

**STATUTORY AND OTHER OFFICES REMUNERATION ACT 1975
REPORT AND DETERMINATION PURSUANT TO SECTION 14 OF
THE ACT - DEPUTY DIRECTORS, PUBLIC PROSECUTIONS**

The Premier of New South Wales, the Hon Bob Carr MP, by letter of 11th December 2001 has directed the Tribunal, pursuant to Section 14 of the Statutory and Other Offices Remuneration Act 1975, to review the duties and responsibilities of the Deputy Directors, Public Prosecutions and to make determinations on the appropriate levels of remuneration.

The Tribunal received submissions from the Deputy Directors of Public Prosecutions and the Director of Public Prosecutions. The Tribunal met with the Deputy Directors in their chambers and discussed various aspects of that submission.

Background:

1. The Director of Public Prosecutions Act 1986 provided, *inter alia*, for the establishment of positions of Director and Deputy Director of Public Prosecutions.
2. In November 1996 the Tribunal carried out a special review of the remuneration of the Deputy Director following a restructure in the office of the Director of Public Prosecutions. As a result, the Tribunal determined a special adjustment of 6 per cent from November 1996.
3. In 2000 the Tribunal considered the issue of increased delegations and responsibilities of the two positions and determined a further special adjustment of 4.37 per cent. These adjustments were in addition to economic adjustments that applied from 1st October each year.

Submissions from Deputy Directors:

4. The submissions point out, *inter alia*:
 - Their remuneration be linked to that of a District Court Judge. In addition, the Director, Public Prosecutions, has written and recommended they have access to the Judges' Pension Scheme. The Director submitted that access to the Judges' Pension Scheme;

“would assist in both attracting to the office a more competitive field of better qualified applicants and retaining in office persons with experience or expertise that is now commonly lost by subsequent appointment to the District Court”.
 - The Director has delegated all his functions under the 1986 Act to each Deputy Director. This means that the Deputy Directors have delegated authority on the following functions:

- (a) determining that no bill of indictment be found, in respect of an indictable offence, in circumstances where the person concerned has been committed for trial;
 - (b) directing that no further proceedings be taken against a person who has been committed for trial or sentence;
 - (c) finding a bill of indictment in respect of an indictable offence, in circumstances where the person concerned has not been committed for trial;
 - (d) appealing under section 5D of the Criminal Appeal Act 1912 to the Court of Criminal Appeal against a sentence.
- An evaluation report from Cullen Egan Dell that concluded that
“the positions as they have evolved since 1986 carry onerous responsibilities of both a legal and administrative nature.”
 - In the year 2000/2001 they directed no further proceedings in 380 cases and that these directions are not subject to appellant review. Further, this type of work requires the highest level of professional integrity, knowledge, experience and dedication.
 - They carry the burden of one of the largest High Court practice in Australia. In 2000/2001 there were 40 such cases compared with only 21 in the preceding year.
 - The Director has significant overseas commitments as a consequence of his international roles and because of this the Deputy Directors regularly share the Director’s responsibilities in his absence.
 - The Director’s Chambers heads the Office of the Director of Public Prosecutions and the Crown Prosecutors Office of NSW. Prosecutorial matters are referred to the Director’s Chambers for direction and final decision making. Such matters include decisions to prosecute, to appeal and to discontinue a matter where an accused has been committed for trial or sentence. Also, final authorisation and decision on matters submitted from Crown Prosecutors and solicitors, the defence and police.
 - In March 2001, Cullen Egan Dell concluded that for similar positions in the employment market typical total employment cost remuneration packages at the market median would be in the order of \$226,370 per annum. It recommended that the Premier’s Department approval be given to the full use of Retention Allowance of up to \$26,000 for this position in accordance with the SES practice.

Conclusions:

5. The duties and responsibilities of these positions are extremely onerous. They are highly complex, often controversial and subject to public scrutiny and they require the utmost integrity and fairness.
6. The integrity of the criminal justice system in this State is highly dependant upon the decision making in this Office . Two Deputy Directors exercise all the authority of the Director under his delegation.
7. The issue then is whether the adjustments made in 1996 and in 2000 adequately to recognise the work value of the two positions.
8. The question of a Judicial pension is a matter of Government policy and not for this Tribunal. However, it is pertinent that in addition to the remuneration fixed by the Tribunal the officers receive a superannuation guarantee levy payment of \$8,416, six weeks leave and they have access to a motor vehicle under the salary sacrifice scheme.
9. While in the past the Tribunal has not accepted that the remuneration should have a direct percentage relationship with the Judges Magistrates and Related Group, the Tribunal now believes that a fixed percentage relationship with the Director of Public Prosecutions is appropriate.
10. After considering the above and after having regard to the views of the Assessors, the Tribunal determines that the remuneration of the Deputy Directors of Public Prosecutions should be \$210,815. This sets the remuneration of the Deputy Directors of Public Prosecutions at 90 percent of that of the Director of Public Prosecutions.
11. It is pointed out that the Director's remuneration contains an amount of \$13,400 for provision of a motor vehicle and therefore a decision to grant 90 per cent parity includes an amount of \$12,060 towards the cost of such a vehicle.
12. The Tribunal also concludes that any further work value adjustment would require demonstration that there has been a significant net increase in work value requirements after April 2002.

DETERMINATION

The Tribunal determines, pursuant to section 14 of the Statutory and Other Offices Remuneration Act 1975, that the remuneration of the offices of Deputy Directors of Public Prosecutions shall be \$210,815 with effect on and from 2 April 2002.

**Statutory and Other Offices
Remuneration Tribunal**

Gerry Gleeson