

Court and Related Officers Group

Annual Determination

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

26 July 2023

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Section 1

Background

Legislative Framework

1. Section 13 of the *Statutory and Other Offices Remuneration Act 1975* (SOOR Act) requires the Statutory and Other Offices Remuneration Tribunal (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 Court and Related Officers Group comprises those public offices listed in the Schedules of the SOOR 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 (SGC), 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. 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 Regulation).
4. On 30 May 2023, the NSW Government announced a new policy to freeze the remuneration for public sector senior executives for two years, in order to reduce executive expenditure and achieve budget savings.¹ The freeze would be in place for the 2023-24 and 2024-25 financial years.
5. The *Statutory and Other Offices Remuneration Amendment Act 2023* (SOOR Amendment Act) commenced on 1 June 2023. It amended the SOOR Act to

¹ NSW Government. (2023). *Minns Government acts to freeze NSW public sector senior executive and politicians' pay for 2 years*. <https://www.nsw.gov.au/media-releases/minns-government-acts-to-freeze-nsw-public-sector-senior-executive-and-politicians-pay-for-2-years>

provide for a temporary freeze on increases in remuneration for office holders under Part 3 and executive office holders and senior executives under Parts 3A and 3B.

6. Schedule 3 of the SOOR Amendment Act amended the Regulation by omitting the previous clause 5A of the regulation and inserting a new clause 5A imposing a temporary policy that the Tribunal is not to make a determination that has the effect of awarding an increase in remuneration that takes effect before 1 July 2025 to office holders covered by part 3 of the SOOR Act. Clause 5A was amended as follows:

Clause 5A

Omit the clause. Insert instead—

5A Temporary wages policy—Act, s 6AB(3)

(1) A policy that the Tribunal is not to make a determination that has the effect of awarding an increase in remuneration that takes effect before 1 July 2025 is declared.

(2) To avoid doubt, subclause (1) has effect despite clause 6.

(3) This clause expires at the end of the day on 30 June 2025.

Economic Analysis

7. As outlined in its 2022-23 Half-Yearly Review of the Budget,² the NSW Treasury noted that the NSW economy grew more strongly than expected at the time of the 2022-23 Budget. Strong momentum in the labour market has persisted with the near-record high participation rate and the unemployment rate near its lowest level in almost 50 years.
8. However, the economic growth outlook has been downgraded for 2022-23 to 2024-25 as the tightening of monetary policy moderates economic growth, with the full impact yet to flow through to economic activity.
9. Annual headline inflation in Sydney was 7.3 per cent through the year to the March quarter 2023. This was higher than the national headline figure of 7 per cent. National underlying inflation rose by 6.6 per cent in the March 2023 quarter,

² NSW Government. (2023). *2022-23 Half-Yearly Review*.
<https://www.budget.nsw.gov.au/sites/default/files/2023-02/2022-23-Half-Yearly-Budget-Review.pdf>

which is well above the RBA's target band of 2-3 per cent and the highest rate since December 1990.³

10. The Half-Yearly Review expected inflation to have peaked in the December 2022 quarter and is forecast to decline over the next two years moderating back to the top of the RBA's 2-3 per cent inflation target in 2024. This reflects an anticipated gradual easing of inflationary pressures on both the demand and supply sides such as, the tightening of monetary policy by the RBA and other central banks, easing of supply chain pressures, downward trend on commodity prices and the Australian Government's intervention on energy prices.
11. While the Tribunal acknowledges the continued impacts of sustained higher than expected inflation and the difficulties associated with it, the Tribunal is required to give effect to the temporary wages policy and is unable to award any increases in remuneration for the Court and Related Officers Group.

2022 Determination

12. After considering submissions received and provisions of section 6AB of the SOOR Act the Tribunal found those office holders the subject of that determination should receive an increase of 2 per cent, adjusted to 1.53 per cent for those office holders to which the SGC increase applies. The increases were consistent with the increases recommended in the Government submission.
13. The conveyance allowance was also increased by 2.5 per cent with effect from 1 July 2022 in accordance with the Tribunal's methodology and the requirements of the SOOR Act.

³ Australian Bureau of Statistics. (2023). *CPI, Trimmed mean and Weighted median, Annual movement (%)*. <https://www.abs.gov.au/statistics/economy/price-indexes-and-inflation/consumer-price-index-australia/latest-release>

Section 2

2023 Annual Review

14. On 6 March 2023, the Tribunal wrote to office holders advising of the commencement of the 2023 annual review.

Office Holder Submissions

15. The Tribunal received three submissions from office holders in the Court and Related Officers Group, with all generally supporting a 2.5 per cent increase in salaries, the maximum allowable by the legislation of the time. These submissions were all received prior to the passing of the SOOR Amendment Act which mandate no increase before 1 July 2025.
16. The submission from the Director, Deputy Directors, and Acting Deputy Director of Public Prosecutions highlighted the integral role of office holders in high-quality service delivery continuing with upward trends, as well as their commitment to upskilling the profession through various knowledge sharing activities. The submission cited the return to full court operations after the pandemic, the introduction of new initiatives enhancing the processes of the Office of the Director of Public Prosecutions and the broader criminal justice system and a strengthening of direct relationships with criminal justice partners to bolster efficiency and access to justice.
17. The submission of the Senior Crown Prosecutor, on behalf of the NSW Crown Prosecutors highlighted the vital contributions that Crown Prosecutors continue to make to the efficient and just operation of the criminal justice system. The submission cited significant changes to the NSW criminal justice system, including amendments to delegations, the EAGP reforms, and case management reforms that have collectively achieved cost savings yet resulted in significant increases to the workload of Crown Prosecutors. It noted that the combination of no remuneration increase for office holders in FY 2020-21, and very significant increases in the Consumer Price Index have resulted in net salary decreases in real terms. The Senior Crown Prosecutor also argued that Crown Prosecutors will receive little benefit from the increase in the SGC as their contribution amounts are well in excess of the concessional superannuation contribution cap.
18. The Senior Commissioner of the Land and Environment Court adopted the submissions made on behalf of the Supreme Court of NSW, as well as that made by the Chief Judge of the Land and Environment Court of NSW.⁴ This was on

⁴ The submissions referred to are dealt with in the Judges and Magistrates determination.

behalf of the Commissioners of the Court so far as they bear on the statutory functions of Commissioners. The submission argued that any potential increase should not be reduced on account of the increase in SGC as it would not take into account the salary increase foregone by office holders in 2020, or the productivity of the commissioners and acting commissioners. The submission stated that qualification required for appointment as Commissioners is significant and an attractive salary is required to attract highly qualified candidates. The submission referred to the significant increases in the case load of the Court over the last five years, while the number of commissioners has remained constant, exacerbated by absences due to leave taken. The submission also made mention of the increase to cost of living pressures.

Government Submission

19. The Secretary, Premier's Department provided the Government submission to the Tribunal on 17 July 2023. The submission noted the recent amendments to the SOOR Act by the Government to provide for a temporary two-year freeze on increases in remuneration for office holders under Part 3 and executive office holders and senior executives under Parts 3A and 3B. Excerpts appear below:

"The effect of the amendments to the Act is that the Statutory and Other Offices Remuneration Tribunal (Tribunal) is to give effect to declared government policy set out in regulations made under the Act. Namely, that the Tribunal is not to make determinations that have the effect of awarding an increase in remuneration for Executive Offices and Officers that takes effect before 1 July 2025.

Accordingly, the extent of the NSW Government's submission for 2023 annual determinations is limited to noting the recent amendments to the Act which provide for a two year freeze to increases to the remuneration of Executive Offices and Officers."

Conveyance Allowance

20. The annual percentage change from the 2022 March quarter to the 2023 March quarter in the CPI: Motor Vehicles – Sydney (Series ID A2328552A) is 7.6 per cent.⁵ In accordance with the Regulation and the temporary wages policy there will be no increase to the conveyance allowance.

Superannuation Guarantee Contributions

21. From 1 July 2023, the general SGC increases from 10.50 per cent to 11.00 per cent.⁶
22. As the Tribunal is required to not award an increase in remuneration on this occasion, it is not necessary to deal with the SGC increase.

⁵ Australian Bureau of Statistics. (2023). *Table 10. CPI: Group, Sub-group and Expenditure Class, Percentage change from corresponding quarter of previous year by Capital City*. <https://www.abs.gov.au/statistics/economy/price-indexes-and-inflation/consumer-price-index-australia/latest-release>

⁶ Australian Taxation Office. (2023). *Super guarantee percentage*. https://www.ato.gov.au/Rates/Key-superannuation-rates-and-thresholds/?=redirected_SuperRate&anchor=Superguaranteepercentage#Superguaranteepercentage

Section 3

2023 Annual Determination

No Increase

23. The Tribunal thanks those office holders that made a submission, and acknowledges the difficult circumstances caused by the current high inflationary environment. The Tribunal also acknowledges the challenging situations in which office holders have operated during and after the pandemic as courts returned to full operation.
24. In accordance with the Regulation and the temporary wages policy there will be no general increase in the salaries payable to office holders in the Court and Related Officers Group with effect from 1 July 2023.
25. This determination is consistent with the temporary wages policy which the Tribunal is required to give effect to pursuant to the Regulation.
26. In fulfilling its functions, the Tribunal consulted with the Secretary, Premier's Department, in their capacity as Assessor under the SOOR Act. The other assessor role is currently vacant.
27. Pursuant to section 13 of the SOOR Act the Tribunal determines that the remuneration to be paid to office holders in the Court and Related Officers Group, on and from 1 July 2023 shall be as specified in Determination Nos. 1-3.

Statutory and Other Offices Remuneration Tribunal



The Hon. Greg Pearce

Dated: 26 July 2023

Section 4

Determinations

Determination No. 1 – Remuneration of office holders eligible for a Judges' pension. Effective on and from 1 July 2023

Position	Salary per annum	Conveyance Allowance (Note 1)
Director of Public Prosecutions	\$478,300	\$24,950
Solicitor-General	\$478,300	\$24,950

Determination No. 2 – Remuneration of other office holders not referred to in determination No.1. Effective on and from 1 July 2023

Position	Salary per annum	Conveyance Allowance (Note 1)
Chairperson, Law Reform Commission	\$472,050	\$24,950
Crown Advocate	\$424,850	\$22,445
Deputy Director of Public Prosecutions	\$424,850	\$22,445
Senior Crown Prosecutor	\$382,360	\$17,955
Senior Public Defender	\$382,360	\$17,955
Deputy Senior Crown Prosecutor	\$344,120	\$17,955
Deputy Senior Public Defender	\$344,120	\$17,955
Solicitor for Public Prosecutions	\$344,120	\$17,955
Senior Commissioner Land and Environment Court	\$330,430	\$17,955
Crown Prosecutor	\$314,380	\$17,955
Public Defender	\$314,380	\$17,955
Commissioner Land and Environment Court	\$311,530	\$17,955
Acting Commissioner Land and Environment Court	\$1,295 per day	-

Conveyance Allowance

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

METHODOLOGY: The Tribunal provides 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:

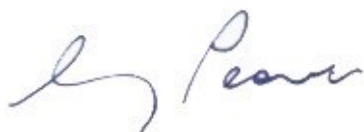
- Should the March quarter data indicate a decrease in motor vehicle costs the conveyance allowance will remain unchanged (to comply with the requirements of section 21 of the SOOR Act).
- The temporary wages policy (to comply with Clause 5A of the Regulation).

Determination No. 3 – Annual Leave Loading

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



The Hon. Greg Pearce

Dated: 26 July 2023