

Court and  
Related  
Officers  
Group

Annual  
Determination

*Report and determination under  
section 13 of the Statutory and  
Other Offices Remuneration Act  
1975*

**27 August  
2019**

## Court and Related Officers Group

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## Court and Related Officers Group

# Section 1

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### Background

1. Section 13 of the *Statutory and Other Offices Remuneration Act 1975* (the SOOR Act) requires 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 Court and Related Officers Group comprises those public offices listed in the Schedules of the SOOR Act (except for the Judges and Magistrates Group and the Public Office Holders 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, are additional to the salary amount determined.

### 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 SOOR Regulation).
4. In accordance with the SOOR Regulation any increase the Tribunal may determine in excess of 2.5 per cent, be it a general increase available to all office holders, or an increase provided to an individual office holder or group of office holders based on changes in work value, can only be paid if officer-related cost savings for the office holder (or group of office holders) have been achieved to fully offset the increased officer-related costs resulting from increased payment.

## **Section 2**

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### **2018 Determination**

5. On 7 August 2018, the Tribunal determined that officers in the Court and Related Officers Group would receive an increase in salary of 2.5 per cent.
6. The Tribunal determined that there would be a minor adjustment to the quantum of the conveyance allowance as the annual percentage change from the 2017 March quarter to the 2018 March quarter in the CPI: Motor Vehicles – Sydney (Series ID A2328552A) had increased by 0.5 per cent.
7. The Tribunal also repeated concerns about the operation of the SOOR Regulation.

## Section 3

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### 2019 Annual Review

8. On 23 March 2019, the Tribunal wrote to office holders advising of the commencement of the 2019 annual review. The Tribunal did not hold meetings with office holders as part of the 2019 review.

### Office Holder Submissions

9. The Tribunal received four submissions from office holders in the Court and Related Officers Group. All of the submissions have sought an increase of 2.5 per cent as this is the maximum that can be expected within the current constraints.
10. The submissions from the Director and Deputy Directors of Public Prosecutions and Senior Crown Prosecutor have outlined additional responsibilities associated with the implementation of the Early Appropriate Guilty Plea reforms. The Office has undergone an unprecedented transformation, including the overhaul of its structure and expansion in size. The Director and Deputies provided significant daily input and guidance, in addition to their existing workloads, to achieve the successful implementation of the reform. The submission reports positive impacts and increased efficiencies in the justice system with an increase in the number of matters committed for sentence and a decrease in the number committed for trial.
11. The Senior Crown Prosecutor has made a submission on behalf of that office and the Deputy Senior Crown Prosecutors and Crown Prosecutors. The submission advises that an additional increase will be sought, on repeal of the SOOR Regulation, to reflect changes in work load which are outlined in their submission.
12. The Acting Senior Public Defender supports and adopts the submission on behalf of the Crown Prosecutor group, citing the matters raised apply equally to the Public Defenders.
13. The submission from the Senior Commissioner of the Land and Environment Court notes that the jurisdiction of the Land and Environment Court continues to be expanded by

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new legislation. The judges and commissioners of the Land and Environment Court have increased their productivity to hear and dispose of the increased caseload as the number judges and commissioners of the Court has remained constant.

### **Government Submission**

14. The Secretary NSW Treasury provided the Government submission to the Tribunal on 28 June 2019. The submission outlines the applicability of the NSW Government's wages policy and provides an overview of the economic conditions of the State. Having regard to that advice the Tribunal considers that the budget position for the State of NSW supports an increase of 2.5 per cent. This increase is also consistent with wages growth for non-executive employees across the public sector.
  
15. The Tribunal again notes that the Government submission states that offices in the Court and Related Officers Group are subject to section 6AA of the SOOR Act which requires the Tribunal to give effect to the same policies as those that the Industrial Relations Commission (IRC) is required to give effect to under section 146C of the *Industrial Relations Act 1996* when making or varying awards or orders relating to the conditions of employment of public sector employees. Offices in the Court and Related Officers Group are not subject to the provisions of section 6AA of the SOOR Act. Instead these office holders are subject to the provisions of section 6AB of the SOOR Act and the SOOR Regulation.

## Section 4

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### 2019 Determination

#### General Increase

16. The Tribunal has not been asked to consider an increase, either a general increase or an increase based on work value assessment, in excess of 2.5 per cent, and therefore a detailed assessment of whether or not officer-related costs savings have been achieved has not been required for this group of office holders. It is open to the Tribunal to determine an increase of up to 2.5 per cent without the need for office holders to offset any additional increase with officer-related cost savings.
17. The Tribunal finds that an increase of 2.5 per cent is justified having regard to the significant role court and related officers undertake in the State's justice system.

#### Conveyance Allowance

18. The annual percentage change from the 2018 March quarter to the 2019 March quarter in the CPI: Motor Vehicles – Sydney (Series ID A2328552A) is 0.10 per cent. To reflect this change there is a minor adjustment to the quantum of the conveyance allowance.

#### Statutory and Other Offices Remuneration (Judicial and Other Office Holders) Regulation 2013 (SOOR Regulation)

19. As outlined in the 2018 annual determination the Tribunal sought advice from the Secretary of the Department of Premier and Cabinet (DPC) on the status of the SOOR Regulation. On 6 August 2018 the Secretary of DPC advised that the automatic repeal of the SOOR Regulation had been postponed for a period of one year on the basis that it was appropriate for the Government to consider the remake of the SOOR Regulation at the same time that it considers the remake of the *Industrial Relations (Public Sector Conditions of Employment) Regulation 2014*, which is due to be repealed on 1 September 2019.

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20. The Tribunal has now been advised that the Government will recommend to the Premier that the repeal of the SOOR Regulation be postponed for a further period of 12 months, subject to the Governor's approval.
21. As previously stated, this is a matter for the Government and the Tribunal will continue to operate within the legislative framework.
22. The Tribunal acknowledges that the NSW Public Sector Wages Policy, and the application of that policy via the SOOR Regulation, supports the Government in managing employee expenses growth which is key to maintaining the State's strong fiscal position.
23. The State's leaders, key independent officer holders and judiciary play a crucial role in supporting the functions of the Government and providing services to the citizens of NSW.
24. While there are factors other than remuneration which attract people to public office, it is important that these roles are appropriately remunerated to ensure people of caliber apply and can be retained in these roles.
25. The remuneration for a role should as much as practical reflect the work value of that role. Office Holders should receive competitive and equitable remuneration that reflects the responsibilities and experience required of the roles.
26. While the Members of the NSW Aboriginal Land Council have been successful in demonstrating sufficient officer-related cost savings to provide for an increase of more than 2.5 cent, other office holders and groups of office holders have found it difficult to identify the necessary officer-related savings required of the SOOR Regulation.
27. The Tribunal continues to be of the view that the SOOR Regulation, as presently constructed, makes the identification and assessment of officer-related cost savings prohibitively complex and difficult. The Tribunal continues to encourage the Government to review these provisions with the view to providing the Tribunal with greater flexibility in determining appropriate remuneration based on work value.

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28. Office holders should refer to the 2019 determination for the Public Office Holders Group for details of the determination made for Members of the NSW Aboriginal Land Council.

### **Conclusion**

29. The Tribunal, after consulting with the Assessors, considers that an increase of 2.5 per cent in remuneration is appropriate and so determines. In respect to the conveyance allowance, a minor adjustment of 0.10 per cent is warranted in accordance with the Tribunal's methodology.

30. This determination is consistent with the Government's wages policy which the Tribunal is required to give effect to pursuant to the SOOR Regulation.

31. Pursuant to section 13 of the SOOR Act the Tribunal determines that the remuneration to be paid office holders in the Court and Related Officers Group, on and from 1 July 2019 shall be as specified in Determination Nos. 1-2.

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

*Signed*

**Richard Grellman AM**

**Dated:** 27 August 2019

## Court and Related Officers Group

# Section 5

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### Determinations

#### Determination No. 1- Annual Determination of Remuneration

Annual determination of the remuneration of the Court and Related Officers Group effective on and from 1 July 2019

Position	Salary per annum	Conveyance Allowance (NOTE 1)
Director of Public Prosecutions	\$457,480	\$23,745
Solicitor-General	\$457,480	\$23,745
Chairperson, Law Reform Commission	\$455,640	\$23,745
Crown Advocate	\$410,080	\$21,365
Deputy Director of Public Prosecutions	\$410,080	\$21,365
Senior Crown Prosecutor	\$369,070	\$17,090
Senior Public Defender	\$369,070	\$17,090
Deputy Presidents, Workers Compensation Commission	\$332,150	\$17,090
Deputy Senior Crown Prosecutor	\$332,150	\$17,090
Deputy Senior Public Defender	\$332,150	\$17,090
Solicitor for Public Prosecutions	\$332,150	\$17,090
Senior Commissioner Land and Environment Court	\$318,940	\$17,090
Crown Prosecutor	\$303,450	\$17,090
Public Defender	\$303,450	\$17,090
Commissioner Land and Environment Court	\$300,710	\$17,090
Acting Deputy President Workers Compensation Commission	\$1,380 per day	-
Acting Commissioner Land and Environment Court	\$1,250 per day	-

#### Conveyance Allowance

NOTE 1: The Conveyance Allowance determined here shall not count towards pension or for superannuation purposes.

METHODOLOGY: The Tribunal provides increases to the conveyance allowance based on the CPI: Motor Vehicles – Sydney (Series ID A2328552A) March quarter - having regard to the

## **Court and Related Officers Group**

percentage change from the corresponding quarter of the previous year. In considering any adjustment the following conditions will apply:

- Should the March quarter data indicate a decrease in motor vehicle costs the conveyance allowance will remain unchanged (to comply with the requirements of section 21 of the SOOR Act).
- The annual adjustment will not exceed 2.5 per cent (to comply with section 6AB of the SOOR Act).

### **Determination No. 2- Annual Leave Loading**

#### **Leave Loading**

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**

*Signed*

**Richard Grellman AM**

**Dated:** 27 August 2019