

**Public Service
Senior
Executives**

Annual
Determination

*Report and determination under
section 240 of the Statutory and
Other Offices Remuneration Act
1975*

**25 June
2015**

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Section 1

Introduction

1. The role of the Statutory and Other Offices Remuneration Tribunal (the Tribunal), pursuant to section 6 of the *Statutory and Other Offices Remuneration Act 1975* (the SOOR Act) was undertaken by Ms Helen Wright from 12 July 2011 until the expiration of her appointment on 11 July 2014. The Tribunal wishes to express its appreciation of Ms Wright's contributions over those years.
2. On 6 August 2014, Mr Richard Grellman AM was appointed to the role of Tribunal pursuant to section 6 of the SOOR Act. The two roles of Assessor assisting the Tribunal pursuant to sections 7 (1) (a) and 7 (1) (b) of the SOOR Act have been undertaken by Mr Blair Comley PSM, Secretary, Department of Premier and Cabinet and Mr Ken Baxter, respectively.

Background

3. The *Government Sector Employment Act 2013* (the GSE Act) commenced on 24 February 2014. The GSE Act introduced a new structure and employment arrangements for senior executives. Senior executives employed under the GSE Act are referred to as Public Service Senior Executives (PSSEs).
4. Upon commencement, the GSE Act amended the SOOR Act to provide for the Tribunal to determine annual remuneration packages for the PSSEs.
5. Under section 35 of the GSE Act the Premier (as the Minister administering the GSE Act) determines the bands in which senior executives are to be employed:

35 Minister may determine bands in which senior executives to be employed

- (1) *The Minister may from time to time determine the bands in which Public Service senior executives are to be employed (the **senior executive bands determination**).*
- (2) *The senior executive bands determination may deal with matters related to bands.*
- (3) *The Minister may amend or repeal the senior executive bands determination by a further determination.*

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(4) Before making, amending or repealing the senior executive bands determination, the Minister is to obtain the advice of the Commissioner.

(5) The senior executive bands determination (including any amendment or repeal) is to be published on the NSW legislation website and takes effect on the date it is so published or on any later specified date.

6. The SOOR Act provides for the Tribunal to make the initial and then annual determinations in respect of the remuneration package applicable to each band. The Tribunal's Initial Determination on the remuneration packages applicable to each band was made on 3 February 2014. The Initial determination covered the period from the commencement of the GSE Act being 24 February 2014 to 30 June 2014.
7. The SOOR Act provides for the annual determinations of Part 3B remuneration packages for PSSEs in the following terms:

240 Annual determinations

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

Section 2

2014 Annual Determination

8. The Tribunal's 2014 annual determination for the PSSEs was made on 11 July 2014 and took effect on and from 1 July 2014. The determination provided for a 1.88 per cent increase for each PSSE officer.
9. The Tribunal adjusted the increase to ensure the PSSEs remuneration package ranges did not increase by more than 2.5 per cent over a twelve month period.

Section 3

Special Determinations

10. The Tribunal has made four special determinations since the making of the 2014 annual determination which are outlined below. The determinations are published on the [NSW Remuneration Tribunals](#) website.

Secretary of the Department of Premier and Cabinet

11. On 17 September 2014, the Tribunal made a determination pursuant to section 24P of the SOOR Act to alter the range of remuneration packages for Band 4 PSSEs to provide the first person appointed as Secretary of the Department of Premier and Cabinet (DPC), since the commencement of the GSE Act, with a remuneration package of \$569,965 per annum plus a discretionary remuneration range of up to 12 per cent in addition to the base remuneration.
12. The determination did not name an individual, as at the time of making the determination, an appointment had not been made. Instead, and in accordance with section 24R, the determination otherwise identified the first person appointed as Secretary of the DPC since the commencement of the GSE Act. The determination is not a determination that applies to the role of Secretary DPC or to future appointments to that role.
13. The determination in practice applies to Mr Blair Comley, Secretary of the DPC with effect from the date of his appointment being 7 October 2014.

Chief Financial Officer, Department of Family and Community Services

14. On 22 January 2015 the Tribunal made a determination pursuant to section 24P of the SOOR Act to alter the range of remuneration packages for Band 2 PSSEs to provide for Ms Denise Dawson to receive a remuneration package of \$340,000 per annum on appointment to the role of Chief Financial Officer, Department of Family and Community Services.

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15. In accordance with section 24P this determination is personal to Ms Dawson and is not a determination that applies to the office of Chief Financial Officer of the Department of Family and Community Services or to future appointments to that role.

Chief Executive Officer, Barangaroo Delivery Authority

16. On 1 June 2015, the Tribunal made a determination pursuant to section 24P of the SOOR Act to alter the range of remuneration packages for Band 3 PSSEs to provide the person appointed as Chief Executive Officer, Barangaroo Delivery Authority, following the special determination and the current recruitment action for the role, with a remuneration package of \$565,000 per annum plus a discretionary remuneration range of 12 per cent in addition to the base remuneration.
17. The determination did not name an individual, as at the time of making the determination, an appointment had not been made. Instead, and in accordance with section 24R, the determination otherwise identified the proposed appointee and that it would apply to the person appointed following this determination and current recruitment action for the role. The determination is not a determination that applies to the role of Chief Executive Officer, Barangaroo Delivery Authority or to future appointments to that role.
18. As the determination was made so close to the making of the 2015 Annual Determination the Tribunal determined that there would be no further adjustment as a result of any general increases provided across the PSSEs group with effect from 1 July 2015.

Secretary of the NSW Treasury

19. On 1 June 2015, the Tribunal made a determination pursuant to section 24P of the SOOR Act to alter the range of remuneration packages for Band 4 PSSEs to provide the first person appointed as Secretary of the NSW Treasury, since the commencement of the GSE Act, with a remuneration package of \$550,000 per annum plus a discretionary remuneration range of up to 12 per cent in addition to the base remuneration.

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20. The determination did not name an individual, as at the time of making the determination, an appointment had not been made. Instead, and in accordance with section 24R, the determination otherwise identified the first person appointed as Secretary of the NSW Treasury since the commencement of the GSE Act. The determination is not a determination that applies to the role of Secretary of the NSW Treasury or to future appointments to that role.
21. The determination in practice applies to Mr Robert Whitfield, Secretary of the NSW Treasury with effect from the date of his appointment being 13 July 2015.
22. As the determination was made so close to the making of the 2015 Annual Determination the Tribunal determined that there would be no further adjustment as a result of any general increases provided across the PSSEs group with effect from 1 July 2015.

Section 4

Government Submission

23. The Secretary NSW Treasury provided the Government submission to the Tribunal on 7 May 2015. 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 PSSEs. Extracts appear below.

Economic performance and outlook for NSW

24. The submission was drafted prior to the release of the 2015-16 Budget and is primarily based on economic forecasts and fiscal commentary from the 2014-15 Half-Yearly Review, December 2014 (HYR).
25. The Government's commitment to keeping annual growth in general government expenses lower than the long-term average of general government revenue growth is legislated in the *Fiscal Responsibility Act 2012*, and forms part of the Government's fiscal strategy.

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26. NSW real economic growth as at the HYR has been revised down by $\frac{1}{4}$ of a percentage point compared with the 2014-15 Budget, to $2\frac{3}{4}$ per cent in 2014-15 and remains unchanged at 3 per cent in 2015-16. This reflects a softer global and national outlook, which has weakened NSW economic prospects. However, there are tentative signs that the non-mining sector is picking up and Gross State Product growth is expected to strengthen to an above trend pace in 2015-16 as the national economy improves.
27. The 2014-15 HYR projects a solid fiscal outlook for New South Wales, with surpluses estimated in 2014-15 and across the forward estimates. The 2014-15 budget result is forecast to be a surplus of \$272 million, a turnaround of \$555 million on the \$283 million deficit forecast in the 2014-15 Budget. A surplus of \$402 million is expected for 2015-16, and surpluses exceeding \$1 billion are projected for 2016-17 and 2017-18.
28. Higher expenses of \$1.5 billion are forecast over the forward estimates, compared to the 2014-15 Budget. Keeping expense growth below revenue growth is key to strengthening the fiscal position. As at the 2014-15 HYR, revenue growth over the four years to 2017-18 is projected to average 3.2 per cent per annum.
29. Controlling employee-related expenses continues to be a key focus of the Government's fiscal strategy. The 2014-15 Budget and 2014-15 HYR continue to deliver the benefits of the NSW Public Sector Wages Policy 2011. The policy provides for 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 will also assist in delivering better fiscal outcomes.
30. As at the 2014-15 HYR, employee-related expenses are estimated to be 48.6 per cent of the total expenses, including superannuation expenses (6.8 per cent) and other employee expenses (41.9 per cent) composed principally of wages and salaries. Superannuation expenses are projected to increase in line with non-salary costs.

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Non-superannuation employee expenses will continue to increase over the forward estimates, reflecting increased investment in frontline services, and the hiring of specialist staff for the delivery of transport infrastructure projects.

31. Wages growth has remained subdued at below trend rates over 2013-14 and early 2014-15. Through the year to the December quarter, the NSW Wage Price Index (WPI) grew by 2.4 per cent, reflecting subdued growth in both public and private sector wages. As at HYR, NSW wage growth is expected to continue to grow below trend at 2½ per cent in 2013-14 and 3 per cent in 2014-15. This subdued growth reflects softer labour market expectations and subdued recent WPI outcomes. The Government's wages policy will continue to assist in moderating public sector wages growth. Both the 2014-15 Commonwealth Mid-year Economic Fiscal Outlook and the February 2015 Reserve Bank of Australia Statement on Monetary Policy expect wages growth at the national level to remain subdued.

Government's submitted increase

32. The Government submits that the Tribunal should approve an increase of 2.5 per cent from 1 July 2015, on the basis that it is consistent with the NSW Wages Policy and reflects the NSW Government's intent, pursuant to section 6AA of the SOOR Act and the *Industrial Relations (Public Sector Conditions of Employment) Regulation 2014* (IR Regulation).

Section 5

2015 Determination

Government Wages Policy

33. In determining remuneration for the PSSEs 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 *Industrial Relations Act 1996* (the IR Act) when making or varying awards or orders relating to the conditions of employment of public sector employees.

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34. The current policy on wages pursuant to section 146(1)(a) of the IR Act is specified in the IR Regulation which was made on 24 June 2014. The effect of the IR Regulation 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. Clause 6 of IR Regulation 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:*

(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.”*

35. The Tribunal notes that the SGC payable by employers was increased from 0.25 per cent to 0.50 per cent for the financial year starting 1 July 2014. No further adjustments are expected until 1 July 2021.

36. Adjustments to the Superannuation Guarantee Contribution (SGC) do not affect the Tribunal’s ability to determine a remuneration increase of up to 2.5 per cent for PSSEs as they receive a total remuneration package, from which the cost of the SGC must be funded.

37. In accordance with section 24O of the SOOR Act the Tribunal determines remuneration packages for the PSSEs. Section 24M of the SOOR Act provides for the following definition of a remuneration package for the PSSEs:

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“s24M remuneration package means the annual amount payable to a senior executive under the Government Sector Employment Act 2013:

- (a) as monetary remuneration for the executive, or*
- (b) partly as that remuneration and partly as the cost to the employer of the executive’s employment benefit”*

38. Section 40 of the GSE Act outlines the remuneration, benefits and allowances for senior executives. These include:

“(4) For the purposes of this Division, employment benefits for a Public Service senior executive are:

contributions by the executive’s employer to a superannuation scheme or fund of the executive,...”

Conclusion

39. 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 2.5 per cent for the remuneration package ranges for PSSEs bands, effective on and from 1 July 2015. The new rates are as set out in Determination No. 1.

40. The 2.5 per cent increase also applies to those determinations made pursuant to section 24P which “altered” a band remuneration package, other than those determinations where the Tribunal determined that the general increase taking effect from 1 July 2015 would not apply.

41. Transitional arrangements are in place until up to 24 February 2017 for ‘transitional former senior executives’, that is, people who were in the Chief Executive Services or SES under the former PSEM Act immediately before it was repealed. The Tribunal has made a separate determination under Part 3A of the SOOR Act for transitional former senior executives.

The Statutory and Other Offices Remuneration Tribunal

(Signed)

Richard Grellman AM

Dated: 25 June 2015

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Section 6

Determination No.1-Remuneration Package Ranges for the PSSEs

The Tribunal determines that the remuneration package ranges for Public Sector Senior Executive Bands effective on and from 1 July 2015 shall be:

Band	Per annum range		
Band 4 - Secretary level	\$441,201	to	\$509,750
Band 3 - Deputy Secretary level	\$313,051	to	\$441,200
Band 2 - Executive Director level	\$248,851	to	\$313,050
Band 1 - Director level	\$174,500	to	\$248,850

Band	Band remuneration package altered by a special determination pursuant to section 24P of the SOOR Act
Band 4 - Secretary level	Mr Blair Comley, Secretary, Department of Premier and Cabinet: \$584,200 per annum plus a discretionary remuneration range of up to 12 per cent in addition to the base remuneration.
	First person appointed as Secretary of the NSW Treasury, since the commencement of the GSE Act: \$550,000 per annum plus a discretionary remuneration range of up to 12 per cent in addition to the base remuneration.
Band 3 - Deputy Secretary level	Person appointed to the role of Chief Executive Officer, Barangaroo Delivery Authority, following the special determination and the current recruitment action for the role: \$565,000 per annum plus a discretionary remuneration range of 12 per cent in addition to the base remuneration.
Band 2 - Executive Director level	Ms Denise Dawson, Chief Financial Officer, Department of Family and Community Services: \$348,500 per annum.

The Statutory and Other Offices Remuneration Tribunal

(Signed)

Richard Grellman AM

Dated: 25 June 2015