

REPORT

and

DETERMINATION

under

SECTION 24C

of the

STATUTORY AND OTHER OFFICES REMUNERATION ACT, 1975

CHIEF EXECUTIVE AND SENIOR EXECUTIVE SERVICES

11 July 2014

[NSW Remuneration Tribunals website](#)

Chief Executive Service and Senior Executive Service (transitional former senior executives)

Contents

Section 1.....	2
Background	2
Section 2.....	4
2013 Review.....	4
Section 3.....	4
Government submission	4
Economic performance and outlook for NSW	5
Government’s submitted increase.....	7
Section 4.....	8
2014 Determination.....	8
Superannuation Guarantee Contribution: Changes to legislation and further increases	8
Recruitment Allowance and Retention Allowance	9
Chief Executive Positions	10
Determination No. 1- Remuneration Package Ranges for the SES.....	13
Determination No. 2 – Chief Executive Officer and Co-ordinator General, Infrastructure NSW	13
Determination No. 3 - Director General, Department of Trade and Investment, Regional Infrastructure and Services	13
Determination No. 4 – Recruitment Allowance.....	14
Determination No. 5 – Retention Allowance.....	14
Determination No. 6 - Specialist Medical Skills	15
Determination No. 7 – General Medical Skills	15

Chief Executive Service and Senior Executive Service (transitional former senior executives)

Section 1

Background

1. The Chief Executive Service and Senior Executive Service ¹ was introduced in the NSW public sector in 1989. The key features of the SES are:
 - classification into 8 remuneration levels
 - minimum and maximum of each remuneration level determined by the Tribunal
 - conditions of employment being fixed by contract
 - individual performance agreements
 - annual increases in remuneration based on performance assessment
 - remuneration packages expressed as total cost of employment, whether the amount is monetary remuneration for the executive office holder, or partly that remuneration and partly as the cost to the employer of the executive office holder of employment benefits.
2. Section 24C of the *Statutory and Other Offices Remuneration Act 1975* (the SOOR Act) provides for the Tribunal to determine annual remuneration packages for the SES.
3. The *Government Sector Employment Act 2013* (the GSE Act) commenced operation on 24 February 2014. The GSE Act introduced a new structure and employment arrangements for all of the NSW Public Service. The new arrangements will replace those provided for in relation to the appointment of senior executives under the former *Public Sector Employment and Management Act 2002* (PSEM Act).
4. Transitional arrangements are in place until up to 24 February 2017 for 'transitional former senior executives', that is, people who were in the SES or who were Senior Officers or in equivalent classifications under the former PSEM Act immediately before

¹ Unless otherwise stated, the Chief Executive Service and the Senior Executive Service are referred to collectively in the Report and Determination as SES.

Chief Executive Service and Senior Executive Service (transitional former senior executives)

it was repealed. The arrangements are outlined in Schedule 4 of the GSE Act. Under these transitional provisions, the following executives have a remuneration package that is equivalent to the remuneration package of the executive immediately before the repeal of the former PSEM Act (unless the remuneration package is increased as a result of a determination of the Tribunal made under Part 3A of the SOOR Act):

- transitional former senior executives who are former SES executives in accordance with clause 8(1)(a) of Schedule 4 of the GSE Act
 - persons continuing in office as Secretary under clause 6(2) of Schedule 4 of the GSE Act
 - persons continuing in office as head of a Public Service agency under clause 7(2) of Schedule 4 of the GSE Act
 - persons holding office as head of a Public Service agency under Clause 7(5) of Schedule 4 of the GSE Act
 - the statutory officers listed in clause 8A(1) of Schedule 4 of the GSE Act.
5. Public Service agencies are to review their executive structures within three years of commencement of the GSE Act to achieve alignment with the new executive arrangements.
6. The Tribunal will continue to make determinations for the SES, under part 3A of the SOOR Act, until such time as the transitional arrangements are finalised. The Tribunal expects that the final determination in respect of this group will be made on 1 July 2016.
7. The SOOR Act was also amended to provide for the Tribunal's determinations to take effect from 1 July in that year, instead of 1 October. The SOOR Act provides for the annual determinations of Part 3A remuneration packages for the SES in the following terms:

24C Annual determination

The Tribunal is required to make, in each year, a determination of remuneration packages for executive office holders as on and from 1 July in that year.

**Chief Executive Service and Senior Executive Service
(transitional former senior executives)**

8. On that basis this annual determination will take effect from 1 July 2014.

Section 2

2013 Review

9. The Tribunal's 2013 annual determination for the SES dated 27 September 2013 provided for a 2.5 per cent increase for each SES officer, subject to satisfactory performance.
10. In determining the remuneration for SES officers, and following amendments to the SOOR Act in 2011, the Tribunal was required pursuant to Section 6AA of the SOOR Act to give effect to the same policies on increases in remuneration as those that the Industrial Relations Commission (the IRC) is required to give effect to under section 146C of the Industrial Relations Act 1996 (the IR Act) when making or varying awards or orders relating to the conditions of employment of public sector employees.
11. The then policy on wages pursuant to section 146(1)(a) of the IR Act was specified in the Industrial Relations (Public Sector Conditions of Employment) Regulation 2011 (the IR Regulation 2011). The effect of IR Regulation 2011 was that public sector wages could not increase by more than 2.5 per cent. Any increase beyond 2.5 per cent could only be awarded if sufficient employee-related cost savings had been achieved to fully offset the increased employee-related costs.

Section 3

Government submission

12. The Government submission provides an overview of the State's recent economic performance and makes a recommendation in respect of the quantum of the increase to apply to the SES. Extracts appear below.

Chief Executive Service and Senior Executive Service
(transitional former senior executives)

Economic performance and outlook for NSW

13. The submission was drafted prior to the release of the 2014-15 Budget and is largely based on economic forecast and fiscal commentary from the 2013-14 Half-Yearly Review (HYR), December 2013.
14. The Government's fiscal strategy is enshrined in the *Fiscal Responsibility Act 2012* with the key objective being to maintain operating balances and debt positions that are consistent with the State's triple A credit rating. The 2012-13 Budget and the 2013-14 HRY deliver on the fiscal strategy and address critical infrastructure spending while lowering debt, consistent with maintaining the triple-A credit rating.
15. NSW real economic growth as at the HYR was revised down by $\frac{1}{4}$ of a percentage point compared with the 2013-14 Budget, to $2\frac{1}{2}$ per cent for both 2013-14 and 2014-15. This reflects a softer global outlook, which has weakened both national and NSW economic prospects. A more gradual transition to non-mining investment is now expected.
16. The 2013-14 HYR forecasts a traditional deficit of \$1 billion in 2013-14 before returning to surplus in 2014-15, with growing surpluses thereafter. Even including accounting standard amendments, the HYR forecasts a return to surplus in 2016-17. These surpluses will lower the government's net borrowing requirement, requiring less debt to fund the infrastructure program
17. Expenses growth has been brought under control by delivering on the savings measures announced in the previous three Budgets. The wage policy is a key element, given that employee expenses account for nearly one-half of budget expenses. The impact of the wages policy is clearly evident in employee-related cost growth rates over the forward estimates in this Budget. Total expenses have now come in under budget for three consecutive years.
18. Controlling employee-related expenses continues to be a key focus in the Government's expense restraint. The 2013-14 Budget and 2013-14 HYR continue to deliver the benefits of the NSW Public Sector Wages Policy 2011. The policy provides for

**Chief Executive Service and Senior Executive Service
(transitional former senior executives)**

remuneration increases of 2.5 per cent per annum, with increases above this amount funded by realised employee-related cost savings. The Government's policies relating to better management of excess employees, a labour expense cap and more stringent controls on excessive annual leave accruals also assist in delivering better fiscal outcomes.

19. In 2013-14, employee expenses are estimated to be 47.6 per cent of the total expenses, including superannuation expense (6.3 per cent) and other employee expenses (41.3 per cent) composed principally of wages and salaries. Superannuation expenses are projected to increase in line with non-salary costs, plus changes in the federally legislated rate of contribution. Non-superannuation employee expenses will continue to increase but at a slower rate over the forward estimates.
20. Wages growth has slowed to below trend over 2012-13 and early 2013-14. Through the year to the March quarter, the NSW Wage Price Index grew by 2.6 per cent, reflecting subdued growth in both public and private sector wages. As at the HYR, NSW wage growth is expected to continue to grow below trend at 2 $\frac{3}{4}$ per cent in 2013-14 and 3 per cent in 2014-15. This subdued growth reflects a soft labour market and subdued inflation expectations. The Government's wages policy will continue to assist in moderating public sector wages growth.
21. The latest Consumer Price Index (CPI) figures for the March quarter 2014 show annual CPI growth to 2.8 per cent in Sydney, and 2.9 per cent across the average of 8 capital cities. Sydney CPI is expected to moderate to 2 per cent in 2013-14, reflecting low underlying inflation pressures and the removal of the carbon tax (reducing headline inflation by $\frac{3}{4}$ of a percentage point). The Sydney CPI is expected to then pick up to 2 $\frac{3}{4}$ per cent in 2014-15 in line with trend growth in output and employment. Current Reserve Bank of Australia (the RBA) forecasts, as at the May 2014 Statement of Monetary Policy, are that underlying inflation will reach the upper bound of the RBA target rate before returning to the mid-section of the target range in 2015-16.

**Chief Executive Service and Senior Executive Service
(transitional former senior executives)**

Government's submitted increase

22. The Government's submits that any increase should be discounted from 2.5 per cent to 1.88 per cent to have regard to the earlier commencement date of 1 July.
23. Past determinations have provided increases in remuneration effective from 1 October each year. However, amendments to the SOOR Act have now brought forward the date of effect from 1 October to 1 July.
24. The result of the change is that any increases in remuneration will apply three months earlier than past increases and would (if not taken into account) result in employees receiving comparatively greater remuneration in 2014-15 than would have been paid based on the previous arrangements – leading to effectively higher wages growth than legislated under the NSW Public Sector Wages Policy 2011.
25. The Government submission includes the following example to clarify the issue:

“For example, an employee with a salary of \$200,000 who receives an increase of 2.5 per cent from 1 July 2014 would earn \$1,281 more in 2014-15 than if they received the same increase from 1 October 2014 (\$210,125 compared to \$208,844 for 2014-15). Salary growth over this year would effectively be 3.1 per cent in 2014-15.

It is therefore necessary to adjust any increase in remuneration to take account of this timing change by discounting the quantum of the increase by 25 per cent (i.e. one quarter representing three months out of 12 months). Under the above scenario, an increase of 1.88 per cent from 1 July 2014 results in the same remuneration being paid as applying a 2.5 per cent increase from 1 October.”

26. The Government submits that the Tribunal should approve an annual increase of 1.88 per cent for SES from 1 July 2014 on the basis that this is consistent with the NSW Wages Policy and reflects the NSW Government's intent, pursuant to section 6AA of the SOOR Act and IR Regulation 2011.
27. The Tribunal notes that IR Regulation 2011 was remade on 24 June 2014, after the Government drafted its submission, and is now the *Industrial Relations (Public Sector Conditions of Employment) Regulation 2014* (the IR Regulation 2014). The remaking of

**Chief Executive Service and Senior Executive Service
(transitional former senior executives)**

IR Regulation 2014 confirms the Government policies that are required to be given effect to by the IRC. In particular, it confirms the Government's policies regarding the management of excess public sector employees and the 2.5 per cent cap on increases in remuneration and the cost of other conditions of employment (including superannuation).

28. The Government also submits that there should be no increase to the minimum and maximum rates of Recruitment and Retention Allowances.

Section 4

2014 Determination

Superannuation Guarantee Contribution: Changes to legislation and further increases

29. In determining remuneration for the SES the Tribunal is required pursuant to Section 6AA of the SOOR Act to give effect to the same policies on increases in remuneration as those that the IRC is required to give effect to under section 146C of the IR Act when making or varying awards or orders relating to the conditions of employment of public sector employees.
30. The current policy on wages pursuant to section 146(1)(a) of the IR Act is specified in IR Regulation 2014 which was made on 24 June 2014. The effect of IR Regulation 2014 is that public sector wages cannot increase by more than 2.5 per cent. Any increase beyond 2.5 per cent can only be awarded if sufficient employee-related cost savings have been achieved to fully offset the increased employee-related costs. IR Regulation 2014 replaces IR Regulation 2011 and Clause 6 provides the following clarification in relation to superannuation employment benefits:

“...Other policies

- (1) The following policies are also declared, but are subject to compliance with the declared paramount policies:*

**Chief Executive Service and Senior Executive Service
(transitional former senior executives)**

(a) *Public sector employees may be awarded increases in remuneration or other conditions of employment but only if employee-related costs in respect of those employees are not increased by more than 2.5 % per annum as a result of the increases awarded together with any new or increased superannuation employment benefits provided (or to be provided) to in respect of the employees since their remuneration or other conditions of employment were last determined.*

(4) *In subclause (1)(a), **new or increased superannuation employment benefits** means any new or increased payments by an employee to a superannuation scheme or fund of an employee as a consequence of amendments to the Superannuation Guarantee (Administration) Act 1992 of the Commonwealth or the State Authorities Non-contributory Superannuation Act 1987.*

31. IR Regulation 2014 is the most recent change in a series of actions taken by the Government to give effect to its policy in relation to the impact of increases in superannuation employment benefits.
32. The SGC increase does not affect the Tribunal's ability to determine a remuneration increase of up to 2.5 per cent for SES as they receive a total remuneration package, from which the cost of the SGC must be funded.

Adjusted Annual Increase

33. To ensure the SES remuneration package ranges do not increase by more than 2.5 per cent over a twelve month period, it is appropriate that the increase to take effect from 1 July 2014 be discounted to reflect the start date of 1 July rather than the later date of 1 October, at which date the Tribunal's previous determinations have taken effect.

Recruitment Allowance and Retention Allowance

34. There was no increase in the minimum and maximum rates of the Recruitment Allowance or the Retention Allowance in 2013. Recruitment and Retention Allowances will not be available to new Public Service Senior Executives under the GSE Act. While no new allowances will be offered, the Tribunal will continue to determine these allowances for existing SES officers currently in receipt of these allowances until such

**Chief Executive Service and Senior Executive Service
(transitional former senior executives)**

time as the transition arrangements are complete and Part 3 of the SOOR Act is repealed.

Chief Executive Positions

35. During the 2013 annual review the Tribunal determined that three Chief Executive positions would receive remuneration in excess of the maximum of SES Level 8: the Director General of the Department of Premier and Cabinet, the Chief Executive Officer and Co-ordinator General of Infrastructure NSW and the Director General, Department of Trade and Investment, Regional Infrastructure and Services.
36. The Tribunal continued to support the view that additional remuneration for these positions was warranted and determined an increase of 2.5 per cent consistent with section 6AA of the SOOR Act.
37. The GSE Act provides transitional arrangements for Secretaries of Departments and Heads of other Public Service agencies.
38. In accordance with Clause 6 of Schedule 4 of the GSE Act the persons holding the office as the head of the former principal Department immediately before the repeal of the former PSEM Act continues in that role (subject to the provisions of Clause 6(2)(a) and (b)). A person who continues in office as Secretary under subclause (2) is remunerated in accordance with a determination of the Tribunal as follows:

6 Secretaries of Departments - transitional arrangements

(4) A person who continues in office as Secretary under subclause (2):

(c) has a remuneration package that is equivalent to the remuneration package of the person immediately before the repeal of the former Act (unless the remuneration package is increased as a result of a determination of the Statutory and Other Offices Remuneration Tribunal made under Part 3A of the Statutory and Other Offices Remuneration Act 1975)...

39. The remuneration determined by the Tribunal on 27 September 2013, in respect of the Director General of the Department of Premier and Cabinet and the Director General of

**Chief Executive Service and Senior Executive Service
(transitional former senior executives)**

the Department of Trade and Investment, Regional Infrastructure and Services, continues to be payable to the persons holding those offices while ever the office holders are subject to the transitional arrangements (Schedule 4, Clause 6, GSE Act 2013).

40. The Tribunal notes that the former Secretary of the Department of Premier and Cabinet ceased to occupy that position on 25 June 2014. On that basis the transitional arrangements cease to apply and the Tribunal is no longer required to make a determination under Part 3A of the SOOR Act in respect of that office holder.
41. Any new determination in respect of the office or office holder of the position of Secretary of the Department of Premier and Cabinet is to be made in accordance with the provisions of both the GSE Act and Part 3B of the SOORT Act. When appropriate, it would be open to the Premier to direct the Tribunal to determine the remuneration payable to the office or office holder of the position of Secretary of the Department of Premier and Cabinet, in accordance with section 24P of the SOOR Act.
42. Transitional arrangements also apply in respect of the remuneration payable to the Chief Executive Officer and Co-ordinator General of Infrastructure NSW. In accordance with Clause 7 of Schedule 4 of the GSE Act persons holding office as head of the former other Division (which includes Infrastructure NSW) immediately before the repeal of the former PSEM Act continue in that role (subject to the provisions of Clause 7(2)(a) and (b)). A person who continues in office as Head of other Public Service agencies under subclause (2) is remunerated in accordance with a determination of the Tribunal as follows:

7 Heads of other Public Service agencies – transitional arrangements

(7) A person who continues in office as Secretary under subclause (2):

(c) has a remuneration package that is equivalent to the remuneration package of the person immediately before the repeal of the former Act (unless the remuneration package is increased as a result of a determination of the

**Chief Executive Service and Senior Executive Service
(transitional former senior executives)**

*Statutory and Other Offices Remuneration Tribunal made under Part 3A of
the Statutory and Other Offices Remuneration Act 1975)...*

43. As transitional arrangements currently apply to the office holders appointed to the positions of Secretary of the Department of Trade and Investment, Regional Infrastructure and Services and the Chief Executive Officer and Co-ordinator General of Infrastructure NSW the Tribunal will make an annual determination for these positions.

Conclusion

44. The Tribunal after considering the views of the Assessors and having regard to the provisions of section 6AA of the SOOR Act, determines an increase of 1.88 per cent for all SES officers, effective on and from 1 July 2014. The new rates are as set out in Determinations Nos. 1-7.

The Statutory and Other Offices Remuneration Tribunal

(Signed)

Helen Wright

Dated: 11 July 2014

Chief Executive Service and Senior Executive Service
(transitional former senior executives)

Determination No. 1- Remuneration Package Ranges for the SES

The Tribunal determines that the remuneration package ranges for executive office holders effective on and from 1 July 2014 shall be:

CES/SES	Per annum range		
Remuneration Level 8	\$430,451	to	\$497,300
Remuneration Level 7	\$343,201	to	\$430,450
Remuneration Level 6	\$305,401	to	\$343,200
Remuneration Level 5	\$264,751	to	\$305,400
Remuneration Level 4	\$242,801	to	\$264,750
Remuneration Level 3	\$213,751	to	\$242,800
Remuneration Level 2	\$199,301	to	\$213,750
Remuneration Level 1	\$170,250	to	\$199,300

Determination No. 2 – Chief Executive Officer and Co-ordinator General, Infrastructure NSW

The Tribunal determines that the remuneration package for the Chief Executive Officer and Co-ordinator General, Infrastructure NSW shall be \$548,575 per annum effective on and from 1 July 2014.

Determination No. 3 - Director General, Department of Trade and Investment, Regional Infrastructure and Services

The Tribunal determines that the remuneration package for the Director General, Department of Trade and Investment, Regional Infrastructure and Services shall be \$544,455 per annum effective on and from 1 July 2014.

**Chief Executive Service and Senior Executive Service
(transitional former senior executives)**

Determination No. 4 – Recruitment Allowance

The recruitment allowance applies only to existing SES officers currently in receipt of the allowance.

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

CES/SES	Maximum Allowance	
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. 5 – 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 Public Service Commissioner 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.

CES/SES	Maximum Allowance	
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

**Chief Executive Service and Senior Executive Service
(transitional former senior executives)**

Determination No. 6 - Specialist Medical Skills

The Tribunal determines that the remuneration package ranges for offices identified as requiring specialist medical skills effective on and from 1 July 2014 shall be:

Specialist Medical Skills	Per annum range		
Remuneration Level 6	\$314,600	to	\$385,300
Remuneration Level 5	\$313,250	to	\$371,250
Remuneration Level 4	\$307,850	to	\$357,350
Remuneration Level 3	\$293,750	to	\$340,900
Remuneration Level 2	\$275,700	to	\$319,900
Remuneration Level 1	\$254,300	to	\$291,950

Determination No. 7 – General Medical Skills

The Tribunal further determines that the remuneration package ranges for offices identified as requiring general medical skills effective on and from 1 July 2014 shall be:

General Medical Skills	Per annum range		
Remuneration Level 2	\$221,350	to	\$256,850
Remuneration Level 1	\$203,450	to	\$233,500

The Statutory and Other Offices Remuneration Tribunal

(Signed)

Helen Wright

Dated: 11 July 2014