

Chief and  
Senior  
Executive  
Service

Annual  
Determination

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

**15 July  
2016**

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# Section 1

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## Background

### Legislative Framework

1. The Chief Executive Service and Senior Executive Service <sup>1</sup> 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.
2. 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).
3. 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SES or who were Senior Officers or in equivalent classifications under the former PSEM Act immediately before it was repealed.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):

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<sup>1</sup> 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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- 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.
4. 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.
  5. 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 officers subject to the transitional arrangements will continue to be referred to as SES officers for the purposes of this determination.

## Government Wages Policy

6. 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 Industrial Relations Commission (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.
7. The current policy on wages pursuant to section 146(1)(a) of the IR Act is specified in the *Industrial Relations (Public Sector Conditions of Employment) Regulation 2014* (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

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have been achieved to fully offset the increased employee-related costs. 2015 Annual Determination

8. The Tribunal's 2015 annual determination for the SES dated 25 June 2015 provided for a 2.5 per cent increase for each SES officer.
9. The increase also applied to one Chief Executive position, namely the Chief Executive Officer and Co-ordinator General of Infrastructure NSW who receives remuneration in excess of the maximum of SES Level 8. The Tribunal was required to make a determination for this position as transitional arrangements under the GSE Act apply for Heads of other Public Service agencies (Schedule 4, clause 7).
10. 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.

## Special Determinations

11. The Tribunal has made one special determination since the making of the 2015 annual determination. On 21 October 2015, the Tribunal determined pursuant to section 24D, that the total remuneration package payable to Mr Andrew Scipione APM in the role of the Commissioner of Police would be \$590,000 per annum effective on and from 1 July 2015.
12. The Police Commissioner is not currently subject to the provisions of the GSE Act. On that basis the remuneration was determined according to Part 3A of the SOOR Act, which applies to the SES, rather than Part 3B which applies to the new cohort of Public Service senior executives.
13. Special determinations are published on the NSW Remuneration Tribunals website.

## Section 2

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### Government Submission

14. The Secretary NSW Treasury provided the Government submission to the Tribunal on 11 July 2016. 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.

### Employee expenses

- *The combination of government initiatives, spanning 2011 to the present, including the NSW Public Sector Wages Policy, the Labour Expense Cap, and the revised Managing Excess Employees Policy, have driven employee expenses growth to historic lows.*
- *Average growth in employee expenses for the eight years before 2011-12 was 6.3 per cent while the eight years from 2011-12 growth is expected to be 4.2 per cent, a fall of 2.1 per cent driven by the current Government's initiatives. This has allowed the Government to maintain sustainable expense growth whilst providing funding for increases in front line staff.*
- *Employee-related expenses are estimated to increase by 3.9 per cent over the budget and forward estimates. This is primary driven by an increase in frontline employee numbers for the delivery of key services in education, health and other community services."*

### Economic analysis and the State's budget

- *Economic growth in New South Wales is expected to continue at an above-trend pace over the next two years, despite downward revisions to the outlook for both the global and national economies since the 2015-16 Half-Yearly Review (HYR). Gross State Product (GSP) growth is forecast to pick up to 3 percent in 2016-17, unchanged from the HYR forecast. In 2017-18, GSP*

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*growth is forecast to moderate to 2¾ per cent. The projections for 2018-19 and 2019-20 are for trend growth. The estimate of trend GSP growth has been revised down to 2½ per cent from 2¾ per cent a year.*

- The 2016-17 Budget was delivered in accordance with the Government's economic and fiscal strategy that continues to support the maintenance of the State's triple-A credit rating, and ensures that State finances and services are sustainable over the long term.*
- The 2016-17 Budget projects a solid fiscal outlook for New South Wales, with surpluses estimated in 2015-16 and across the forward estimates. The 2015-16 budget result is forecast to be a surplus of \$3,409 million. A surplus of \$3,713 million is expected for 2016-17, and surpluses of \$1,326 million, \$1,382 million and \$1,613 million are expected for 2017-18, 2018-19 and 2019-20, respectively.*
- Keeping expense growth below long run average revenue growth is key to strengthening the fiscal position. The Government is committed to keeping annual expense growth below long term average revenue growth of 5.6 per cent, consistent with the requirements of the Fiscal Responsibility Act 2012.*

### **Government's submitted increase**

15. The Government submits that the Tribunal should approve an increase of 2.5 per cent from 1 July 2016, 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 IR Regulation.
16. The Government also submits that the legacy Recruitment and Retention Allowances not be increased.

## Section 3

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### 2016 Annual Determination

#### Recruitment Allowance and Retention Allowance

17. There will be no increase in the minimum and maximum rates of the Recruitment Allowance or the Retention Allowance in 2016. Recruitment and Retention Allowances are not available to new Public Service Senior Executives under the GSE Act (except as provided for in transitional arrangement). The Tribunal will continue to determine these allowances for existing SES.

#### Chief Executive Officer and Coordinator General, Infrastructure NSW

18. 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. The Tribunal has determined that the remuneration will increase by 2.5 per cent.

#### Police Commissioner

19. The Remuneration for the Police Commissioner continues to be determined pursuant to Part 3A of the SOOR Act and the Tribunal has determined that the remuneration will increase by 2.5 per cent.
20. Transitional arrangements will apply on commencement of Schedule 3 of the *Government Sector Employment Legislation Amendment Act 2016* (the GSELA Act) on 1 January 2017 which will amend the *Police Act 1990* (the Police Act).
21. In respect to the Commissioner of Police the remuneration determined by the Tribunal on 21 October 2015 continues to be payable to the person holding that office while ever the office holder is subject to the transitional arrangements:

#### **89 Existing Police Commissioner**

*(2) A person who continues in office as Commissioner under this clause:.....*

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- (c) *has a remuneration package that is equivalent to the remuneration package of the person immediately before the commencement of this clause (unless the remuneration package is increased in accordance with the former senior executive provisions or as a result of progression within the applicable remuneration range)...*

## **Government Sector Employment Legislation Amendment Act 2016**

22. On 2 March 2016 the GSELA Act was assented to. Most of Schedules 1 and 5 commenced on 1 July 2016.
23. Schedules 2 - 4 of the GSELA Act will amend the *Health Services Act 1997* (the HS Act), the Police Act and the *Transport Administration Act 1988* (the Transport Act) to align employment arrangements for the senior executives in the NSW Health Service, Transport Service and the NSW Police Force with the new employment arrangements for Public Service senior executives under the GSE Act. Those amendments will commence on 1 January 2017 unless a later commencement date is proclaimed before then.
24. To a varying degree, current executives in the NSW Health Service and NSW Police Force receive remuneration aligned with the SES determination.

## **NSW Health Service**

25. The Tribunal's 2015 annual determination provides for remuneration packages for specialist medical skills (Determination No. 5) and general medical skills (Determination No.6). The Tribunal has been informed that these rates have been used within the Ministry of Health and NSW Health Service for roles that require the incumbent to possess such qualifications to undertake the inherent duties of a role or to attract candidates from a number of professional or clinical backgrounds.
26. Employees of the Health Executive Service (pursuant to section 121J of the HS Act) also receive remuneration aligned with the SES Levels.

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27. The HS Act (as amended) will provide the following transitional arrangements for “existing Health Service senior executives”:

### ***Application of new senior executive provisions to existing Health Service senior executives***

*(1) On the commencement of the new senior executive provisions, the following provisions apply in relation to an existing Health Service senior executive....*

*(f) the executive has a remuneration package that is equivalent to the executive’s remuneration package under the former senior executive provisions (unless the remuneration package is increased as a result of arrangements in force under those provisions) even if it exceeds the band in which the person is employed,*

*(g) the executive continues to be entitled to any recruitment or other allowance payable to the executive under the former senior executive provisions immediately before the commencement of the new senior executive provisions.*

*(2) Subclause (1) (f) and (g) apply in relation to a NSW Health Service senior executive until such time as the executive:*

*(a) is assigned to a role in the NSW Health Service that has a remuneration package exceeding the remuneration package paid to the executive immediately before the assignment to the new role, or*

*(b) ceases to be employed in the NSW Health Service.*

### **NSW Police Force**

28. Employees of the NSW Police Force Senior Executive Service (pursuant to section 32 of the Police Act) receive remuneration as determined by the Tribunal. The Police Act (as amended) will provide for the following transitional arrangements for “transitional Police Service senior executives:

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### **93 Transitional provisions relating to remuneration of senior executives**

*(1) For the purposes of clauses 91 and 92, the remuneration package of a person under the former senior executive provisions includes any of the following determined by the Statutory and Other Offices Remuneration Tribunal and payable to the person under those provisions:*

*(a) a remuneration package that is payable to the person as the holder of the relevant position under the former senior executive provisions that exceeds the remuneration package otherwise determined for the senior executive level of the person,*

*(b) an additional amount payable as a recruitment allowance.*

*(2) If a person referred to in subclause (1) to whom a recruitment allowance is payable is subsequently employed in accordance with the new senior executive provisions as a NSW Police Force senior executive, the person continues to be entitled to so much of that former recruitment allowance as will ensure that the remuneration payable after that subsequent employment is not less than the remuneration payable before that subsequent employment. Any general increase in remuneration packages to account for an annual determination of the Statutory and Other Offices Remuneration Tribunal is to be excluded and does not operate to reduce the amount of recruitment allowance payable.....*

*(5) A retention allowance payable under the former senior executive provisions to a person to whom clause 91 or 92 applies is payable for completed years of service (or pro rata for completed parts of years of service) on the date the person ceases to be a person to whom that clause applies (otherwise than by resignation).*

29. The Tribunal noted in the 2015 annual determination that it expected that the final determination in respect to the SES under part 3A of the SOOR Act would be the 2016 annual determination. The Tribunal proposes to consider the impact of these transitional arrangements on the timing of the final determination during the 2017 annual review.

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### General Increase

30. 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 2016. The new rates are as set out in Determinations Nos. 1, 2, 3, 6 and 7. The existing rates for the Recruitment and Retention Allowances continue to apply as set out in Determinations Nos. 4 and 5.

### **The Statutory and Other Offices Remuneration Tribunal**

*(Signed)*

**Richard Grellman AM**

**Dated:** 15 July 2016

## Section 4

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### **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 2016 shall be:

<b>CES/SES</b>	<b>Per annum range</b>		
Remuneration Level 8	\$452,251	to	\$522,500
Remuneration Level 7	\$360,601	to	\$452,250
Remuneration Level 6	\$320,901	to	\$360,600
Remuneration Level 5	\$278,151	to	\$320,900
Remuneration Level 4	\$255,051	to	\$278,150
Remuneration Level 3	\$224,601	to	\$255,050
Remuneration Level 2	\$209,401	to	\$224,600
Remuneration Level 1	\$178,850	to	\$209,400

### **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 \$576,345 per annum effective on and from 1 July 2016.

### **Determination No. 3 – Commissioner of Police**

The Tribunal determines that the remuneration package for the Commissioner of Police, NSW Police Force shall be \$604,750 per annum effective on and from 1 July 2016.

### **Determination No. 4 – 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.

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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 – 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. 6 – 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 2016 shall be:

Specialist Medical Skills	Per annum range		
Remuneration Level 6	\$330,500	to	\$404,800
Remuneration Level 5	\$329,150	to	\$390,050
Remuneration Level 4	\$323,450	to	\$375,450
Remuneration Level 3	\$308,650	to	\$358,150
Remuneration Level 2	\$289,650	to	\$336,100
Remuneration Level 1	\$267,150	to	\$306,750

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**Determination No. 7 – 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 2016 shall be:

<b>General Medical Skills</b>	<b>Per annum range</b>		
Remuneration Level 2	\$232,550	to	\$269,850
Remuneration Level 1	\$213,750	to	\$245,350

**The Statutory and Other Offices Remuneration Tribunal**

*(Signed)*

**Richard Grellman AM**

**Dated:** 15 July 2016