

Court and
Related
Officers
Group

Annual
Determination

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

**5 August
2021**

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. 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 annual increases capped at 2.5 per cent, apart from 2020 when there was a temporary wage pause pursuant to Clause 5A of the SOOR Regulation commencing 29 May 2020 and ending 12 months after that date.

Section 2

2020 Determination

6. The Tribunal was required to give effect to the temporary wages policy and on 7 September 2020, the Tribunal determined that no increase would apply to the salaries payable to office holders in the Court and Related Officers group with effect from 1 July 2020
7. The Tribunal also determined that there would no adjustment to the quantum of the conveyance allowance as the relevant CPI index for 2020 was negative 0.6 per cent.

Amendments to the SOOR Act

8. The SOOR Act has been amended since the making of the 2020 annual determination.
9. The *Statute Law (Miscellaneous Provisions) Act 2019 No 1* amended Sections 11B and 11C commencing on 1 July 2019. New sub-clauses - 11B(4A) and 11C(4A) – were inserted enabling the Minister to delegate to the head of a Public Service Agency or a person employed in a Public Service agency responsible to the Minister the functions of approving and revoking certain salary sacrifice arrangements relating to motor vehicles for private use, employee superannuation contributions and living away from home expenses.
10. The *Personal Injury Commission Act 2020* (PIC Act) amended Schedule 2 commencing either on the date of proclamation or from 1 March 2021. The offices of President of the Personal Injury Commission; Deputy President of the Personal Injury Commission; Acting Deputy President of the Personal Injury Commission; Full-time non-presidential member of the Personal Injury Commission were inserted. The offices of President of the Workers Compensation Commission; Deputy President of the Workers Compensation Commission; Acting Deputy President of the Workers Compensation Commission; Registrar of the Workers Compensation Commission; Senior Arbitrator or other full-time Arbitrator of the Workers Compensation Commission; Principal Claims Assessor under

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the *Motor Accidents Compensation Act 1999*; Principal Claims Assessor under the *Motor Accident Injuries Act 2017* were removed.

11. The Tribunal has amended the list of offices in the relevant determinations accordingly.

Section 3

2021 Annual Review

13. On 3 March 2021, 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 2021 review.

Office holder submissions

14. The Tribunal received four submissions from office holders in the Court and Related Officers Group, generally supporting a 2.5 per cent increase in salaries. One submission also sought an increase in the conveyance allowance.

15. The Director and Deputy Directors of Public Prosecutions sought an increase of 2.5 per cent in remuneration. The submission outlined the five major benefits of the Early Appropriate Guilty Plea (EAGP) reforms have brought to the criminal justice system. The submission also noted the additional workload due to the impact of the COVID-19 pandemic.

16. The Senior Crown Prosecutor, on behalf Crown Prosecutors sought an increase of 2.5 per cent. The submission emphasised the fundamental nature of the EAGP reforms, noting the additional responsibilities placed on Crown Prosecutors. The Senior Crown Prosecutor's submission stated that Crown Prosecutors have embraced the EAGP and case management reforms and the greater workload the reforms have created. In doing so, Crown Prosecutors are playing an integral role in enhancing the criminal justice system. The submission also noted the additional workload due to the impact of the COVID-19 pandemic.

17. The Senior Public Defender supported the submission of the Senior Crown Prosecutor, for an increase of 2.5 per cent. The submission emphasized the EAGP reforms, noting the complementary roles of Public Prosecutors and Public Defenders. The submission also noted the difficult and arduous nature of the work of Public Defenders and increased workloads including those associated with the pandemic.

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18. The Senior Commissioner of the Land and Environment Court adopted the submission of the Judges of the Supreme Court and Chief Judge of the Land and Environment Court on behalf of herself and commissioners. That being a general increase of 2.5 per cent in the salaries of commissioners and an increase of at least 5.7 per cent in the conveyance allowance. The submission noted that the jurisdiction of the Land and Environment Court continues to be expanded by new legislation and Judges and Commissioners of the Land and Environment Court have increased their productivity, dealing with an increased caseload while the number of commissioners of the Court has remained constant. The submission also noted the impact of the COVID-19 pandemic and that commissioners have increased their productivity to hear and dispose of the Court's caseload throughout this difficult period.

Government submission

19. The Secretary, Department of Premier and Cabinet provided the Government submission to the Tribunal on 2 June 2021. That submission was replaced by another Government submission provided on 15 July 2021. The Government submission advised that on 21 June 2021, the Government announced changes to the existing Wages Policy to provide for increases in remuneration or other conditions of employment of up to 2.5 per cent (inclusive of superannuation) for public sector employees. The submission recommends the following increases having regard to the increase in the SGC from 1 July 2021:

"In line with the revised Wages Policy it is now recommended that a 2.5 per cent increase in remuneration be applied to employees and other office holders whose total remuneration package ("TRP") is determined by the Tribunal and an increase of 2.04 per cent for non-TRP employees and office holders effective from 1 July 2021.

The 2.04 per cent increase recommended for non-TRP employees and officers takes into account the increase to the Superannuation Guarantee Charge ("SGC") of 0.5 percentage points from 1 July 2021 and uses the same methodology as applied when superannuation was last increased in 2014. This methodology recognises that superannuation is not payable on superannuation itself and as a result, the cost of the additional SGC is less than a 0.5 per cent pay increase. An increase of 2.04 per

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cent to salaries and 0.5 per cent to superannuation is consistent with the Wages Policy and does not increase employee related costs by more than 2.5 per cent.

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*

Conveyance Allowance

20. The annual percentage change from the 2020 March quarter to the 2021 March quarter in the CPI: Motor Vehicles – Sydney (Series ID A2328552A) is 6.4 per cent. To reflect this change the Tribunal intends to adjust the conveyance allowance by the permissible maximum of 2.5 per cent per cent.

Superannuation Guarantee Contributions

21. Information published on the Australian Taxation Office website confirms the previous and future percentage increases to the superannuation guarantee since 1 July 2002, when the general superannuation guarantee was 9.00 per cent:

Date of increase	Percentage increase (%)	General super guarantee (%)
1 July 2013	.25	9.25
1 July 2014	.25	9.50
1 July 2021	.50	10.00
1 July 2022	.50	10.50
1 July 2023	.50	11.00
1 July 2024	.50	11.50
1 July 2025	.50	12.00

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22. The Tribunal reviewed the impact of the SGC increase on office holders in the 2014 Annual Determination for the Court and Related Officers Group which was the last time that the SGC increased.
23. That determination refers to the special determination in respect to Judges, Acting Judges, Associate Judges, Director of Public Prosecutions and Solicitor General made on 19 December 2013. The special determination related to those Judges and other related officers who are potentially entitled upon retirement to receive a judicial pension and in respect of whom, therefore, the employer does not incur the cost of the SGC. The special determination included Judges as defined within the meaning of the *Judges' Pension Act 1953*, Acting Judges, Associate Judges, Director of Public Prosecutions and Solicitor General, who are potentially entitled upon retirement to receive a judicial pension. The Tribunal determined that the SGC increase does not affect the Tribunal's ability to determine a remuneration increase of up to 2.5 per cent for these office holders.
24. In respect to office holders in the Court and Related Officers Group, apart from the Director of Public Prosecutions and Solicitor General, the Tribunal determined it is required to take account of the cost of SGC increases in its remuneration determination.
25. The Tribunal's previous determinations on the matter of SGC increases continue to apply. Accordingly, for the 2021 determination, for office holders in Determination No. 1, it is open to the Tribunal to determine an annual increase in remuneration of up to 2.5 per cent. For office holders in Determination No. 2, it is also open to the Tribunal to determine an annual increase in remuneration of up to 2.5 per cent adjusted accordingly to account for the SGC increase.
26. The Government submission outlines the Government's view of appropriate adjustments in respect of the SGC.

Section 4

2021 Annual Determination

General Increase

27. After considering submissions received and provisions of section 6AB of the SOOR Act the Tribunal finds those office holders the subject of this determination should receive the maximum permissible increase of 2.5 per cent, although adjusted to 2.04 per cent for some office holders to take into account the SGC increase. The increases are consistent with the increases recommended in the Government submission.
28. The Tribunal finds that an increase to the maximum extent possible under the SOOR Act is justified having regard to the significant role court and related office holders undertake in the State's justice system.
29. The Tribunal also notes the submissions made by and on behalf of office holders and acknowledges the difficult and uncertain circumstances in which office holders have had to contend due to the impact of the COVID-19 pandemic.
30. The adjustment to take account of the SGC increase is consistent with the Tribunal's previous determinations and the methodology set out in the Government's submission.
31. The Director of Public Prosecutions and Solicitor General will receive an annual increase of 2.5 per cent with effect from 1 July 2021.
32. All other office holders in the Court and Related Officer Group will receive an annual increase of 2.04 per cent with effect from 1 July 2021.
33. The conveyance allowance is increased by 2.5 per cent with effect from 1 July 2021 in accordance with the Tribunal's methodology and the requirements of the SOOR Act.
34. The Tribunal consulted with the Assessors prior to making this determination.

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35. 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 2021 shall be as specified in Determination Nos. 1-3.

Statutory and Other Offices Remuneration Tribunal

Signed

Richard Grellman AM

Dated: 5 August 2021

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Section 5

Determinations

Determination No. 1- Remuneration of office holders eligible for a Judges' pension. Effective on and from 1 July 2021

Position	Salary per annum	Conveyance Allowance (NOTE 1)
Director of Public Prosecutions	\$468,920	\$24,340
Solicitor-General	\$468,920	\$24,340

Determination No. 2- Remuneration of other office holders not referred to in determination No.1. Effective on and from 1 July 2021

Position	Salary per annum	Conveyance Allowance (NOTE 1)
Chairperson, Law Reform Commission	\$464,940	\$24,340
Crown Advocate	\$418,450	\$21,900
Deputy Director of Public Prosecutions	\$418,450	\$21,900
Senior Crown Prosecutor	\$376,600	\$17,515
Senior Public Defender	\$376,600	\$17,515
Deputy Senior Crown Prosecutor	\$338,930	\$17,515
Deputy Senior Public Defender	\$338,930	\$17,515
Solicitor for Public Prosecutions	\$338,930	\$17,515
Senior Commissioner Land and Environment Court	\$325,450	\$17,515
Crown Prosecutor	\$309,640	\$17,515
Public Defender	\$309,640	\$17,515
Commissioner Land and Environment Court	\$306,840	\$17,515
Acting Commissioner Land and Environment Court	\$1,275 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.3- 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.

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Signed

Richard Grellman AM

Dated: 5 August 2021