

STATUTORY AND OTHER OFFICES REMUNERATION TRIBUNAL
REPORT AND DETERMINATION PURSUANT TO SECTION 14(2) OF THE SOOR ACT

REPORT:

1. On 19 February 2016 the Statutory and Other Offices Remuneration Tribunal (the Tribunal) received a direction from the Premier, the Hon Mike Baird MP, to make a determination in respect of the remuneration payable to the office of the President, Mental Health Review Tribunal (the MHRT), in circumstances where a judge of the District Court or Supreme Court of NSW (a sitting judge) holds the office and is continuing to be remunerated in their judicial office.
2. The President, MHRT is established by the *Mental Health Act 2007* (the MH Act) with remuneration determined in accordance with the *Statutory and Other Offices Remuneration Act 1975* (the SOOR Act). The Tribunal's 2015 annual determination provides for the President to receive an annual salary of \$369,240.
3. The appointment requirements for the President, MHRT are specified in Schedule 5, clause 1 of the MH Act. These requirements commenced on 1 March 2009, after the MH Act was amended to meet the requirements of changes to the *Mental Health (Forensic Provisions) Act 1990*:

“A person is eligible to be appointed as the President or Deputy President if the person is:

(a) a person who holds or has held office as a judge of the Supreme Court or the District Court, or as a judge of an equivalent court of another State or a Territory, or

(b) a person who holds or has held office as a judge of the Federal Court or the High Court, or

(c) a person who is qualified to be appointed as a judge referred to in this clause.”

4. The MH Act does not provide for a sitting judge to retain their judicial entitlements nor for their service on the MHRT to count as service on the Court. To do so, a sitting judge would need to continue to be paid their judicial

remuneration while on paid leave from the Court, while also receiving the salary as President, MHRT.

5. To ensure that a sitting judge is not paid both judicial remuneration and the salary as President, MHRT, the Tribunal needs to determine the appropriate remuneration for the role of President, MHRT in circumstances where a sitting judge holds the office and is continuing to be remunerated in their judicial office.
6. In determining the appropriate remuneration the Tribunal has had regard to advice from the Crown Solicitor and further information provided by the Minister. The Tribunal is of the view that peppercorn remuneration of \$1.00 per annum will apply to the President, MHRT in these circumstances.
7. The original determination for the President MHRT is retained and will apply, if any future President, MHRT is not a sitting judge.

DETERMINATION:

Pursuant to section 14(2) of the *Statutory and Other Offices Remuneration Act 1975* the Tribunal determines that the office of President, Mental Health Review Tribunal shall receive the following remuneration, with effect from the date of this determination.

Public Office Holder	Salary per annum
President, Mental Health Review Tribunal	\$369,240
President, Mental Health Review Tribunal (remuneration applicable only while a Judge of the District Court of NSW or Judge of the Supreme Court of NSW holds the office of President and continues to be remunerated for their judicial role)	\$1

**Statutory and Other Offices
Remuneration Tribunal**

Signed

Richard Grellman AM
22 February 2016