

Public Office Holders 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 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 (SGC), 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*. There are no office holders currently in the latter group.

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 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.

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>

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>

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, 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 Public Office Holders 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 to take into account the SGC increase. The increases were consistent with the increases recommended in the Government submission.

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>

2022 – 2023 Special Determinations

13. The Tribunal has made four special determinations, pursuant to section 14(2) of the SOOR Act, since the making of the 2022 annual determination and they are on the NSW Remuneration Tribunals website.⁴
14. On 23 August 2022, the Tribunal determined that the annual salary for the Independent Review Officer (IRO) established under the *Personal Injury Commission Act 2020* be \$386,889, with effect from 1 March 2021. The backdated effective date was when the office of the IRO replaced the office of the Workers Compensation Independent Review Officer (WIRO).
15. On 20 October 2022, the Tribunal determined the annual salary for two offices of the NSW Independent Casino Commission (NICC) established under the *Casino Control Act 1992*. The Tribunal determined the annual salaries for the Chief Commissioner NICC be \$450,000, and the Commissioner NICC be \$270,000. As the Commissioner NICC role is part time a pro rata amount will be paid.
16. On 20 October 2022, the Tribunal determined the annual salary for three offices of the Independent Liquor and Gaming Authority (ILGA) established under the *Gaming and Liquor Administration Act 2007*. The Tribunal determined the annual salaries for the Chair ILGA be \$320,000, the Deputy Chair ILGA be \$275,000, and the Member ILGA be \$255,000. As all three roles are part time a pro rata amount will be paid.
17. On 28 November 2022, the Tribunal determined that the annual salary for the Commissioner Health Care Complaints Commission (HCCC) be \$390,160, in response to the amendment of the *Health Care Complaints Act 1993* to give effect to remuneration arrangements for the Commissioner HCCC as a statutory office holder.

⁴ Located at <https://www.remtribunals.nsw.gov.au/>

Section 2

2023 Annual Review

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

Office Holder Submissions

19. The Tribunal received four submissions from office holders in the Public Office Holder Group, with most 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.
20. The Chair of the Electricity Retained Interest Corporation – Ausgrid’s submission supported consideration of a general increase in remuneration in line with the legislation, taking into account the change in the SGC for all members of the Board.
21. The Chair of the Electricity Retained Interest Corporation – Endeavour Energy’s submission similarly supported consideration of a general increase in remuneration in line with the legislation, taking into account the change in the SGC for all members of the Board.
22. The submission from the President and Deputy Presidents of the Mental Health Review Tribunal did not seek an increase to remuneration beyond any general increase in line with the legislation.
23. The submission from the Acting Chief Commissioner of the NSW Independent Casino Commission did not seek an increase to remuneration beyond any general increase in line with the legislation.
24. The President of the Personal Injury Commission (PIC) provided a submission on behalf of the Deputy Presidents, Acting Deputy Presidents and non-presidential members. The submission recommended that a 3 per cent increase should be made in addition to any change in the SGC. The submission noted the current high level of inflation and the need to preserve real wages. The submission also detailed that the PIC commenced its operations on 1 March 2021 during the COVID-19 pandemic and remained open to hear cases. The President also noted that another round of recruitment for the motor accidents division will need to be initiated in the near future which will require attractive remuneration to be offered.

25. The Tribunal previously received submissions from the Executive Manager, Parliamentary Services as outlined in the 2020 and 2021 Annual Determinations:

“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.”

“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.”

26. This year, the Executive Manager, Parliamentary Services, together with the Clerk of the Legislative Assembly and Clerk of the Parliaments each provided separate but coordinated submissions not seeking increases in remuneration but seeking advice on how a review of the offices based on changes in work value may be conducted. The submissions noted that an internal review of the offices have found the current remuneration not comparable with other jurisdictions in Australia or comparable senior executive roles in accordance with the NSW Public Service Senior Executive Remuneration Management Framework. The submissions further point out an apparent disparity with other Public Office Holder salaries.
27. The Tribunal re-states its view that it would be a matter for the relevant officers or the agency providing corporate services support, to obtain independent assessments of work value and provide evidence of officer-related savings to offset any additional increase as required under the Regulation. While the question has no current practical application given the recent amendment to the Regulation, for future reference, an independent work value assessment should be accompanied by information about the relevant legislative provisions establishing the office and its functions, the responsibilities and accountabilities of

the office holder, the structures that surround the relevant office including the reporting and working arrangements, any budget for which the office holder is responsible, the number and level of staff who report to the office holder and the qualification, skills and experience required for appointment. Relevant comparisons with comparable roles would also be relevant.

Government Submission

28. 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."

Superannuation Guarantee Contributions

29. From 1 July 2023, the general SGC increases from 10.50 per cent to 11.00 per cent.⁵
30. 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 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

31. The Tribunal thanks those office holders that made a submission, and acknowledges the difficult circumstances caused by the current high inflationary environment.
32. 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 Public Office Holders Group with effect from 1 July 2023.
33. This determination is consistent with the temporary wages policy which the Tribunal is required to give effect to pursuant to the Regulation.
34. In fulfilling its functions, the Tribunal consulted with the Secretary, Premier's Department, in their capacity as an Assessor under the SOOR Act. The other assessor role is currently vacant.
35. Pursuant to Section 13 of the SOOR Act the Tribunal determines that the remuneration to be paid to office holders in the Public Office Holders Group on and from 1 July 2023 shall be as specified in Determination No. 1.

Statutory and Other Offices Remuneration Tribunal



The Hon. Greg Pearce

Dated: 26 July 2023

Section 4

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 2023

Public Office Holder	Salary per annum
Public Service Commissioner	\$560,860
Chief Commissioner, Law Enforcement Conduct Commission	\$529,940
Auditor General	\$521,740
Ombudsman	\$520,385
Commissioner, NSW Crime Commission	\$516,360
Assistant Commissioner, NSW Crime Commission	\$489,180
Chief Commissioner, NSW Independent Casino Commission	\$450,000
President, Mental Health Review Tribunal	\$422,250
Electoral Commissioner	\$406,110
Full-time Commissioner, Law Enforcement Conduct Commission	\$397,455
Commissioner, Health Care Complaints Commission	\$390,160
Independent Review Officer	\$386,889
Valuer General	\$375,685
Deputy President, Mental Health Review Tribunal	\$369,430
Information Commissioner	\$366,335
Deputy President, Personal Injury Commission	\$361,815
Privacy Commissioner	\$353,515
Mental Health Commissioner	\$339,890
Parliamentary Budget Officer	\$335,010
Full-time non-presidential member, Personal Injury Commission: Principal Member (Division Head of the Workers Compensation Division)	\$333,715
Full-time non-presidential member, Personal Injury Commission: Principal Member (Division Head of the Motor Accidents Division)	\$333,715
Inspector of Custodial Services	\$323,070
Chairperson, Independent Liquor and Gaming Authority	\$320,000

Small Business Commissioner	\$318,285
Deputy Chairperson, Law Reform Commission	\$315,120
Full-time non-presidential member, Personal Injury Commission: Principal Member (legally qualified)	\$300,440
Commissioner, Law Reform Commission	\$299,855
Clerk of the Legislative Assembly	\$294,220
Clerk of the Parliaments	\$294,220
Executive Manager, Parliamentary Services	\$294,220
Full-time non-presidential member, Personal Injury Commission: Principal Member (not legally qualified)	\$276,615
Deputy Chairperson, Independent Liquor and Gaming Authority	\$275,000
Full-time non-presidential member, Personal Injury Commission: Senior Member (legally qualified)	\$273,080
Deputy Mental Health Commissioner	\$272,145
Commissioner, NSW Independent Casino Commission	\$270,000
Member, Independent Liquor and Gaming Authority	\$255,000
Deputy Clerk, Legislative Assembly	\$252,565
Deputy Clerk, Legislative Council	\$252,565
Full-time non-presidential member, Personal Injury Commission: Senior Member (not legally qualified)	\$251,500
Full-time non-presidential member, Personal Injury Commission: General Member (legally qualified)	\$249,675
Registrar, Aboriginal Land Rights Act 1983	\$233,330
Assessor (<i>Local Court Act 2007</i>)	\$223,255
Full-time non-presidential member, Personal Injury Commission: General Member (not legally qualified)	\$216,760
Chairperson, Board of the Aboriginal Housing Office	\$174,210
Part-time Chairperson of a Board of Governors of a Corporation constituted by the <i>Electricity Retained Interest Corporations Act 2015</i>	\$171,540
Member, New South Wales Aboriginal Land Council (Note 1)	\$166,800
Part-time Member of a Board of Governors of a Corporation constituted by the <i>Electricity Retained Interest Corporations Act 2015</i>	\$91,485
Chairperson, Infrastructure NSW	\$89,660
President, Mental Health Review Tribunal (part time daily rate)	\$1,755
Deputy President, Mental Health Review Tribunal (part time daily rate)	\$1,535

Acting Deputy President, Personal Injury Commission (part time daily rate)	\$1,500
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Assessor, <i>Local Court Act 2007</i> (daily rate)	\$925
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Note 1: The Chairperson shall receive an allowance of 10 per cent (i.e. a total of \$183,480 per annum) and the Deputy Chairperson shall receive an allowance of 5 per cent (i.e. a total of \$175,140 per annum).

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