

REPORT

And

DETERMINATION

Under

SECTION 24C

of the

STATUTORY AND OTHER OFFICES  
REMUNERATION ACT, 1975

CHIEF EXECUTIVE AND SENIOR EXECUTIVE SERVICES

2 November 2009

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

Ms Helen Wright's term of office expired on 30 June 2009. Effective from 1 July 2009 the Governor, pursuant to section 6(2) of the Statutory and Other Offices Remuneration Act 1975 (the Act), appointed Mr Christopher Raper as the new Tribunal for a term of three years.

The Governor, pursuant to section 7(1)(b) of the Act also appointed a new Assessor to the Tribunal. Ms Jade Novakovic has been appointed as the independent Assessor for a term of 3 years with effect from 1 July 2009. Ms Novakovic replaces Ms Anne Rein who served as Assessor to the Tribunal from 29 June 2005. Section 7(1) (a) of the Act provides that the Director General of the Department of Premier and Cabinet is the other Assessor appointed to assist the Tribunal. Section 7(4) of the Act provides that the Director General may appoint a deputy to act as Assessor. The Director General has advised that Ms Carolyn Walsh is the Director General's deputy in the role as Assessor to the Tribunal.

### Section 1: Background

1. Section 24C of the Statutory and Other Offices Remuneration Act 1975 (the Act) provides for the Tribunal to determine annual remuneration packages for the SES to take effect on and from 1 October in that year.
2. The SES was introduced in the NSW public sector in 1989. The key features of the SES are:
  - classified into eight remuneration levels
  - minimum and maximum of each remuneration level determined by the Tribunal

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<sup>1</sup> Unless otherwise stated, the Chief Executive Service and Senior Executive Service are referred collectively in this Report and Determination as SES.

- conditions of employment contained in the contract of employment
  - remuneration packages expressed as total cost of employment
  - each officer is required to enter into an individual performance agreement with the Minister (in the case of the CEO) or the CEO (in the case of an SES officer)
  - provision for annual increase in remuneration based on performance assessment.
3. This Group also comprises office holders who elect to receive, and the Minister approves, access to remuneration packaging arrangements identical to the SES. These office holders, referred to collectively as 11A Office Holders, have historically been listed in the Reports and Determinations for the Chief Executive Service and Senior Executive Service (SES). The Tribunal considers that these office holders are more appropriately listed within the Public Office Holder Group, given the statutory nature of their appointment.
4. The Senior Officer (SO) classification was introduced in December 1996. The work value of SO Levels (1-3) mirrors that of SES Levels (1–3) with lower rates of remuneration for SOs intended to recognise tenured employment, superannuation and leave loading payments on behalf of the SOs by the Government.

### **The 2008 Review**

5. The Tribunal's 2008 annual determination dated 15 September 2008 provided for a 2.5 per cent increase for each SES officer, subject to satisfactory performance. The Tribunal also provided for a further increase of 1.4 per cent subject to each CEO being satisfied that productivity improvements had occurred in their agency sufficient to fund the increase.

6. Following the making of that Determination, the Premier, the Hon. Nathan Rees MP, in his letter of 28 October 2008, directed the Tribunal to review its Annual Determination and to make a special determination, pursuant to section 24D of the Act, on the remuneration of the SES because of the prevailing economic conditions arising from the global financial downturn.
7. On 20 November 2008 the Tribunal made its Special Determination. This Determination provided for an increase of 2.5 per cent for each SES officer subject to satisfactory performance. The Tribunal also provided for an additional increase of 1.4 per cent subject to each CEO demonstrating to the satisfaction of the Director General of the Department of Premier and Cabinet that quantifiable savings sufficient to fund this additional increase had been achieved in each CEO's agency.
8. To give effect to this arrangement the Tribunal made 2 Determinations; the first increased the minimum and maximum rates for each SES remuneration level by 2.5 per cent effective from 1 October 2008 (Annexure A of that Determination); the second determination provided a further increase of 1.4 per cent to those remuneration levels (Annexure C of that Determination).

## **Section 2: Submissions**

### **Government submission**

9. The Government's Submission to the Tribunal reinforces the Government's view on wage restraint. The 2009-10 Budget was delivered on 16 June 2009 and reflects the still uncertain economic climate. The Submission notes that State revenue estimates over the 4 year period to 2011-12 have been revised down by approximately \$10 billion compared to those projected in the 2008-9 Budget. To meet these challenges the Government is looking at ways to ensure

sustainable expenditure growth. One initiative, outlined in the Budget Papers, is the introduction of the whole of Government Better Services and Values Plan comprising 5 coordinated initiatives to improve service delivery and drive productivity and value for money. The first of these initiatives is the Government's commitment to maintain its wages policy.

10. The thrust of this policy is to maintain the real wage improvements previously achieved by limiting increases to 2.5 per cent. Increases beyond 2.5 per cent are to be offset by employee related savings. The Government Submission notes that major salary outcomes approved for Award and Enterprise Agreement based staff since the Tribunal's 2008 Special Determination have all required employee related savings to offset any increases beyond 2.5 per cent.

11. To reinforce the Government's commitment to this policy, the Submission further notes that a small number of employee groups have agreed to outcomes which do not include employee related savings and as such their pay increases have been confined to 2.5 per cent.

12. The Submission also outlines Government initiatives which have impacted upon the structure and operations of the SES in NSW. These include the SES reduction strategy and the creation of the super Departments.

13. In October 2008, the Government made a commitment to reduce its SES numbers by 20 per cent or 171 positions. The decision to reduce the SES by 20 per cent was driven by the need for robust ongoing appraisal of SES numbers in each NSW public sector agency as priorities and agencies change as well as the need to generate savings. The Government has advised that it has met its reduction target with 171 positions deleted by 30 June 2009 and agency budgets reduced accordingly.

14. On 27 July 2009, the *Public Sector Employment and Management (Departmental Amalgamations) Order 2009* created 13 new super Departments within the NSW public sector, effective from 1 July 2009. These reforms are designed to ensure a greater focus on clients, better integration of public services, improve service delivery, better align the bureaucracy and ensure the best value for taxpayers' dollars.
15. The Government Submission has also provided details of SES remuneration increases from other States. The submission notes that both Victoria and Queensland provided increases totalling 2.5 per cent, whereas Western Australia increased SES remuneration by 5.2 per cent from 1 July 2009.
16. The Government has recommended to the Tribunal that increases for the SES be limited to 2.5 per cent. The Government submits that this recommendation is in line with the wages policy and demonstrates the Government's commitment to wage restraint. It also acknowledges the key role the CES and SES will play in leading and driving the Government's reform agenda over the next 12 months. The submission contends

*"it will also go some way to mitigating further salary compression between the SES and Senior Officers".*

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

17. The Government submission recommends that there be no increase in the minimum and maximum rates of Recruitment and Retention Allowance. It is expected that with the continuation of the economic downturn and the recent reduction in SES numbers, recruitment and retention of suitably qualified executives will not present a problem in the short to medium term.

## Treasury Forecasts

18. The Government has again provided a detailed analysis from the NSW Treasury on the NSW budget strategy for the next 12 months. NSW Treasury anticipates that the Consumer Price Index (CPI) for Sydney in 2009-10 will be 2 per cent. Wages growth as measured by the Wage Price Index is expected to be 3.5 per cent in the next 12 months.
19. Treasury has also advised that the budget position is projected to return to a sustainable surplus position by 2012-13 with tight control of expenses slowing the growth in expenses to an average of around 4 per cent per annum over the next four years. A recovery in economic activity is expected to deliver stronger revenue growth.

## Section 3: 2009 Tribunal Review

20. The Government Submission indicates that SES officers received 2.5 per cent increase in 2008. The additional 1.4 per cent efficiency increase available under the Tribunal's determination of 20<sup>th</sup> November 2008 was not passed on to SES officers. On this basis, the Tribunal's determination for 2009 will use those rates, determined in Annexure A of the 2008 Special Determination, as the starting point for calculating the new rates.
21. In determining the quantum of increase for the SES in 2009, the Tribunal has had regard to a number of factors including salary relativities, efficiency and reforms across the sector and the current economic climate. The Tribunal has given careful consideration to the reasoning in the Government Submission as to why the increase in 2009 should be limited to 2.5 per cent, consistent with the Government's wages policy.

22. The Tribunal has noted the current trends in public sector remuneration. Since the 2008 Special Determination, increases achieved by Allied Health Workers, Fire Fighters, Nurses and Teachers have ranged from 3.9 per cent to 4.4 per cent. In addition, Crown Employees, including SOs, received a 4 per cent increase with effect from 1 July 2009, with a further 4 per cent to be awarded from 1 July 2010. The Tribunal has also noted that the increase in the Labour Price Index for the year ending 30 June 2009 was 3.7 per cent.
23. The Government Submission has also provided details of SES remuneration increases from other States. The Tribunal is also aware that the Commonwealth Remuneration Tribunal recently determined a general increase of 3 per cent for offices under its jurisdiction.
24. In 2007 and 2008 SOs received award based pay increases of 4 per cent each year whereas SES officers received annual increases in remuneration of 2.5 per cent. The Tribunal notes that increases beyond 2.5 per cent for SOs have been met by productivity improvements and cost savings. The Tribunal is firmly of the view that the SES has had a significant role to play in delivering agency productivity improvements, leading the implementation of the Government's reform agenda and delivering cost savings. The Government Submission "*acknowledges the key role the CES and SES will play in leading and driving the Government's reform agenda over the next year.*"
25. The Tribunal has previously expressed its concern regarding salary compression between the first 3 levels of the SES and SO Grades 1-3. What is of particular concern is that the remuneration differential between tenured officers (SOs) and non tenured officers (SES), that was originally put in place to have regard to the different employment arrangements between the two groups has been and continues to be eroded by award based increases.



26. The Tribunal also notes that some of the economic assumptions in the Government Submission supporting an increase limited to 2.5 per cent were prepared earlier in the year when there was a higher level of uncertainty about the global and Australian economic recovery. Since then, Australia's economic circumstances have improved as indicated in more recent economic data. The Minutes of the Monetary Policy Meetings of the Reserve Bank Board over the past 3 months (August – October) show a steady increase in business and consumer confidence, a lower than expected rise in unemployment and housing approvals well above the lows seen in 2008. The overall assumption is that the impact of the global financial downturn on the Australian economy was not as prolonged or as deep as was first anticipated. The Reserve Bank Board is still cautious in its overall outlook because even though the Australian economy is performing well, the recovery in advanced economies was subdued. The Reserve Bank Board concluded in its meeting of 4 October 2009 that;

*“...while downside risks to the domestic economy could not be ruled out, they had diminished significantly over recent months.”*

27. This position is supported by the International Monetary Fund's World Economic Outlook of October 2009. The IMF has upgraded its forecasts for Australian growth, confirming that the economy has outperformed all advanced economies during the global recession with stronger growth and lower debt and deficits than the major advanced economies.

28. The Tribunal is also aware that the SES has been subjected to significant reform over the last 12 months. In particular, the 20 per cent reduction in overall SES numbers suggests that the responsibilities and accountabilities associated with the abolished positions will need to be performed, to a large extent, by the remaining SES. This reform suggests to the Tribunal that the SES have already delivered significant cost efficiencies and direct employee related cost savings to warrant an increase beyond 2.5 per cent.

29. All of the above suggests that an increase of 2.5 per cent for the SES is not appropriate and that a higher amount is warranted. The Tribunal will therefore make a determination which goes beyond the Government's recommendation of limiting increases for the SES to 2.5 per cent. In doing so the Tribunal recognises the economic recovery is in its early stages and there is an ongoing need for a cautious approach. The Tribunal has had to balance that knowledge with the need to recognise the real cost savings made through reductions in SES numbers, the crucial role played and to be played by the CES and SES in meeting the Government's expenditure reduction targets and realising improvements to service delivery across NSW.

30. The Tribunal is pleased to note that in response to ongoing concerns identified in relation to salary compression between SES and Senior Officers the Department of Premier and Cabinet has reviewed Senior Executive remuneration structures in the NSW public sector. As a result the Department is currently undertaking work to examine available structural options that will ensure the NSW public sector maintains a flexible and contemporary executive leadership group. The Tribunal's view is that this issue should be addressed expeditiously so that any structural changes are in place prior to the Tribunal considering the 2010 Annual Determination. The Tribunal is willing to provide any assistance that may be sought in progressing this matter.

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

31. The Recruitment and Retention Allowances were introduced in 1996 to address the difficulties the Government was experiencing in recruiting and retaining SES officers with specialist skills, following the abolition of the specialist market rates the previous year. The Allowances were last

varied in 2008 and are reviewed annually to maintain their continued relevance for the purpose for which they were introduced.

32. The Tribunal has reviewed the levels of Recruitment and Retention Allowances and considers that no change is required.

#### **Section 4: Conclusion**

33. The Tribunal determines an increase of 3 per cent for all SES officers, effective on and from 1 October 2009.

34. Payment of the increase is subject to certification of an officer's satisfactory performance by the officer's CEO or in the case of CEOs the relevant Minister.

#### **The Statutory and Other Offices Remuneration Tribunal**

Chris Raper  
Dated: 2 November 2009

**ANNEXURE A**

**DETERMINATIONS OF THE REMUNERATION PACKAGES OF THE CHIEF EXECUTIVE SERVICE AND SENIOR EXECUTIVE SERVICE EFFECTIVE ON AND FROM 1 OCTOBER 2009.**

**Determination No 1.**

The remuneration package ranges for executive office holders shall be:

<u>CES/SES</u>	<u>Per annum range</u>		
Remuneration Level 8	\$377,251	to	\$435,800
Remuneration Level 7	\$300,801	to	\$377,250
Remuneration Level 6	\$267,651	to	\$300,800
Remuneration Level 5	\$231,951	to	\$267,650
Remuneration Level 4	\$212,801	to	\$231,950
Remuneration Level 3	\$187,351	to	\$212,800
Remuneration Level 2	\$174,651	to	\$187,350
Remuneration Level 1	\$149,150	to	\$174,650

**Determination No 2 - Recruitment Allowance**

To the remuneration package amounts determined above there may be added a Recruitment Allowance up to the maximum for each level as set out hereunder, subject to the approval of the Director General of the Department of Premier and Cabinet. The Allowance will apply for new SES offices and appointment renewals, where it has been established that a specific skill is necessary for recruitment purposes and the performance of the duties of the position.

**Officers in receipt of a Recruitment Allowance are not eligible for payment of a Retention Allowance.**

<u>CES/SES</u>		<u>Maximum Allowance</u>
Levels 7 and 8	up to	\$43,000
Levels 5 and 6	up to	\$30,000
Levels 3 and 4	up to	\$23,000
Levels 1 and 2	up to	\$19,000

**DETERMINATIONS OF THE REMUNERATION PACKAGES OF THE CHIEF EXECUTIVE SERVICE AND SENIOR EXECUTIVE SERVICE EFFECTIVE ON AND FROM 1 OCTOBER 2009**

**Determination No 3 - Retention Allowance**

SES Officers shall be eligible for a Retention Allowance up to the maximum for each level as set out hereunder. The Allowance will apply on and from the date of approval by the Director General of the Department of Premier and Cabinet and will accrue on an annual basis or part thereof and the total amount will be payable upon the completion of the term of appointment.

**Officers in receipt of a Retention Allowance are not eligible for payment of a Recruitment Allowance.**

<u>CES/SES</u>		<u>Maximum Allowance</u>
Levels 7 and 8	up to	\$43,000
Levels 5 and 6	up to	\$30,000
Levels 3 and 4	up to	\$23,000
Levels 1 and 2	up to	\$19,000

**Determination No 4.**

The Tribunal determines that the remuneration package ranges for offices identified as requiring specialist medical skills shall be:

<u>Specialist Medical Skills</u>	<u>Per Annum range</u>		
Remuneration Level 6	\$275,700	to	\$337,700
Remuneration Level 5	\$274,500	to	\$325,400
Remuneration Level 4	\$269,800	to	\$313,150
Remuneration Level 3	\$257,450	to	\$298,800
Remuneration Level 2	\$241,600	to	\$280,400
Remuneration Level 1	\$222,850	to	\$255,850

**Determination No 5.**

The Tribunal further determines that the remuneration package ranges for offices identified as requiring general medical skills shall be:

<u>General Medical Skills</u>	<u>Per annum range</u>		
Remuneration Level 2	\$194,000	to	\$225,100
Remuneration Level 1	\$178,300	to	\$204,650

**The Statutory and Other Offices  
Remuneration Tribunal**

Chris Raper  
Dated: 2 November 2009