

Public Service Senior Executives

Annual Determination

Report and determination under section
24O of the Statutory and Other Offices
Remuneration Act 1975

26 July 2023

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Section 1

Background

Legislative Framework

1. Senior executives employed under the *Government Sector Employment Act 2013* (GSE Act) are referred to as Public Service senior executives (PSSEs).
2. Section 35 of the GSE Act provides that the Minister may determine bands in which senior executives are to be employed. The following four bands were determined by the then Premier on 14 February 2014:

Band 4	Secretary level
Band 3	Deputy Secretary level
Band 2	Executive Director level
Band 1	Director level

3. Section 40 of the GSE Act provides for the remuneration package of a PSSE to be within the range determined under the *Statutory and Other Offices Remuneration Act 1975* (SOOR Act) for the band in which the executive is employed. Remuneration packages are expressed as a total cost of employment, whether the amount is monetary remuneration for the executive, or partly as that remuneration and partly as the cost to the employer of the executive's employment benefits.
4. Section 240 of the SOOR Act requires the Tribunal, each year, to make a determination on the remuneration packages for senior executives on and from 1 July in that year.
5. The Tribunal's determination provides for remuneration ranges for Bands 1 to 4 and specific remuneration packages for individual office holders identified in the determination.
6. This determination, made under Part 3B of the SOOR Act, also applies to any senior executive employed in the following aligned services:
 - NSW Police Force senior executive to whom Part 5 of the *Police Act 1990* applies, also the Commissioner of Police
 - NSW Health Service senior executive to whom Part 3 of Chapter 9 of the *Health Services Act 1997* applies

- Transport Service senior executive to whom Part 7A of the *Transport Administration Act 1988* applies.
7. Executive employment arrangements for Health Service senior executives, Transport Service senior executives and NSW Police Force senior executives align with those of PSSEs to the extent provided for in the legislation governing their employment.
 8. A small number of ‘transitional former senior executives’ and NSW Police Force senior executives may continue to be eligible for remuneration packages as determined under Part 3A of the SOOR Act. The remuneration ranges in the Former Chief and Senior Executive Service determination apply to these executives.

Government Wages Policy

9. 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.
10. 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.
11. Schedule 1 of the SOOR Amendment Act amended section 6AA of the SOOR Act requiring the Tribunal to give effect to any policy about the remuneration of executive office holders and senior executives that is declared by the regulations to be an aspect of government policy required to be given effect to by the Tribunal. The provisions removed the previous statutory nexus between the wages policy that applies to public sector employees under the *Industrial Relations Act 1996* and allows for a specific policy to be applied under the SOOR Act only in relation to senior executives. Section 6AA was amended as follows:

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>.

Section 6AA Tribunal to give effect to declared government policy on remuneration for public sector staff

Omit section 6AA(2). Insert instead—

(2) *The Tribunal must, when making a determination to which this section applies, give effect to any policy about the remuneration of executive office holders and senior executives—*

(a) that is declared by the regulations to be an aspect of government policy required to be given effect to by the Tribunal, and

(b) that applies to the matter to which the determination relates.

(3) *A regulation under subsection (2) may declare a policy by—*

(a) setting out the policy, or

(b) adopting a policy set out in a document referred to in the regulation.

12. Schedule 2 of the SOOR Amendment Act established the *Statutory and Other Offices Remuneration (Executive Office Holders and Senior Executives) Regulation 2023* (the Regulation). The Regulation implemented the temporary wages policy of a pay freeze for executive office holders and senior executives by requiring the Tribunal not to make a determination that has the effect of awarding an increase in remuneration that takes effect before 1 July 2025. The relevant clause is as follows:

Clause 4 Temporary wages policy—Act, s 6AA(2)

(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 section 5.

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

Economic Analysis

13. 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.
14. 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.
15. 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
16. 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.
17. 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 senior executives.

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>

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 Determination

18. On 21 July 2022, the Tribunal determined that remuneration packages for senior executives would be increased by 2 per cent from 1 July 2022. The increases were consistent with the increases recommended in the Government submission.

2022 - 2023 Special Determinations

19. The Tribunal has made six special determinations, pursuant to section 24P of the SOOR Act, since the making of the 2022 annual determination and they are on the NSW Remuneration Tribunals website.⁴ Those determinations amend the 2022 annual determination.
20. Determinations in respect of executives who have vacated the specified role no longer apply.

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

Section 2

2023 Annual Review

Government Submission

21. 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

22. The Tribunal notes that from 1 July 2023, the general Superannuation Guarantee Contribution (SGC) increases from 10.50 per cent to 11.00 per cent.⁵
23. 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

24. In accordance with the Regulation and the temporary wages policy, there will be no increase to the minimum and maximum of the remuneration package ranges for Bands 1 to 4. There will also be no increase applied to the remuneration packages for those senior executives named in the determination.
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 24O of the SOOR Act the Tribunal determines that the remuneration ranges for Bands 1 to 4 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 – Remuneration Package Ranges for the PSSEs

The Tribunal determines that the remuneration package ranges for Public Sector Senior Executive Bands and different remuneration packages that apply to senior executives named effective on and from 1 July 2023 shall be:

Public Sector Senior Executive Bands	
Band	per annum range
Band 4 – Secretary level	\$509,251 to \$588,250
Band 3 – Deputy Secretary level	\$361,301 to \$509,250
Band 2 – Executive Director level	\$287,201 to \$361,300
Band 1 – Director level	\$201,350 to \$287,200

Different remuneration packages that apply to the senior executives named	
Band 4 – Secretary level	
Ms Karen Webb, Commissioner of Police: \$679,050 per annum	
Mr Peter Duncan AM, Secretary, Premier's Department and Secretary, The Cabinet Office: \$657,750 per annum	
Mr Michael Coutts-Trotter, Secretary, Treasury: \$623,300 per annum	
Mr Murat Dizdar, Secretary, Department of Education: \$623,300 per annum	
Ms Rebecca Fox, Secretary, Department of Regional NSW: \$623,300 per annum	
Ms Emma Hogan, Secretary, Department of Customer Service: \$623,300 per annum	
Ms Elizabeth Mildwater, Secretary, Department of Enterprise, Industry and Trade: \$623,300 per annum	
Ms Susan Pearce, Secretary, Ministry of Health: \$623,300 per annum	
Mr Michael Tidball, Secretary, Department of Communities and Justice: \$623,300 per annum	
Mr Simon Draper, Chief Executive Officer, NSW Reconstruction Authority: \$623,300 per annum	
Band 2 – Executive Director level	
Mr Jason Wharton, Executive Director, Water Infrastructure Development and Delivery, Department of Planning and Environment: \$459,000 per annum	

Mr Andrew Kingsmill, Executive Director, Technical Advisory Services, Energy Corporation of NSW (EnergyCo): \$397,300 per annum

Statutory and Other Offices Remuneration Tribunal

A handwritten signature in blue ink, appearing to read 'Greg Pearce', is positioned above the printed name.

The Hon. Greg Pearce

Dated: 26 July 2023