a conservative approach to the fixed term and a more aggressive approach to the variable component. This Tribunal supports these trends as demonstrated in its recent determinations.
19. The Tribunal has considerable difficulty in accepting the details of the new remuneration system for the SES proposed in the Government submission. In summary, the submission recommends zero increase at all levels, complete flexibility in movement within each salary level, a continuation of a one off lump sum payment based on performance and the ability to use the Recruitment and Retention Allowance during the contract period. These proposals cannot be considered independently of each other since they constitute the basic elements of the remuneration package.
20. In 1998 the Tribunal introduced performance pay as a separate and distinct component to apply only to those regarded as performing better than satisfactory. Thus the bonus is not paid for those who merely perform their work in a satisfactory manner. In this determination the performance bonus has been further increased to allow the recognition of those officers whose performance is assessed as better than satisfactory.

21. It is the proposed freedom to move officers within each remuneration level that causes the greatest concern. What this allows is the performance recognition in any one year to be embedded in the base for further performance recognition in subsequent years. This is a flawed approach. Likewise, to continue this movement flexibility when there is a separate performance pay component is a clear case of double dipping and again a flawed approach. The essential feature of a separate performance pay component is that it be applied to a fixed base which only moves with any general increase.
  
22. The submission argues that movement is necessary “...in order to respond to an officer’s increased competency, changes within the position role and the labour market”. Clearly, if the officer’s competency is increasing it leads to enhanced performance and this will be recognised through the performance bonus. As to changes within the position role, if the position merits re-grading then that is the course to follow. As to the labour market the submission goes on to recommend a retention allowance and the Tribunal is prepared to grant some flexibility here.
  
23. Thus the proposal in its present form cannot be endorsed. The existing rates of remuneration at the various Levels provide differentials from 16 percent to 26 percent. Hence, complete flexibility could allow very large increases to be granted by Ministers and CEOs. This would be in stark contrast to the other proposal that zero general increase be determined.
  
24. Because of the circumstances that now obtain, consideration should be given to reviewing the remuneration system. The Tribunal is ready to assist if called upon. As an interim measure the Tribunal is prepared to permit movement over the next year in exceptional cases only subject to the approval of the Director-General of the Premier’s Department.



### ***Recruitment and Retention Allowance***

25. The Tribunal has not previously accepted the argument that the Recruitment and Retention Allowance should be payable during the term of the contract. This Allowance was introduced in 1996 to provide particularly for those specialist markets where difficulties were being experienced in recruitment. The scheme has worked well and provides flexibility to Ministers and CEOs. If this Allowance is to be made available during the term of the contract as is now requested, then it would be necessary to circumscribe its use in several ways.
26. Firstly it should be restricted to those specialist markets for which the Director-General of the Premier's Department considers there are difficulties in attracting and retaining staff. Secondly, if it is to be a genuine attempt to retain the person for the remainder of his contract then the payment should be by way of a lump sum bonus at the conclusion of the contract.

### ***Wage and Salary movements***

27. The Tribunal has noted those matters set out in the submission concerning the 1999/2000 budget strategy as provided by the NSW Treasury. It accepts that this determination by the Tribunal is at a critical stage since the majority of wage agreements covering the New South Wales public sector expire in the latter half of 1999. It also accepts that real wage increases have been delivered by the current agreements due to the lower than expected inflation rate over the period of those agreements. The submission also argues that it is highly undesirable for increases for CES and SES rates of pay to provide a precedent that could unwind the budget strategy.

28. In accepting the above economic considerations submitted by the Treasury the Tribunal nevertheless finds it difficult to accept that there should be a zero increase. The Tribunal considers that general wage increases should not automatically follow CPI increases but that the CPI increase is one of a number of indicators to be taken into account. It is noted that the CPI increase from June to June has been 1.1 per cent. In all these circumstances it is considered that there should be a small general increase at both minimum and maximum levels on this occasion.

***Section 11A Office Holders***

29. At the time the Senior Executive Service (SES) was established, some officers in the Public Office Holders Group elected, pursuant to section 11A of the Act, to receive remuneration packages under similar arrangements applicable to the SES. In the past the remuneration increases for these officers was included within the SES structure however, following a recommendation from the Government, the Tribunal, for reasons outlined in its Report of 31 August 1995, determined the specific remuneration for each office holder. In that Report the Tribunal noted that while these officers received SES type remuneration packages their conditions of employment linked them more closely with the Public Office Holder Group.
30. Section 11A Office Holders are statutory appointees who exercise independent statutory functions and some of whom also have CEO type responsibilities. These office holders were nominated by the Premier, pursuant to Section 11A of the Act to have access to remuneration packaging identical to the SES. Unlike the SES however, their employment status is governed by legislation and they are not subject to formal performance appraisal. Indeed the Tribunal recognises that it would be inappropriate for these office holders to receive any form of performance pay and this has been a fundamental reason for making separate and distinct Determinations for this Group.

***Commissioner for Police***

31. The Commissioner for Police was formerly included in the Section 11A Group for reasons identical to those applicable to that Group ie the employment status of the incumbent was derived from the Police Service Act 1990, and the office holder was not subject to formal performance appraisal. Amendments to the legislation in 1996 removed the security of tenure from the position and it is now an SES position where the employment and employment conditions are governed by the contract.
32. Because of the significant change in the role and responsibilities of the position arising from the Wood Royal Commission the Tribunal, in 1996 determined a remuneration level for this position which was beyond the SES levels. The total remuneration package is expressed as a single amount rather than a range and, in accordance with the Act can only be reviewed and amended by this Tribunal.
33. In February 1999 the Government negotiated a new contract with the Commissioner for Police and the Tribunal made a determination on the remuneration level to apply. The new contract requires that the Tribunal review the remuneration of the Commissioner for Police not later than 31<sup>st</sup> day of August each year of the contract and make a determination to take effect from the 1<sup>st</sup> day of October of that year.
34. For this review the Tribunal considers that as the current remuneration for the Commissioner was determined only in February 1999, it should remain at its current level of \$425,000pa but be reviewed in February 2000.

## **Section 4 Conclusion**

35. Since the introduction of the SES in 1989 the classification system and method of fixing remuneration has remained generally static. It has been left to the Tribunal to develop new elements into the remuneration package to reward performance and to recruit and retain staff with special expertise. These elements are now permanently entrenched.
36. With the entrenchment of performance pay as a single component consideration should be given to reviewing the current remuneration system. For example does it continue to be appropriate that the remuneration ranges for some levels overlap and what are to be the continuing relationships between Senior Officer Grades and the lower levels of SES?
37. The Tribunal recognises that low inflation is now expected to continue and increases such as those achieved in recent years by the public sector cannot be sustained. The Tribunal also considers that CPI increases cannot be applied automatically but rather taken into account along with other economic indicators. Hence on this occasion only a small general increase has been determined but the very satisfactory and above officers can be recognised through the performance bonus.
38. Having regard to the above and after taking the views of the Assessors into consideration, the Tribunal determines the minimum and maximum of each level should be increased by 1 percent and that each officer whose performance is assessed as satisfactory should receive this increase. The rates for Medical Specialists have similarly been increased.

39. The Tribunal does not endorse the proposal that discretion be given to move officers' remuneration within the levels beyond the 1 percent determined. However, where a Minister or CEO considers that there is such a compelling case to increase an SES officer's base remuneration that cannot be met through performance pay the Recruitment and Retention Allowance, then it should be submitted to the Director-General of the Premier's Department for approval. This is an interim measure and the Tribunal will be examining its application at the time of the next annual review.
40. Officers whose performance is assessed as been very satisfactory or above will be eligible for payment of performance pay. Because of the increased importance performance pay will now have in an officer's remuneration it has been enhanced and expanded.
41. The proposal to expand the availability of the Recruitment and Retention Allowance during the term of a contract is accepted but with the proviso that it be restricted to given specialist markets where there are difficulties in attracting and retaining staff and will be subject to the approval of the Director-General of Premier's Department.
42. In the case of Section 11A officers (Public Office Holders) who are not eligible for performance pay, an increase of 2 percent is determined as indicated in Annexure B, on and from 1 October 1999.
43. In respect of the Commissioner for Police, no increase is determined on this occasion.

**The Statutory and Other Offices  
Remuneration Tribunal**

**Gerald Gleeson**

Dated: 27 August 1999

**ANNEXURE A**

**DETERMINATIONS OF THE REMUNERATION PACKAGES OF THE CHIEF EXECUTIVE SERVICE AND SENIOR EXECUTIVE SERVICE**

**Determination No 1.**

The Tribunal determines remuneration package ranges per annum for executive office holders on and from **1 October 1999** shall be:

<b><u>CES/SES</u></b>	<b><u>Per annum range</u></b>		
Remuneration Level 8	\$247,980	to	\$305,955
Remuneration Level 7	\$210,125	to	\$265,410
Remuneration Level 6	\$174,890	to	\$210,985
Remuneration Level 5	\$152,670	to	\$187,205
Remuneration Level 4	\$139,705	to	\$162,845
Remuneration Level 3	\$127,270	to	\$149,535
Remuneration Level 2	\$114,070	to	\$131,820
Remuneration Level 1	\$104,985	to	\$122,100

**Determination No 2-Performance Pay CES/SES**

Each officer shall be eligible for a lump sum payment for the period up to 30 June 2000 up to the maximum specified herewith. The Performance Pay will apply for those **CES/SES** officers where it has been certified by the Minister or Department Head, through performance review systems, that the officer's performance has been evaluated as very satisfactory, superior or outstanding. Eligibility for these payments to be effective from 1 January 2000 and no later than 30 June 2000.

<b><u>CES/SES</u></b>	<b><u>Performance Pay – Maximum Amount)</u></b>
Level 8	Up to \$20,000
Level 7	Up to \$18,000
Level 6	Up to \$14,000
Level 5	Up to \$12,000
Level 4	Up to \$10,000
Level 3	Up to \$9,000
Level 2	Up to \$8,000
Level 1	Up to \$7,000

**ANNEXURE A (Cont.)**

**DETERMINATIONS OF THE REMUNERATION PACKAGES OF THE CHIEF  
EXECUTIVE SERVICE AND SENIOR EXECUTIVE SERVICE**

**Determination No 3- Recruitment and Retention Allowance**

To the remuneration package amounts determined above there shall be added a Recruitment and Retention Allowance up to the maximum for each level as set out hereunder. The Allowance will apply for new SES offices and contract renewals, where it has been certified that a specific skill is necessary for recruitment purposes and the performance of the duties of the position.

Where Recruitment and Retention Allowance is approved by the Director General of the Premier's Department during the term of a contract, it will accrue on an annual basis or part thereof and the total amount will be payable upon completion of the contract.

Current SES officers in receipt of former specialist market rates will continue to receive them at their existing rate.

<b><u>CES/SES</u></b>		<b><u>Maximum Allowance</u></b>
Levels 7 and 8	up to	\$30,000
Levels 5 and 6	up to	\$26,000
Levels 3 and 4	up to	\$15,500
Levels 1 and 2	up to	\$12,500

**ANNEXURE A (Cont.)**

**DETERMINATIONS OF THE REMUNERATION PACKAGES OF THE CHIEF  
EXECUTIVE SERVICE AND SENIOR EXECUTIVE SERVICE**

**Determination No 3.**

The Tribunal determines remuneration package ranges per annum for offices identified as requiring medical specialist skills on and from **1 October 1999** shall be:

<b><u>Specialist Medical Skills</u></b>	<b><u>Per Annum range</u></b>		
Remuneration Level 6	\$193,530	to	\$237,060
Remuneration Level 5	\$192,690	to	\$228,440
Remuneration Level 4	\$189,415	to	\$219,825
Remuneration Level 3	\$180,745	to	\$209,760
Remuneration Level 2	\$169,610	to	\$196,840
Remuneration Level 1	\$156,455	to	\$179,600

**Determination No 4.**

The Tribunal determines remuneration package ranges per annum for offices identified as requiring general medical skills on and from **1 October 1999** shall be:

<b><u>General Medical Skills</u></b>	<b><u>Per annum range</u></b>		
Remuneration Level 2	\$136,190	to	\$158,040
Remuneration Level 1	\$125,165	to	\$143,680



**ANNEXURE A (Cont.)**

**DETERMINATIONS OF THE REMUNERATION PACKAGES OF THE CHIEF EXECUTIVE SERVICE AND SENIOR EXECUTIVE SERVICE**

**Determination No 5 -Performance Pay - Specialist Medical Skills/General Medical Skills**

Each officer shall be eligible for a lump sum payment for the period up to 30 June 2000 up to the maximum specified herewith. The Performance Pay will apply for those **Medical Specialist/General Medical Skills** officers where it has been certified by the Department Head, through performance review systems, that the officer's performance has been evaluated as very satisfactory, superior or outstanding. Eligibility for these payments to be effective from 1 January 2000 and no latter than 30 June 2000.

<b><u>Specialist Medical Skills</u></b>	<b><u>Performance Pay Maximum Amount</u></b>
Level 6	Up to \$18,000
Level 5	Up to \$16,000
Level 4	Up to \$14,000
Level 3	Up to \$12,000
Level 2	Up to \$10,000
Level 1	Up to \$9,000

<b><u>General Medical Skills</u></b>	<b><u>Performance Pay Maximum Amount</u></b>
Level 2	Up to \$8,000
Level 1	Up to \$7,000

**The Statutory and Other Offices Remuneration Tribunal**

**Gerald Gleeson**

Dated: 27 August 1999

**ANNEXURE B**

**DETERMINATION OF REMUNERATION OF PUBLIC OFFICE HOLDERS WHO  
HAVE ELECTED TO BE PROVIDED WITH EMPLOYMENT BENEFITS  
PURSUANT TO SECTION 11A OF THE ACT**

**Determination No 6.**

The Tribunal determines remuneration packages per annum for Public Office Holders who have elected to be provided with employment benefits pursuant to section 11A of the Act on and from **1 October 1999** shall be:

<b><u>Public Office Holder</u></b>	<b><u>Remuneration</u></b>
Auditor General	\$258,630
Chairperson, NSW Crime Commission	\$258,630
Public Trustee	\$193,065
Electoral Commissioner	\$181,860
Valuer General	\$181,860
Full Time Member, Independent Pricing and Regulatory Tribunal	\$181,860
Solicitor for Public Prosecutions	\$155,570
President, Anti Discrimination Board	\$151,545

**Determination No 7.**

The Tribunal determines remuneration package for the Commissioner for Police on and from **1 October 1999** shall be \$425,000 per annum.

**The Statutory and Other Offices  
Remuneration Tribunal**

**Gerald Gleeson**

Dated: 27 August 1999