

Court and
Related
Officers
Group

Annual
Determination

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

15 July
2016

Court and Related Officers Group

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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 (formerly 1 October).
“Remuneration” is defined in section 10A as salary or allowances paid in money.
2. The Court and Related Officers Group comprises those public offices listed in the Schedules of the Act (except for the Judges and Magistrates Group and the Public Office Holders 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.

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, rather than those policies that the Industrial Relations Commission is required to give effect to under section 146C of the *Industrial Relations Act 1996* (the IR Act).
4. 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).
5. In accordance with 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 increase provided to an individual office holder or group of office holders based on

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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

2015 Determination

6. On 25 June 2015 the Tribunal determined that officers in the Court and Related Officers Group would receive a 2.5 per cent increase in salary and conveyance allowance.
7. The Tribunal noted that long standing salary relativities have eroded between the Judges and Magistrates Groups and office holders in the Court and Related Officers Group. This was a consequence of a decision in 2012 which limited some, but not all, judicial officer increases to 2.5 per cent, the application of the SOOR Regulation to all office holders in 2013, and the increases in the Superannuation Guarantee Contribution.
8. The Tribunal also noted that the restoration of original salary relativities would require adjustments of more than 2.5 per cent the Tribunal is presently unable to make such a determination, unless office holders can offset any additional increase with officer-related cost savings.
9. The introduction of the SOOR Regulation has had a similar impact on the Tribunal's ability to determine increases across both the Judges and Magistrates Group and the Public Office Holders Group. The Tribunal made the following comments in respect of the impact of the SOOR Regulation in the 2015 Court and Related Officers Group Determination:
 34. *The Tribunal has reviewed the intent of the SOOR Regulation and reviewed comments made by the former Tribunal in previous determinations. Having regard to the information before it, the Tribunal is drawn to the view that increases of more than 2.5 per cent may not be achievable as the SOOR Regulation, as presently constructed, would appear to make the identification and assessment of officer-related cost savings prohibitively complex and*

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difficult.

35. *The Tribunal notes that the Industrial Relations (Public Sector Conditions of Employment) Regulation 2014 and SOOR Regulation were introduced to require the Tribunal to give effect to the Government's wages policy and to require the same policies on increases in remuneration as apply to public service workers to also apply to those officers whose remuneration is determined by the Tribunal. However, as a consequence of a number of factors, increases have not been applied uniformly to all office holder groups and a possible unintended consequence has been the erosion of long standing salary relativities.*

36. *The Tribunal notes that the SOOR Regulation will expire on 1 September 2018. The Tribunal intends to write to the Premier to seek his views on the restoration of internal relativities and whether or not there is any intention to repeal, or amend, the SOOR Regulation before 2018 which may enable office holders to seek increases of more than 2.5 per cent and/or for the Tribunal to determine increases of more than 2.5 for the purpose of restoring long standing salary relativities.*

10. The Tribunal also determined that the conveyance allowance would increase by 2.5 per cent on and from 1 July 2015. The Tribunal indicated that during the 2016 review it would review the methodology for determining the quantum of increase to the conveyance allowance and consider if the general increase should apply irrespective of the adjustments in motor vehicle costs.

Section 3

2016 Annual Review

11. As foreshadowed in the 2015 determination, on 4 February 2016 the Tribunal wrote to the Premier, the Hon Mike Baird MP, to seek his views, if any, on how the Tribunal can restore the internal relativities before then. In addition, whether there is any proposal to amend the SOOR Regulation to enable the Tribunal to consider an increase based on work value, where warranted, which may exceed 2.5% (without the need to identify officer-related cost savings).

12. In the Premier's response of 27 April 2016 the Premier advised that the Government does not intend to repeal or amend the SOOR Regulation before its staged repeal in 2018. Also, that the Government does not support increasing certain wages in order

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to match historical salary relativities.

13. Having considered the Premier's response the Tribunal finds no reason to alter the view already expressed that increases of more than 2.5 per cent may not be achievable.
14. On 3 May 2016 the Tribunal wrote to office holders advising of the commencement of the 2016 annual review. Having regard to the advice received from the Premier, the Tribunal advised office holders that for 2016 it is practical to only consider a general increase of up to 2.5 per cent. Office holders were invited to make submissions on the quantum of the general increase. If office holders or groups of office holders felt they had a strong enough case to seek an increase based on work value assessment of more than 2.5 per cent it would be a matter for such office holders or groups of office holders to identify and propose to the Tribunal the officer-related cost savings which it or they intend to achieve.

Office Holder Submissions

15. For the 2016 review the Tribunal received two submissions from office holders in the Court and Related Officers Group.
16. The Deputy Presidents of the Workers Compensation Commission requested a 2.5 per cent increase in remuneration. With the submission noting that the relativities between the remuneration of Deputy, and broadly comparable judicial office holders such as magistrates and Judges of the District Court, have not been maintained.
17. The Tribunal also received a submission from the Chief Judge of the Land and Environment Court on behalf of the Commissioners of that Court. The Chief Judge has requested that there should be a 2.5 per cent in their remuneration and conveyance allowance. The submission also notes that while the Commissioners do not propose to pursue a work value case at this time they may seek to do so in the future. Noting recent planning reforms which will increase the jurisdiction and workload of the Commissioners.

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Government Submission

18. The Secretary NSW Treasury provided the Government submission to the Tribunal on 11 July 2016. The Government submits that the Tribunal should determine an increase of 2.5 per cent for office holders in the Court and Related Officers Group. This recommendation is consistent with the NSW Wages Policy and reflects the NSW Government's intent, pursuant to section 6AB of the SOOR Act and the SOOR Regulation.

Section 4

2016 Determination

General Increase

19. The Tribunal has not been asked to consider an increase, either a general increase or an increase based on work value assessment, in excess of 2.5 per cent, and therefore a detailed assessment of whether or not officer-related costs savings have been achieved has not been required for this group of office holders.
20. It is open to the Tribunal to determine an increase of up to 2.5 per cent without the need for office holders to offset any additional increase with officer-related cost savings.
21. The Tribunal finds that an increase of 2.5 per cent is justified having regard to the significant role court and related officers undertake in the State's justice system.
22. As the Government does not intend to repeal or amend the SOOR Regulation before 2018 it is likely that, until then, the Tribunal will continue to consider general increases of up to 2.5 per cent only. It will of course be open to office holders or groups of office holders to seek an increase based on work value assessment of more than 2.5 per cent if they are able to identify and propose to the Tribunal the officer-related cost savings which it or they intend to achieve.
23. The Tribunal is also presently unable to restore the internal salary relativities that have eroded between the Judges and Magistrates Groups and office holders in the

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Court and Related Officers Group. While the Government does not support increasing certain wages in order to match historical salary relativities the Tribunal will revisit this matter following the repeal of the SOOR Regulation.

Conveyance Allowance

24. As foreshadowed in the 2015 Annual Determination the Tribunal has reviewed the methodology for determining the quantum of increase to the conveyance allowance.
25. The allowance is calculated on the basis of the cost of leasing a motor vehicle. The allowance is differentiated between officer groups to reflect the percentage difference in salary between Judges of the Supreme Court and District Court and Magistrates.
26. The allowance has been increased on only four occasions since it was introduced in 2003. The level of increase, if any, was determined having regard to adjustments in actual lease costs of motor vehicles (having regard to the sample vehicles considered by Tribunal). As these costs vary from year to year, increases were only applied if the data indicated an upward trend in costs. Adjustments in 2011 and 2015 were capped at 2.5 per cent in keeping with the Government's wages policy.
27. The Tribunal has reviewed the methodology for considering adjustments, having regard to arrangements in other jurisdictions and alternative data sources.
28. The Tribunal found that the current methodology provides a consistent basis for determining lease costs. However, the means of calculating lease costs is cumbersome and reliant on data from a third party.
29. As an alternative the Tribunal has reviewed the impact of providing adjustments based on the annual general increase and adjustments based on movements in prices as published by the Australian Bureau of Statistics (ABS).
30. The Tribunal found that an annual adjustment equivalent to the general increase (currently 2.5 per cent) would increase the conveyance allowance over time to an amount which exceeds the reasonable cost of leasing a motor vehicle.

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31. The Tribunal has examined a number of indexes available under the Consumer Price Index (CPI) and found that the index CPI: Motor Vehicles – Sydney (Series ID A2328552A) which reflects, among other things, the change in purchase and long term hire/lease costs of new cars, to be the most appropriate indicator.
32. The Tribunal found that adjustments over time based on this component of the CPI would have provided for adjustments comparable with the current methodology. While it is open to the Tribunal to determine increases to this allowance of up to 2.5 per cent the Tribunal finds that the original intent of the conveyance allowance should be maintained and that the allowance should continue to reflect the reasonable cost of leasing a motor vehicle. For that reason, the Tribunal will provide increases to the conveyance allowance based on the CPI: Motor Vehicles – Sydney (Series ID A2328552A) March quarter - having regard to the percentage change from the corresponding quarter of the previous year. In considering any adjustment the following conditions will apply:
 - i. should the March quarter data indicate a decrease in motor vehicle costs the conveyance allowance will remain unchanged (to comply with the requirements of section 21 of the SOOR Act)
 - ii. the annual adjustment will not exceed 2.5 per cent (to comply with section 6AB of the SOOR Act)
33. For the 2016 determination, having regard to the annual percentage change from the March quarter (CPI: Motor Vehicles – Sydney (Series ID A2328552A)), the conveyance allowance has been increased by 2.1 per cent.

Conclusion

1. The Tribunal is obligated to undertake its duties consistent with the legislation. On that basis the Tribunal, after considering the views of Assessors, considers that an increase of 2.5 per cent in remuneration and 2.1 per cent in the conveyance allowance is appropriate and so determines.
2. Pursuant to section 13 of the SOOR Act the Tribunal determines that the remuneration to be paid office holders in the Court and Related Officers Group, on

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and from 1 July 2016 shall be as specified in Determination No. 1.

The Statutory and Other Offices Remuneration Tribunal

(Signed)

Richard Grellman AM

Dated: 15 July 2016

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Section 5

Determinations

Determination No. 1- Annual Determination of Remuneration

Annual determination of the remuneration of the Court and Related Officers Group effective on and from 1 July 2016

Position	Salary per annum	Conveyance Allowance (NOTE 1)
Director of Public Prosecutions	\$424,810	\$23,600
Solicitor-General	\$424,810	\$23,600
Chairperson, Law Reform Commission	\$423,110	\$23,600
Crown Advocate	\$380,800	\$21,240
Deputy Director of Public Prosecutions	\$380,800	\$21,240
Senior Crown Prosecutor	\$342,720	\$16,990
Senior Public Defender	\$342,720	\$16,990
Deputy Presidents, Workers Compensation Commission	\$308,440	\$16,990
Deputy Senior Crown Prosecutor	\$308,440	\$16,990
Deputy Senior Public Defender	\$308,440	\$16,990
Solicitor for Public Prosecutions	\$308,440	\$16,990
Senior Commissioner Land and Environment Court	\$296,170	\$16,990
Crown Prosecutor	\$281,790	\$16,990
Public Defender	\$281,790	\$16,990
Commissioner Land and Environment Court	\$279,240	\$16,990
Acting Deputy President Workers Compensation Commission	\$1,280 per day	-

NOTE 1 The Conveyance Allowance determined here shall not count towards pension or for superannuation purposes.

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Determination No. 2- Annual Leave Loading

Leave Loading

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.

The Statutory and Other Offices Remuneration Tribunal

(Signed)

Richard Grellman AM

Dated: 15 July 2016