

Chief and
Senior
Executive
Service

Annual
Determination

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

**25 June
2015**

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Section 1

Introduction

1. The role of the Statutory and Other Offices Remuneration Tribunal (the Tribunal), pursuant to section 6 of the *Statutory and Other Offices Remuneration Act 1975* (the SOOR Act) was undertaken by Ms Helen Wright from 12 July 2011 until the expiration of her appointment on 11 July 2014. The Tribunal wishes to express its appreciation of Ms Wright's contributions over those years.
2. On 6 August 2014, Mr Richard Grellman AM was appointed to the role of Tribunal pursuant to section 6 of the SOOR Act. The two roles of Assessor assisting the Tribunal pursuant to sections 7 (1) (a) and 7 (1) (b) of the SOOR Act have been undertaken by Mr Blair Comley PSM, Secretary, Department of Premier and Cabinet and Mr Ken Baxter, respectively.

Background

3. The Chief Executive Service and Senior Executive Service ¹ was introduced in the NSW public sector in 1989. Section 24C of the SOOR Act provides for the Tribunal to determine annual remuneration packages for the SES. Remuneration packages are expressed as a total cost of employment, as monetary remuneration for the executive office holder, or partly that remuneration and partly as the cost to the employer of the executive office holder of employment benefits.
4. The *Government Sector Employment Act 2013* (the GSE Act) commenced operation on 24 February 2014. The GSE Act introduced a new structure and employment arrangements for all of the NSW Public Service. The new arrangements replaced those provided for in relation to the appointment of senior executives under the former *Public Sector Employment and Management Act 2002* (former PSEM Act).

¹ Unless otherwise stated, the Chief Executive Service and the Senior Executive Service are referred to collectively in the Report and Determination as SES.

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5. Transitional arrangements are in place until up to 24 February 2017 for 'transitional former senior executives', that is, people who were in the SES or who were Senior Officers or in equivalent classifications under the former PSEM Act immediately before it was repealed. The arrangements are outlined in Schedule 4 of the GSE Act. Under these transitional provisions, the following executives have a remuneration package that is equivalent to the remuneration package of the executive immediately before the repeal of the former PSEM Act (unless the remuneration package is increased as a result of a determination of the Tribunal made under Part 3A of the SOOR Act):
 - transitional former senior executives who are former SES executives in accordance with clause 8(1)(a) of Schedule 4 of the GSE Act
 - persons continuing in office as Secretary under clause 6(2) of Schedule 4 of the GSE Act
 - persons continuing in office as head of a Public Service agency under clause 7(2) of Schedule 4 of the GSE Act
 - persons holding office as head of a Public Service agency under Clause 7(5) of Schedule 4 of the GSE Act
 - the statutory officers listed in clause 8A(1) of Schedule 4 of the GSE Act.
6. Public Service agencies are to review their executive structures within three years of commencement of the GSE Act to achieve alignment with the new executive arrangements.
7. The Tribunal will continue to make determinations for the SES, under part 3A of the SOOR Act, until such time as the transitional arrangements are finalised. Executive offices subject to the transitional arrangements will continue to be referred to as SES officers for the purposes of this determination. The Tribunal expects that the final determination in respect of this group will be the 2016 annual determination.
8. The SOOR Act was also amended to provide for the Tribunal's determinations to take effect from 1 July in that year, instead of 1 October. The SOOR Act provides for the

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annual determinations of Part 3A remuneration packages for the SES in the following terms:

24C Annual determination

The Tribunal is required to make, in each year, a determination of remuneration packages for executive office holders as on and from 1 July in that year.

9. The first determination to take effect from 1 July instead of 1 October was the determination made on 11 July 2014.

Section 2

2014 Annual Determination

10. The Tribunal's 2014 annual determination for the SES dated 11 July 2014 provided for a 1.88 per cent increase for each SES officer.
11. The increase of 1.88 per cent was a discounted amount to reflect the start date of 1 July rather than the later date of 1 October, at which date the Tribunal's previous determinations have taken effect. The Tribunal adjusted the increase to ensure the SES remuneration package ranges did not increase by more than 2.5 per cent over a twelve month period.
12. The increase also applied to two Chief Executive positions, namely the Chief Executive Officer and Co-ordinator General of Infrastructure NSW and the Director General, Department of Trade and Investment, Regional Infrastructure and Services who receive remuneration in excess of the maximum of SES Level 8. The Tribunal was required to make determinations for these positions as transitional arrangements under the GSE Act apply for Secretaries of Departments (Schedule 4, Clause 6) and Heads of other Public Service agencies (Schedule 4, Clause 7).
13. The Tribunal noted that the transitional arrangements ceased to apply in respect of the Director General of the Department of Premier and Cabinet as the person ceased

to occupy that position on 25 June 2014. On that basis the Tribunal was not required to make a determination under Part 3A of the SOOR Act in respect of that office holder.

14. There was no increase in the Recruitment and Retention Allowances which continue to be determined until the transitional arrangements are complete and Part 3A of the SOOR Act is repealed.

Section 3

Government Submission

15. The Secretary NSW Treasury provided the Government submission to the Tribunal on 7 May 2015. The Government submission provides an overview of the State's recent economic performance and makes a recommendation in respect of the quantum of the increase to apply to the SES. Extracts appear below.

Economic performance and outlook for NSW

16. The submission was drafted prior to the release of the 2015-16 Budget and is primarily based on economic forecasts and fiscal commentary from the 2014-15 Half-Yearly Review December 2014 (HYR).
17. The Government's commitment to keeping annual growth in general government expenses lower than the long-term average of general government revenue growth is legislated in the *Fiscal Responsibility Act 2012*, and forms part of the Government's fiscal strategy.
18. NSW real economic growth as at the HYR has been revised down by $\frac{1}{4}$ of a percentage point compared with the 2014-15 Budget, to 2 $\frac{3}{4}$ per cent in 2014-15 and remains unchanged at 3 per cent in 2015-16. This reflects a softer global and national outlook, which has weakened NSW economic prospects. However, there are tentative signs that the non-mining sector is picking up and Gross State Product (GSP) growth is expected to strengthen to an above trend pace in 2015-16 as the national economy improves.

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19. The 2014-15 HYR projects a solid fiscal outlook for New South Wales, with surpluses estimated in 2014-15 and across the forward estimates. The 2014-15 budget result is forecast to be a surplus of \$272 million, a turnaround of \$555 million on the \$283 million deficit forecast in the 2014-15 Budget. A surplus of \$402 million is expected for 2015-16, and surpluses exceeding \$1 billion are projected for 2016-17 and 2017-18.
20. Higher expenses of \$1.5 billion are forecast over the forward estimates, compared to the 2014-15 Budget. Keeping expense growth below revenue growth is key to strengthening the fiscal position. As at the 2014-15 HYR, revenue growth over the four years to 2017-18 is projected to average 3.2 per cent per annum.
21. Controlling employee-related expenses continues to be a key focus of the Government's fiscal strategy. The 2014-15 Budget and 2014-15 HYR continue to deliver the benefits of the NSW Public Sector Wages Policy 2011. The policy provides for remuneration increases of 2.5 per cent per annum, with increases above this amount funded by realised employee-related cost savings. The Government's policies relating to better management of excess employees, a labour expense cap and more stringent controls on excessive annual leave accruals will also assist in delivering better fiscal outcomes.
22. As at the 2014-15 HYR, employee-related expenses are estimated to be 48.6 per cent of the total expenses, including superannuation expenses (6.8 per cent) and other employee expenses (41.9 per cent) composed principally of wages and salaries. Superannuation expenses are projected to increase in line with non-salary costs. Non-superannuation employee expenses will continue to increase over the forward estimates, reflecting increased investment in frontline services, and the hiring of specialist staff for the delivery of transport infrastructure projects.
23. Wages growth has remained subdued at below trend rates over 2013-14 and early 2014-15. Through the year to the December quarter, the NSW Wage Price Index (WPI) grew by 2.4 per cent, reflecting subdued growth in both public and private sector wages. As at HYR, NSW wage growth is expected to continue to grow below

trend at 2½ per cent in 2013-14 and 3 per cent in 2014-15. This subdued growth reflects softer labour market expectations and subdued recent WPI outcomes. The Government's wages policy will continue to assist in moderating public sector wages growth. Both the 2014-15 Commonwealth Mid-year Economic Fiscal Outlook and the February 2015 Reserve Bank of Australia Statement on Monetary Policy expect wages growth at the national level to remain subdued.

Government's submitted increase

24. The Government submits that the Tribunal should approve an increase of 2.5 per cent from 1 July 2015, on the basis that it is consistent with the NSW Wages Policy and reflects the NSW Government's intent, pursuant to section 6AA of the SOOR Act and the *Industrial Relations (Public Sector Conditions of Employment) Regulation 2014* (the IR Regulation).
25. The Government also submits that the legacy Recruitment and Retention Allowances not be increased.

Section 4

2015 Determination

Government Wages Policy

26. In determining remuneration for the SES the Tribunal is required pursuant to Section 6AA of the SOOR Act to give effect to the same policies on increases in remuneration as those that the IRC is required to give effect to under section 146C of the *Industrial Relations Act 1996* (the IR Act) when making or varying awards or orders relating to the conditions of employment of public sector employees.
27. The current policy on wages pursuant to section 146(1)(a) of the IR Act is specified in the IR Regulation which was made on 24 June 2014. The effect of the IR Regulation is that public sector wages cannot increase by more than 2.5 per cent. Any increase beyond 2.5 per cent can only be awarded if sufficient employee-related cost savings have been achieved to fully offset the increased employee-related costs. Clause 6 of

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the IR Regulation provides the following clarification in relation to superannuation employment benefits:

“...Other policies

(1) *The following policies are also declared, but are subject to compliance with the declared paramount policies:*

(a) *Public sector employees may be awarded increases in remuneration or other conditions of employment but only if employee-related costs in respect of those employees are not increased by more than 2.5 % per annum as a result of the increases awarded together with any new or increased superannuation employment benefits provided (or to be provided) to in respect of the employees since their remuneration or other conditions of employment were last determined.*

(4) *In subclause (1)(a), **new or increased superannuation employment benefits** means any new or increased payments by an employee to a superannuation scheme or fund of an employee as a consequence of amendments to the Superannuation Guarantee (Administration) Act 1992 of the Commonwealth or the State Authorities Non-contributory Superannuation Act 1987.*

28. The Tribunal notes that the Superannuation Guarantee Contribution (SGC) payable by employers was increased from 0.25 per cent to 0.50 per cent for the financial year starting 1 July 2014. No further adjustments are expected until 1 July 2021.

29. Adjustments to the SGC do not affect the Tribunal’s ability to determine a remuneration increase of up to 2.5 per cent for SES as they receive a total remuneration package, from which the cost of the SGC must be funded.

Recruitment Allowance and Retention Allowance

30. There will be no increase in the minimum and maximum rates of the Recruitment Allowance or the Retention Allowance in 2015. Recruitment and Retention Allowances are not available to new Public Service Senior Executives under the GSE Act. The Tribunal will continue to determine these allowances for existing SES officers currently in receipt of these allowances until such time as the transition arrangements are complete and Part 3A of the SOOR Act is repealed.

Chief Executive Roles

31. The GSE Act provides transitional arrangements for Secretaries of Departments and Heads of other Public Service agencies.

Secretaries of Departments

32. In the 2014 Determination, the Tribunal determined the remuneration in respect of the Director General of the Department of Trade and Investment, Regional Infrastructure and Services, as the remuneration continued to be payable to the person holding that office while ever the office holders is subject to the transitional arrangements pursuant to Schedule 4, Clause 6, GSE Act.
33. The Tribunal notes that the Government published the *Administrative Arrangements (Administrative Changes – Public Service Agencies) Order (No2) 2015* on 29 May 2015 (the Order). In accordance with Clause 6 (1) and 6 (7) of Order 2015 the Department of Trade and Investment, Regional Infrastructure and Services will be abolished and a new department named Department of Industry, Skill and Regional Development established commencing on 1 July 2015.
34. In respect to the person holding the office of Secretary of the Department of Trade and Investment, Regional Infrastructure and Services Clause 6 (8) of Order 2015 states the following:

Clause 6 (8)

The person holding the office of Secretary of the Department of Trade and Investment, Regional Infrastructure and Services when that office is abolished by the operation of section 23 (3) of the GSE Act continues to be employed (subject to the GSE Act) in the Public Service as a Public Service senior executive but does not become the Secretary of the Department of Industry, Skills and Regional Development by the operation of this clause. The employer of that person under the GSE Act while continuing to be so employed is the Secretary of the Department of Premier and Cabinet.

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35. The Tribunal also notes that the former Secretary of the Department of Trade and Investment, Regional Infrastructure and Services will cease to occupy that position on 30 June 2015. On that basis the transitional arrangements will cease to apply and the Tribunal is no longer required to make a determination under Part 3A of the SOOR Act in respect of that office holder.

Heads of other Public Service agencies

36. In accordance with Clause 7 of Schedule 4 of the GSE Act a person holding office as head of the former other Division (which includes Infrastructure NSW) immediately before the repeal of the former PSEM Act continue in that role (subject to the provisions of Clause 7(2)(a) and (b)). A person who continues in office as Head of other Public Service agencies under subclause (2) is remunerated in accordance with a determination of the Tribunal as follows:

7 Heads of other Public Service agencies – transitional arrangements

(7) A person who continues in office as Secretary under subclause (2):

(c) has a remuneration package that is equivalent to the remuneration package of the person immediately before the repeal of the former Act (unless the remuneration package is increased as a result of a determination of the Statutory and Other Offices Remuneration Tribunal made under Part 3A of the Statutory and Other Offices Remuneration Act 1975)....

37. The remuneration determined by the Tribunal on 11 July 2014, in respect of the Chief Executive Officer and Co-ordinator General of Infrastructure NSW continues to be payable to the person holding that office while ever the office holder is subject to the transitional arrangements (Schedule 4, Clause 7, GSE Act).
38. As transitional arrangements currently apply to the office holder appointed to the position of Chief Executive Officer and Co-ordinator General of Infrastructure NSW the Tribunal will make an annual determination for this position.

Conclusion

39. The Tribunal after considering the views of the Assessors and having regard to the provisions of section 6AA of the SOOR Act, determines an increase of 2.5 per cent for all SES officers, effective on and from 1 July 2015. The new rates are as set out in Determinations Nos. 1, 2, 5 and 6. The existing rates for the Recruitment and Retention Allowances continue to apply as set out in Determinations Nos. 3 and 4.

The Statutory and Other Offices Remuneration Tribunal

(Signed)

Richard Grellman AM

Dated: 25 June 2015

Section 5

Determination No. 1- Remuneration Package Ranges for the SES

The Tribunal determines that the remuneration package ranges for executive office holders effective on and from 1 July 2015 shall be:

CES/SES	Per annum range		
Remuneration Level 8	\$441,201	to	\$509,750
Remuneration Level 7	\$351,801	to	\$441,200
Remuneration Level 6	\$313,051	to	\$351,800
Remuneration Level 5	\$271,351	to	\$313,050
Remuneration Level 4	\$248,851	to	\$271,350
Remuneration Level 3	\$219,101	to	\$248,850
Remuneration Level 2	\$204,301	to	\$219,100
Remuneration Level 1	\$174,500	to	\$204,300

Determination No. 2 – Chief Executive Officer and Co-ordinator General, Infrastructure NSW

The Tribunal determines that the remuneration package for the Chief Executive Officer and Co-ordinator General, Infrastructure NSW shall be \$562,290 per annum effective on and from 1 July 2015.

Determination No. 3 – Recruitment Allowance

The recruitment allowance applies only to existing SES officers currently in receipt of the allowance.

Officers in receipt of a Recruitment Allowance are not eligible for payment of a Retention Allowance.

CES/SES	Maximum Allowance	
Levels 7 and 8	up to	\$43,000
Levels 5 and 6	up to	\$30,000
Levels 3 and 4	up to	\$23,000
Levels 1 and 2	up to	\$19,000

Determination No. 4 – Retention Allowance

SES Officers shall be eligible for a Retention Allowance up to the maximum for each level as set out hereunder. The Allowance will apply on and from the date of approval by the Public Service Commissioner and will accrue on an annual basis or part thereof and the total amount will be payable upon the completion of the term of appointment.

Officers in receipt of a Retention Allowance are not eligible for payment of a Recruitment Allowance.

CES/SES	Maximum Allowance	
Levels 7 and 8	up to	\$43,000
Levels 5 and 6	up to	\$30,000
Levels 3 and 4	up to	\$23,000
Levels 1 and 2	up to	\$19,000

Determination No. 5 – Remuneration Packages for Specialist Medical Skills

The Tribunal determines that the remuneration package ranges for offices identified as requiring specialist medical skills effective on and from 1 July 2015 shall be:

Specialist Medical Skills	Per annum range		
Remuneration Level 6	\$322,450	to	\$394,950
Remuneration Level 5	\$321,100	to	\$380,550
Remuneration Level 4	\$315,550	to	\$366,300
Remuneration Level 3	\$301,100	to	\$349,400
Remuneration Level 2	\$282,600	to	\$327,900
Remuneration Level 1	\$260,650	to	\$299,250

Determination No. 6 – Remuneration Packages for General Medical Skills

The Tribunal further determines that the remuneration package ranges for offices identified as requiring general medical skills effective on and from 1 July 2015 shall be:

General Medical Skills	Per annum range		
Remuneration Level 2	\$226,900	to	\$263,250
Remuneration Level 1	\$208,550	to	\$239,350

The Statutory and Other Offices Remuneration Tribunal

(Signed)

Richard Grellman AM

Dated: 25 June 2015