

Court and
Related
Officers
Group

Annual
Determination

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

7 September
2020

Court and Related Officers Group

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Section 1

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. Until recently, in accordance with the clause 6 of 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, could 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.

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5. Since the introduction of the SOOR Regulation in 2013 office holders in the Court and Related Officers Group have received general annual increases capped at 2.5 per cent.
6. On 29 May 2020 the Premier, the Hon Gladys Berejiklian MP, made the *Statutory and Other Offices Remuneration (Judicial and Other Office Holders) Amendment (Temporary Wages Policy) Regulation 2020*. That regulation amended the SOOR Regulation to implement a temporary wages policy, being a 12-month pause on remuneration increases for office holders covered by Part 3 of the SOOR Act. The SOOR Regulation was amended by inserting a new Clause 5A and amending the existing Clause 6 as follows:

Clause 5A

Insert after clause 5 –

5A Temporary wages policy

- (1) *An office holder is not to be awarded increases in remuneration that would increase officer-related costs in the first 12 months after the determination is made.*
- (2) *This clause expires 12 months after it commences.*

Clause 6 and Other policies

Insert after clause 6(3) -

- (4) *The policies set out in subclause (1)(a) and (b) are not to be given effect to by the Tribunal when making a determination that applies to the period –*
 - (a) *starting on the commencement of the Statutory and Other Offices Remuneration (Judicial and Other Office Holders) Amendment (Temporary Wages Policy) Regulation 2020, and*
 - (b) *ending 12 months after that commencement.*

7. A similar regulation to give effect to a wages pause for employees subject to the *Industrial Relations (Public Sector Conditions of Employment) Regulation 2014* was disallowed by the Legislative Council on 2 June 2020. Neither House of Parliament passed a resolution to disallow the amendment to the SOOR Regulation and therefore the Tribunal is required to give effect to the temporary wages policy as provided for in Clauses 5A and 6(4) of the SOOR Regulation as amended.

Section 2

2019 Determination

8. On 27 August 2019, the Tribunal determined that officers in the Court and Related Officers Group would receive an increase in salary of 2.5 per cent.
9. The Tribunal determined that there would be a minor adjustment to the quantum of the conveyance allowance as the annual percentage change from the 2018 March quarter to the 2019 March quarter in the CPI: Motor Vehicles – Sydney (Series ID A2328552A) had increased by 0.1 per cent.
10. The Tribunal also repeated concerns about the operation of the SOOR Regulation.

Section 3

2020 Annual Determination

12. On 28 February 2020, the Tribunal wrote to office holders advising of the commencement of the 2020 annual review. The Tribunal did not hold meetings with office holders as part of the 2020 review.
13. The Tribunal received five submissions covering a range of office holders in the Court and Related Officers Group.
14. Submissions from (and representing) the Director of Public Prosecutions, Deputy Director of Public Prosecutions, Senior Crown Prosecutors, Deputy Senior Crown Prosecutors, Crown Prosecutors, Senior Public Defenders, Public Defenders and the Commissioners of the Land and Environment Court all seek to forego any increase for 2020. The various submissions noting the current economic environment and the circumstances of the COVID-19 pandemic.
15. These submissions were all received prior to the amendments to the SOOR Regulation which mandate no increase with effect from 1 July 2020.
16. The Secretary Department of Premier and Cabinet provided the Government submission to the Tribunal on 28 July 2020. Extracts appear below.
 - COVID-19 is having a profound impact on the NSW economy and the NSW budget position. Measures to stop the spread of the virus have included travel restrictions and social distancing rules which have led to business closures, modification to work arrangements and job losses. This year the Tribunal should have significant regard to the economic conditions of the State and the financial position of the state.
 - To assist in responding effectively to this situation, the NSW Government has announced its intention for a 12 month pause on wage increases for public sector employees. The pause will allow the Government to protect not only public sector jobs, but also provide temporary and targeted support to the broader economy and

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private sector jobs. This matter is currently before the Industrial Relations Commission (IRC) for determination.

- On 29 May 2020 the *Statutory and Other Offices Remuneration (Judicial and Other Office Holders) Amendment (Temporary Wages Policy) Regulation 2020* was made to implement a temporary wages policy, being a 12-month pause on remuneration increases for office holders covered by Part 3 of the *Statutory and Other Offices Remuneration Act 1975*.
- For those covered by Parts 3A and 3B, section 6AA of the *Statutory and Other Offices Remuneration Act 1975* requires the Tribunal to give effect to the same policies on increases in remuneration as those that the Industrial Relations Commission is required to give effect to when making or varying awards or orders. Relevantly in a recent decision of the Industrial Relations Commission it was confirmed that the tribunal may ‘...award increases in remuneration of 2.5% or less’ (see *Application for Crown Employees (Public Sector – Salaries 2020) Award and Other Matters [2020] NSWIRComm 1044*).
- It is recommended that a 12-month wage pause be applied to all employees and officers whose remuneration is determined by the *Statutory and Other Offices Remuneration Act 1975* regardless of the outcome of the IRC hearing. This includes, chief executive office holders; senior executive office holders; and government sector senior executives in the Public Service, NSW Police Service, NSW Health Service and the Transport Service.
- The provision applies to the following groups of employees and office holders covered under the *Statutory and Other Offices Remuneration Act 1975*:
 - Public Service Senior Executives
 - Chief and Senior Executive Officers (SES)
 - Judges and Magistrates Group
 - Court and Related Officers Group
 - Public Office Holders Group

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- The 2020-21 NSW Budget has been deferred from June 2020 until later in the year following a recommendation by the National Cabinet of Commonwealth, State and Territory leaders on 20 March 2020.
17. In accordance with the SOOR Regulation and the temporary wages policy there will be no general increase in the salaries payable to office holders in the Court and Related Officers Group with effect from 1 July 2020. The Tribunal notes that the amendments to the SOOR Regulation provide for no increase for 12 months only. It will be open to the Tribunal to consider an increase, if any, of up to 2.5 per cent with effect from 1 July 2021.
 18. There is no increase in the Conveyance Allowance which is consistent with the methodology outlined on page 8. The annual percentage change from the 2019 March quarter to the 2020 March quarter in the CPI: Motor Vehicles – Sydney (Series ID A2328552A) is negative 0.6 per cent.
 19. This determination is consistent with the temporary wages policy which the Tribunal is required to give effect to pursuant to the SOOR Regulation.
 20. The Tribunal consulted with the Assessors prior to making this determination.
 21. 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 2020 shall be as specified in Determination Nos. 1-2.

Statutory and Other Offices Remuneration Tribunal

Signed

Richard Grellman AM

Dated: 7 September 2020

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Section 4

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 2020

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

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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: 7 September 2020