

Public Office Holders Group

Annual
Determination

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

**5 August
2021**

Public Office Holders 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. Section 10A defines ‘remuneration’ as salary or allowances paid in money.
2. The Public Office Holders Group comprises those public offices, listed in the schedules of the SOOR Act (except for the Judges and Magistrates Group and the Court and Related Officers 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. This group also comprises any office holders who, pursuant to section 11A of the SOOR Act, have elected to receive, and for whom the Minister has approved access to, remuneration packaging arrangements that are provided to Public Service senior executives under the *Government Sector Employment Act 2013*.

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. 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).
4. In accordance with the clause 6 of the SOOR Regulation, any increase the Tribunal may determine in excess of 2.5 per cent, be it a general increase available to all office

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holders, or an increase provided to an individual office holder or group of office holders based on changes in work value, could 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.

5. Since the introduction of the SOOR Regulation in 2013 office holders in the Public Office Holders Group have received general annual increases capped at 2.5 per cent, apart from 2020 when there was a temporary wage pause pursuant to Clause 5A of the SOOR Regulation commencing 29 May 2020 and ending 12 months after that date.
6. Members of the NSW Aboriginal Land Council received increases exceeding the cap in as provided for the 2019 determination as they were able to identify sufficient officer-related savings to offset the additional increase.

Section 2

2020 Determination

7. The Tribunal was required to give effect to the temporary wages policy which paused remuneration increases for 12 months and on 7 September 2021 determined that no increase would apply to the salaries of office holders in the Public Office Holders Group.

Amendments to the SOOR Act

8. The SOOR Act has been amended since the making of the 2020 annual determination.
9. The *Statute Law (Miscellaneous Provisions) Act 2019 No 1* amended Sections 11B and 11C commencing on 1 July 2019. New sub-clauses - 11B(4A) and 11C(4A) – were inserted enabling the Minister to delegate to the head of a Public Service Agency or a person employed in a Public Service agency responsible to the Minister the functions of approving and revoking certain salary sacrifice arrangements relating to motor vehicles for private use, employee superannuation contributions and living away from home expenses.
10. The *Personal Injury Commission Act 2020* (the PIC Act) amended Schedule 2 commencing either on the date of proclamation or from 1 March 2021. The offices of President of the Personal Injury Commission; Deputy President of the Personal Injury Commission; Acting Deputy President of the Personal Injury Commission; Full-time non-presidential member of the Personal Injury Commission were inserted. The offices of President of the Workers Compensation Commission; Deputy President of the Workers Compensation Commission; Acting Deputy President of the Workers Compensation Commission; Registrar of the Workers Compensation Commission; Senior Arbitrator or other full-time Arbitrator of the Workers Compensation Commission; Principal Claims Assessor under the Motor Accidents Compensation Act 1999; Principal Claims Assessor under the *Motor Accident Injuries Act 2017* were removed.

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11. The *Law Enforcement Conduct Commission Amendment (Commissioners) Act 2021* (the LECC Amendment Act) amended Schedule 1 commencing on 17 June 2021. The office of Full-time Commissioner of the Law Enforcement Conduct Commission (LECC) was inserted. The offices of Full-time Commissioner for Integrity of the LECC and Full-time Commissioner for Oversight of the LECC were removed.

12. The *Statute Law (Miscellaneous Provisions) Act 2020* amended Schedule 2 commencing on 11 December 2020, in respect to the Full-time member of the Board of the Western City and Aerotropolis Authority. The name Western Parkland City Authority was inserted. The name Western City Aerotropolis Authority was removed.

13. The Tribunal has amended the list of offices, if applicable, in the relevant determinations accordingly.

2020 – 2021 Special Determination

14. The Tribunal has made one special determination since the making of the 2020 annual determination. On 23 October 2020, the Tribunal determined pursuant to section 14(2) of the SOOR Act, that the annual salary for the Deputy President of the Personal Injury Commission; Acting Deputy President of the Personal Injury Commission; and Full-time non-presidential member of the Personal Injury Commission would be as follows:

Office	Salary per annum
Deputy President of the Personal Injury Commission	\$349,240
Acting Deputy President of the Personal Injury Commission	\$1,450 per day
Full-time non-presidential member of the Personal Injury Commission:	
Principal Member (Division Head of the Workers Compensation Division)	\$322,115
Principal Member (Division Head of the Motor Accidents Division)	\$322,115
Principal Member (legally qualified)	\$290,000
Principal Member (not legally qualified)	\$267,000
Senior Member (legally qualified)	\$263,590
Senior Member (not legally qualified)	\$242,760
General Member (legally qualified)	\$241,000
General Member (not legally qualified)	\$209,225

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15. Special determinations are published on the NSW Remunerations Tribunals website.

Section 3

2021 Annual Review

16. On 3 March 2021, the Tribunal wrote to office holders advising of the commencement of the 2021 annual review. The Tribunal did not hold meetings with office holders as part of the 2021 review.

Office Holder Submissions

17. The Tribunal received two submissions from office holders for consideration in the 2020 annual review.
18. The President of the PIC provided a submission that addressed all offices of the PIC. The offices of Deputy President, Acting Deputy President, and non-presidential member are included in the Public Office Holder Group. The President referred to the Tribunal's special determination dated 23 October 2020, noting that the PIC was established on 1 March 2021 and the special determination commenced on that date. The President sought no change in remuneration for these offices as the Tribunal's special determination only commenced on 1 March 2021. The Tribunal notes that the special determination made on 23 October 2020, did not exclude any increase from 1 July 2021.
19. The Tribunal previously received a submission from the Executive Manager, Parliamentary Services as outlined in the 2020 Annual Determination:

“19. The Executive Manager, Parliamentary Services indicated his intention, at a future date, to request a review of the office based on changes in work value. Any such request will need to be supported by evidence of officer-related savings to offset any additional increase. The Executive Manager also informed the Tribunal that the Governor has given approval for the title of the role to be changed from Executive Manager, Parliamentary Services to Chief Executive, Parliamentary Services. The Tribunal notes that the SOOR Act has not been amended to reflect this change and the Tribunal will continue to refer to this role as the Executive Manager, Parliamentary Services until such time as Schedule 2, Part 2 is amended.”

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20. In this year's submission, the Executive Manager, Parliamentary Services again indicated his intention, at a future date, to request a review of the office based on changes in work value, noting that the role has not been re-evaluated for some years. He noted various aspects of the autonomy of the role including recent additional responsibilities and compared the remuneration and scope of responsibilities of the role with that of others in the NSW public service and similar roles in other jurisdictions. It would be a matter for the Executive Manager, Parliamentary Services to obtain an independent assessment of work value and provide evidence of officer-related savings to offset any additional increase as required under the SOOR Regulation.
21. The Tribunal notes that Schedule 2, Part 2 of the SOOR Act has not been amended to change the title of the office of Executive Manager, Parliamentary Services.

Government Submission

22. The Secretary, Department of Premier and Cabinet provided the Government submission to the Tribunal on 2 June 2021. That submission was replaced by another Government submission provided on 15 July 2021. The Government submission advised that on 21 June 2021, the Government announced changes to the existing Wages Policy to provide for increases in remuneration or other conditions of employment of up to 2.5 per cent (inclusive of superannuation) for public sector employees. The submission recommends the following increases having regard to the increase in the SGC from 1 July 2021:

"In line with the revised Wages Policy it is now recommended that a 2.5 per cent increase in remuneration be applied to employees and other office holders whose total remuneration package ("TRP") is determined by the Tribunal and an increase of 2.04 per cent for non-TRP employees and office holders effective from 1 July 2021.

The 2.04 per cent increase recommended for non-TRP employees and officers takes into account the increase to the Superannuation Guarantee Charge ("SGC") of 0.5 percentage points from 1 July 2021 and uses the same methodology as applied when superannuation was last increased in 2014. This methodology recognises that

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superannuation is not payable on superannuation itself and as a result, the cost of the additional SGC is less than a 0.5 per cent pay increase. An increase of 2.04 per cent to salaries and 0.5 per cent to superannuation is consistent with the Wages Policy and does not increase employee related costs by more than 2.5 per cent.

The provision applies to the following groups of employees and office holders covered under the Statutory and Other Offices Remuneration Act 1975:

- *Public Service Senior Executives*
- *Chief and Senior Executive Officers (SES)*
- *Judges and Magistrates Group*
- *Court and Related Officers Group*
- *Public Office Holders Group*

Superannuation Guarantee Contributions

23. Information published on the Australian Taxation Office website confirms the previous and future percentage increases to the superannuation guarantee since 1 July 2002, when the general superannuation guarantee was 9.00 per cent:

Date of increase	Percentage increase (%)	General super guarantee (%)
1 July 2013	.25	9.25
1 July 2014	.25	9.50
1 July 2021	.50	10.00
1 July 2022	.50	10.50
1 July 2023	.50	11.00
1 July 2024	.50	11.50
1 July 2025	.50	12.00

24. The Tribunal reviewed the impact of the SGC increase on office holders in the 2014 annual determination for the Public Office Holder Group which was the last time that the SGC increased. The Tribunal determined that it is required under the SOOR Regulation to take account of the cost of SGC increases in its remuneration determination for office holders in the POH Group, except for office holders who had elected to receive a total remuneration package pursuant to section 11A of the SOOR

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Act. Total remuneration packages include contributions to a superannuation scheme by an executive officer's employer. Consequently the percentage increase in employer contributions payable to their superannuation must be funded from the total remuneration package.

25. The Tribunal's previous determinations on the matter of SGC increases continue to apply. Accordingly, for the 2021 determination, for office holders in Determination No. 1, it is open to the Tribunal to determine an annual increase in remuneration of up to 2.5 per cent adjusted accordingly to account for the SGC increase. There are currently no office holders who have elected to receive a total remuneration package pursuant to section 11A of the SOOR Act.
26. The Government submission outlines the Government's view of appropriate adjustments in respect of the SGC.

Full-time Commissioner of the Law Enforcement Conduct Commission

27. Section 18 of the LECC Act was amended by the LECC Amendment Act commencing on 17 June 2021 to enact a two-commissioner model. The office of Commissioner for Oversight was removed, and the office of Commissioner for Integrity renamed as Commissioner. For remuneration purposes the Commissioner is listed in Schedule 1 of the SOOR Act as the 'Full-time Commissioner of the Law Enforcement Conduct Commission' commencing on 17 June 2021.
28. The Tribunal notes that clause 19 of Schedule 3, Part 4, of the LECC Act provides for the person holding office of Commissioner for Integrity to be appointed to the office of Commissioner for the balance of the person's term of office.
29. The Tribunal has not been asked to make a determination for the office of Commissioner. To ensure the existing office holder continues to receive remuneration for the new office, the Tribunal will determine that the salary payable to the Full-time Commissioner of the LECC be equivalent to that payable to the former office of Full-time Commissioner for Integrity of the LECC. The salary for the former Full-time

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Commissioner for Integrity of the LECC was \$383,640 per annum effective from 1 July 2020.

30. The Minister may request the Tribunal to make a special determination in the future pursuant to section 14(2) of the SOOR Act if additional remuneration is required based on any significant changes in the office resulting from the revised governance structure in the LECC.

Section 4

2021 Annual Determination

General Increase

31. After considering submissions received and provisions of section 6AB of the SOOR Act the Tribunal finds those office holders the subject of this determination should receive the maximum permissible increase, although adjusted to 2.04 per cent to take into account the SGC increase. This is consistent with the increases recommended in the Government submission.
32. The Tribunal consulted with the Assessors prior to making this determination.
33. Pursuant to Section 13 of the SOOR Act the Tribunal determines that an increase of 2.04 per cent will apply to office holders in the Public Office Holders Group on and from 1 July 2021, as specified in Determinations No. 1.

Statutory and Other Offices Remuneration Tribunal

Signed

Richard Grellman AM

Dated: 5 August 2021

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Section 5

Determinations

Determination No. 1-Public Office Holder Group

Annual determination of the remuneration of the Public Office Holder Group effective on and from 1 July 2021

Public Office Holder	Salary per annum
Public Service Commissioner	\$552,410
Chief Commissioner of the Law Enforcement Commission	\$521,955
Auditor General	\$513,880
Ombudsman	\$512,545
Commissioner, NSW Crime Commission	\$508,580
Assistant Commissioner, NSW Crime Commission	\$481,810
President, Mental Health Review Tribunal	\$415,885
Electoral Commissioner	\$399,990
Full-time Commissioner of the Law Enforcement Conduct Commission	\$391,465
Valuer General	\$370,025
Workers Compensation Independent Review Officer	\$369,230
Deputy President Mental Health Review Tribunal	\$363,865
Information Commissioner	\$360,815
Deputy President of the Personal Injury Commission	\$356,365
Privacy Commissioner	\$348,190
Mental Health Commissioner	\$334,770
Parliamentary Budget Officer	\$329,960
Full-time non-presidential member of the Personal Injury Commission: Principal Member (Division Head of the Workers Compensation Division)	\$328,685
Full-time non-presidential member of the Personal Injury Commission: Principal Member (Division Head of the Motor Accidents Division)	\$328,685
Inspector of Custodial Services	\$318,200
Small Business Commissioner	\$313,490
Deputy Chairperson, Law Reform Commission	\$310,370
Full-time non-presidential member of the Personal Injury Commission: Principal Member (legally qualified)	\$295,915
Commissioner, Law Reform Commission	\$295,335
Clerk of the Legislative Assembly	\$289,785
Clerk of the Parliaments	\$289,785
Executive Manager, Parliamentary Services	\$289,785
Full-time non-presidential member of the Personal Injury Commission: Principal Member (not legally qualified)	\$272,445

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Public Office Holder	Salary per annum
Full-time non-presidential member of the Personal Injury Commission: Senior Member (legally qualified)	\$268,965
Deputy Mental Health Commissioner	\$268,045
Deputy Clerk, Legislative Assembly	\$248,760
Deputy Clerk, Legislative Council	\$248,760
Full-time non-presidential member of the Personal Injury Commission: Senior Member (not legally qualified)	\$247,710
Full-time non-presidential member of the Personal Injury Commission: General Member (legally qualified)	\$245,915
Registrar, Aboriginal Land Rights Act 1983	\$229,815
Assessor (<i>Local Court Act 2007</i>)	\$219,890
Full-time non-presidential member of the Personal Injury Commission: General Member (not legally qualified)	\$213,495
Chairperson, Board of the Aboriginal Housing Office	\$171,585
Part-time Chairperson of a Board of Governors of a Corporation constituted by the <i>Electricity Retained Interest Corporations Act 2015</i>	\$168,955
Member of the New South Wales Aboriginal Land Council (Note 1)	\$164,285
Part-time Member of a Board of Governors of a Corporation constituted by the <i>Electricity Retained Interest Corporations Act 2015</i>	\$90,105
Chairperson, Infrastructure NSW	\$88,310
President Mental Health Review Tribunal (part time daily rate)	\$1,725
Deputy President Mental Health Review Tribunal (part time daily rate)	\$1,510
Acting Deputy President of the Personal Injury Commission (part time daily rate)	\$1,480
Assessor <i>Local Court Act 2007</i> (daily rate)	\$915

Note 1	The Chairperson shall receive an allowance of 10% (i.e. a total of \$180,715 per annum) and the Deputy Chairperson shall receive an allowance of 5% (i.e. a total of \$172,500 per annum).
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Leave Loading

An 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.

Statutory and Other Offices Remuneration Tribunal

Signed

Richard Grellman AM

Dated: 5 August 2021