



# *Government Gazette*

of the State of

New South Wales

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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

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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. 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.

## **Court and Related Officers Group**

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**

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### **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

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### 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

## **Court and Related Officers Group**

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



## **Court and Related Officers Group**

- 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**



**Richard Grellman AM**

**Dated:** 7 September 2020

## Court and Related Officers Group

# Section 4

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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 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

## **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**



**Richard Grellman AM**

**Dated:** 7 September 2020

# Former Chief and Senior Executive Service

(transitional remuneration  
arrangements only)

Annual  
Determination

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

7 September  
2020

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# Section 1

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## Background

### Former Chief Executives and Senior Executives

1. The Chief Executive Service and Senior Executive Services<sup>1</sup> were employed under the provisions of the former *Public Sector Employment and Management Act 2002* (PSEM Act). That Act was repealed in 2013 and replaced with the *Government Sector Employment Act 2013* (GSE Act).
2. There may be a small number, if any, transitional former senior executives subject to the transitional arrangements provided for in Schedule 4 of the GSE Act, and executives employed in the NSW Police Force Senior Executive Service and the NSW Health Service who continue to be eligible for remuneration packages as determined under Part 3A of the SOOR Act. For that reason, the Tribunal will continue to make a determination for the SES remuneration ranges. The Tribunal will review these arrangements each year to determine whether further determinations are required.

### NSW Police Force Senior Executives

3. The *Police Act 1990* was amended on 31 October 2017 to provide for NSW Police Force senior executives to be employed in a Public Service senior executive (PSSE) band. The remuneration package of a NSW Police Force senior executive must be within the range determined under the SOOR Act for the band in which the executive is employed. These remuneration ranges are determined in accordance with Part 3B of the SOOR Act and published in the Public Service senior executive determination.
4. In accordance with Schedule 4 of the *Police Act 1990* transitional arrangements are in place for existing police senior executives and administrative senior executives employed under the former senior executive provisions. These executives continue to

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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.

## Former Chief and Senior Executive Service

receive a remuneration package as provided for under the former senior executive provisions, being the ranges determined in this determination pursuant to Part 3A of the SOOR Act. Transitional arrangements will continue until the latest implementation date applicable to each executive subject to these arrangements after which the new senior executive provisions will apply.

### NSW Health Service Senior Executives

5. The Tribunal has historically determined remuneration ranges which applied to certain executives in the Health Service - the Specialist Medical Skills Determination and the General Medical Skills Determination. Senior executives in the NSW Health Service are now aligned to the employment arrangements for PSEs under the GSE Act. The Tribunal will retain the Specialist Medical Skills Determination and the General Medical Skills Determination for administrative purposes to cover transitional arrangements.

### 2020 No Increase

6. Given the current economic and social circumstances, the Tribunal has determined that there be no increase for all office holders subject to this determination, effective on and from 1 July 2020.
7. This is consistent with the Tribunal's determinations for the Public Service senior executives, and the Public Office Holders, Court Related Office Holders and Judges and Magistrates Groups and the Government's wages policy which the Tribunal is required to give effect to pursuant to section 6AA of the SOOR Act.
8. The Tribunal consulted with the Assessors prior to making this determination.

### Statutory and Other Offices Remuneration Tribunal



**Richard Grellman AM**

**Dated:** 7 September 2020

## Section 2

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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 2020 shall be:

<b>CES/SES</b>	<b>Per annum range</b>		
Remuneration Level 8	\$487,051	to	\$562,650
Remuneration Level 7	\$388,301	to	\$487,050
Remuneration Level 6	\$345,551	to	\$388,300
Remuneration Level 5	\$299,551	to	\$345,550
Remuneration Level 4	\$274,701	to	\$299,550
Remuneration Level 3	\$241,851	to	\$274,700
Remuneration Level 2	\$225,501	to	\$241,850
Remuneration Level 1	\$192,600	to	\$225,500

### Determination No. 2 – 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 2020 shall be:

<b>Specialist Medical Skills</b>	<b>Per annum range</b>		
Remuneration Level 6	\$355,900	to	\$435,900
Remuneration Level 5	\$354,500	to	\$420,050
Remuneration Level 4	\$348,350	to	\$404,300
Remuneration Level 3	\$332,350	to	\$385,700
Remuneration Level 2	\$311,900	to	\$361,950
Remuneration Level 1	\$287,700	to	\$330,300



### **Determination No. 3 – Remuneration Packages for General Medical Skills**

The Tribunal determines that the remuneration package ranges for offices identified as requiring general medical skills effective on and from 1 July 2020 shall be:

<b>General Medical Skills</b>	<b>Per annum range</b>		
Remuneration Level 2	\$250,400	to	\$290,600
Remuneration Level 1	\$230,200	to	\$264,250

**Statutory and Other Offices Remuneration Tribunal**



**Richard Grellman AM**

**Dated:** 7 September 2020

# Governor of New South Wales

Annual  
Determination

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

**7 September  
2020**

## 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. “Remuneration” is defined in section 10A as salary or allowances paid in money.
2. Schedule 6, Part 3, clause (3)(2) of the SOOR Act provides for the determination in respect to the office of Governor to be taken as a determination under section 13 in the following terms:

### **3 Governor’s salary**

- (1) *On, or as soon as practicable after, the commencement of the Constitution Amendment (Governor’s Salary) Act 2003, the Tribunal is to make a determination of the remuneration to be paid to the holder of the office of Governor as on and from the day specified for that purpose in the determination (which may, but need not, be the day on which that Act commences).*
  - (2) *A determination under this clause is taken to be a determination under section 13. However, sections 17 (2) and 20 (1) (b) do not apply to a determination under this clause.*
  - (3) *A determination under this clause comes into force, or is taken to have come into force, on the day specified for that purpose in the determination (which may, but need not, be the day on which the Constitution Amendment (Governor’s Salary) Act 2003) commences.*
3. The effect of the above clause is that an annual determination in respect of the Governor’s salary does not take effect from 1 July. Instead, annual determinations of the Governor’s salary take effect from the anniversary of the commencement of the Tribunal’s special determination made on 5 June 2014. That special determination took effect on or after the commencement date of *the Constitution Amendment (Governor’s Salary) Act 2003*, that being 2 October 2014.

## Government Wages Policy

4. 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 the Governor. 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).
5. 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.
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 2014 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*. 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 –*

## Governor of New South Wales

- (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 Regulation 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 therefore the Tribunal is required to give effect the to the wages pause as provided for in Clauses 5A and 6(4) of the Regulation.

### **2019 Determination**

8. On 13 September 2019 the Tribunal determined that the Governor would receive a 2.5 per cent increase in salary to \$503,590 with effect on and from 2 October 2019.

### **2020 Determination**

9. In accordance with the SOOR Regulation and the temporary wages policy there will be no general increase in the salary payable to the holder of the office of Governor with effect from 2 October 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 2 October 2021.
10. This determination is consistent with the temporary wages policy which the Tribunal is required to give effect to pursuant to the SOOR Regulation.
11. Pursuant to section 13 of the SOOR Act the Tribunal determines that the remuneration to be paid to the holder of the office of Governor on and from 2 October 2020 shall be as specified in Determination No. 1.

**Determination No. 1- Governor**

**Annual determination of the remuneration to be paid to the holder of the office of Governor of New South Wales effective on and from 2 October 2020.**

<b>Public Office Holder</b>	<b>Salary per annum</b>
Governor	\$503,590

**The Statutory and Other Offices Remuneration Tribunal**

*Signed*

**Richard Grellman AM**

**Dated:** 7 September 2020

# Judges and Magistrates Group

Annual  
Determination

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

**7 September  
2020**

## Judges and Magistrates Group

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# Section 1

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### Background

1. Section 13 of the *Statutory and Other Offices Remuneration Act* (the SOOR Act) requires the Tribunal, each year, to make a determination of the remuneration to be paid to office holders on and from 1 July in that year. Section 10A defines 'remuneration' as salary or allowances payable in money.
2. The Judges and Magistrates Group comprises those public offices listed in the Schedules of the SOOR Act (except for the Court and Related Officers 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

## Judges and Magistrates Group

for the office holder (or group of office holders) have been achieved to fully offset the increased officer-related costs resulting from increased payment.

5. Since the introduction of the SOOR Regulation in 2013 office holders in the Judges and Magistrates Group have received 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

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### **2019 Determination**

8. On 27 August 2019, the Tribunal determined that officers in the Judges and Magistrates Group would receive an increase in salary of 2.5 per cent with effect from 1 July 2019.
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

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### 2020 Determination

11. 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.
12. The Tribunal received five submissions from office holders in the Judges and Magistrates Group.
13. The Chief Justice of the Supreme Court advised the Tribunal that given the current circumstances the Judges of the Supreme Court would not be seeking a pay rise. This view was supported by the Chief Judge of the District Court, the Chief Judge of the Land and Environment Court, the Chief Magistrate of the Local Court and the President of the Workers Compensation Commission. The various submissions noting the current economic environment and the circumstances of the COVID-19 pandemic.
14. These submissions were all received prior to the amendments to the SOOR Regulation which mandate no increase with effect from 1 July 2020.
15. 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

## Judges and Magistrates Group

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

## **Judges and Magistrates Group**

- 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.
16. 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 Judges and Magistrates 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.
  17. There is no increase in the Conveyance Allowance which is consistent with the methodology outlined on page 12. 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.
  18. Notwithstanding the impact of the amendment to the SOOR Regulation, the Tribunal continues to acknowledge the significant role judicial office holders undertake in the State’s justice system. Including work essential to the maintenance of the rule of law, the proper administration of justice and the ongoing success of both the economy and the social fabric of the State.
  19. The Tribunal notes additional work for the Courts associated with legislative change and a significant increase in case load. These claims are supported by data reported by the NSW Bureau of Crime Statistics and Research which reports significant increases in court finalisations over the last five years across all courts in NSW.
  20. This determination is consistent with the temporary wages policy which the Tribunal is required to give effect to pursuant to the SOOR Regulation.
  21. The Tribunal consulted with the Assessors prior to making this determination.

## **Judges and Magistrates Group**

22. Pursuant to section 13 of the SOOR Act the Tribunal determines that the remuneration to be paid to office holders in the Judges and Magistrates Group, on and from 1 July 2020 shall be as specified in Determination Nos. 1-5.

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



**Richard Grellman AM**

**Dated:** 7 September 2020

## Section 4

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### Report on travel allowances for NSW Judges and Magistrates

#### Background

1. 'Remuneration' is defined in the SOOR Act, as salary and allowances payable to office holders. Judges and Magistrates are holders of offices specified in Schedule 1 of the SOOR Act.
2. 'Allowance' is defined as follows:

*'allowance does not include a travelling or subsistence allowance, but includes a travelling or subsistence allowance for travel within Australia by the holder of an office specified in Schedule 1 who is:*

- (a) *a Judge or Acting Judge of a court, or*
  - (b) *any other judicial officer (within the meaning of the Judicial Officers Act 1986) nominated by the Minister by notice in writing to the Tribunal for the purposes of this definition.'*
3. The Tribunal in this determination will be setting rates for overnight stays in capital cities, for overnight stays in areas other than capital cities and meal rates for day or part of day absences from headquarters. The Tribunal has also determined the conditions upon which the rates are to be paid.

#### 2020 Review

4. Historically the Tribunal has had regard to movements in the travel rates as adopted for the NSW Public Sector generally. These rates are based on the reasonable travel allowances as determined by the Australian Taxation Office (ATO). The determination for 2020 being ATO TD2020/5.

#### Principles Adopted

5. In making its determinations on travel allowance rates the Tribunal has adopted a number of guiding principles as set out hereunder.
  - (a) Travelling allowances are intended to meet the costs necessarily incurred by Judges and Magistrates who are required to travel away from



## **Judges and Magistrates Group**

home/place of work on official business. Such costs include accommodation, meals and incidental expenses.

- (b) Allowances are provided to ensure that an officer is not financially disadvantaged as a result of having to travel on official business.
  - (c) Office holders are not expected to gain or lose financially as a result of travelling on official business.
6. Where an office holder is accommodated in private, non-commercial accommodation such as the home of a family member or friend, a rate of one third of the specified rate is payable, rounded upwards to the nearest dollar.

### **Conclusion**

7. In making its determination the Tribunal has had regard to the current travel allowance rates contained in Taxation Ruling TD2020/5. Non-metropolitan accommodation rates and meal rates are also as set out in the Determination.
8. The Tribunal makes Determination No 5 effective on and from 1 July 2020.

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



**Richard Grellman AM**

**Dated:** 7 September 2020

## Judges and Magistrates Group

# Section 5

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### Determinations

#### Determination No. 1 - Remuneration of Judges effective on and from 1 July 2020

Position	Salary per annum	Conveyance Allowance (NOTE 1)
Chief Justice of the Supreme Court	\$532,560	\$23,745
President of the Court of Appeal	\$498,670	\$23,745
Chief Judge of the Land and Environment Court	\$498,670	\$23,745
Judge of the Supreme Court	\$475,920	\$23,745
Judge of the Land and Environment Court	\$475,920	\$23,745
President, Workers Compensation Commission	\$475,920	\$23,745
Judge of the District Court	\$426,250	\$21,365
Associate Judge or acting Associate Judge (under the Supreme Court Act 1970)	\$426,250	\$21,365

#### Determination No. 2 - Remuneration of other Judicial Officers not referred to in determination No.1 effective on and from 1 July 2020

Position	Salary per annum	Conveyance Allowance (NOTE 1)
Chief Magistrate	\$424,540	\$21,365
Deputy Chief Magistrate	\$358,740	\$17,090
State Coroner	\$358,740	\$17,090
Chief Industrial Magistrate	\$345,580	\$17,090
Chief Commissioner Industrial Relations Commission	\$342,460	\$17,090
Magistrate	\$339,630	\$17,090
Children's Magistrate	\$339,630	\$17,090
Deputy State Coroner	\$339,630	\$17,090
Commissioner Industrial Relations Commission	\$311,330	\$17,090

## Judges and Magistrates Group

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

- i. 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).
- ii. The annual adjustment will not exceed 2.5 per cent (to comply with section 6AB of the SOOR Act).

### Determination No. 3 - Acting Judges rates

#### Supreme Court

The following rate shall be paid for each ordinary court working day on which the acting Judge is occupied in the performance of judicial duties.

Acting Judge of the Supreme Court	\$2,060 per day
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#### District Court

The following rate shall be paid for each ordinary court working day on which the acting Judge is occupied in the performance of judicial duties as designated by the Chief Judge in the District Court.

Acting Judge of the District Court	\$1,850 per day
------------------------------------	-----------------

### Determination No. 4 - Acting Magistrate rate

#### Local Court

The following rate shall be paid for each ordinary court working day on which the acting Magistrate is occupied in the performance of duties of a Magistrate.

Acting Magistrate of the Local Court	\$1,410 per day
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## Judges and Magistrates Group

### Determination No. 5 - Annual leave loading

Determination of leave loading for Judicial Officers effective on and from 1 July 2020

#### Leave Loading

An 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, to each of the following office holders:

- Magistrates
- Chief Commissioner, Industrial Relations Commission
- Commissioners, Industrial Relations Commission

### Determination No. 6 - Travel allowances for Judges and Magistrates

Pursuant to section 13 of the SOOR Act the Tribunal determines that the travel allowances for Judges and Magistrates will be as follows effective on and from 1 July 2020.

#### A. Travel necessitating an overnight stay

Travel Allowances	
Capital City Rates	Amount
Adelaide	\$400.30
Brisbane	\$448.30
Canberra	\$437.30
Darwin	\$484.30
Hobart	\$387.30
Melbourne	\$456.30
Perth	\$456.30
Sydney	\$456.30
Other Centre Rates	
Newcastle	\$386.30
Wollongong	\$386.30
Other Centres	\$386.30

## Judges and Magistrates Group

### Conditions

General conditions are to be as determined from time to time by the Attorney General.

In addition, the following specific conditions will apply.

- The full daily travel allowance rate is to be paid only where the Judge/Magistrate stays overnight at commercial accommodation. Where the Judge/Magistrate stays overnight at non-commercial accommodation then one third of the daily rate is to be paid.
- Where travel is for a period in excess of 24 hours then meal expenses for the final part day are to be paid.

#### B. Travel not involving an overnight stay

##### Meal Allowances for travel NOT involving an overnight stay

Meal	Amount
Breakfast	\$36.80
Lunch	\$52.20
Dinner	\$73.10

#### Statutory and Other Offices Remuneration Tribunal



Richard Grellman AM

Dated: 7 September 2020

# Public Office Holders Group

Annual  
Determination

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

**7 September  
2020**

## Public Office Holders Group

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# 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 Public Office Holders Group comprises those public offices, listed in the schedules of the SOOR Act (except for the Judges and Magistrates Group and the Court and Related Officers 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. This group also comprises any office holders who, pursuant to section 11A of the SOOR Act, have elected to receive, and for whom the Minister has approved access to, remuneration packaging arrangements that are provided to Public Service senior executives under the *Government Sector Employment Act 2013*.

## 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



## Public Office Holders Group

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.

5. Since the introduction of the SOOR Regulation in 2013 office holders in the Public Office Holders Group have received general annual increases capped at 2.5 per cent. Members of the NSW Aboriginal Land Council received an additional increase of 7.5 per cent in 2019 as they were able to identify sufficient officer-related savings to offset the additional increase.
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.*

## **Public Office Holders Group**

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

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### 2019 Determination

8. On 27 August 2019, the Tribunal determined that office holders in the Public Office Holders Group would receive a general increase in salary of 2.5 per cent.
9. The Tribunal also considered a submission from the Chairperson, Deputy Chairperson and Members of the NSW ALC - together, Members of the NSW ALC. The Members of the NSW ALC requested an increase in salary of 10 per cent with effect from 1 July 2019.
10. The submission identified officer-related cost saving resulting from changes in work practices as referred to in subclause 7(1)(b)(iii) of the SOOR Regulation and from changes in personal appointment benefits as referred to in subclause 7(1)(b)(i) of the SOOR Regulation.
11. An initial increase of 6.5 per cent was granted from 1 July 2019 on the basis that sufficient officer-related savings had been identified at that time to offset the additional cost of more than 2.5 per cent.
12. The Tribunal also determined that a further increase of 3.5 per cent could be awarded if further additional savings could be identified. An overview of the request from the Members of the NSW ALC and the Tribunal's findings are outlined on pages 5 to 7 of the Public Office Holders Determination of 27 August 2019.
13. On 13 May 2020 the Chief Executive Officer of the NSW ALC wrote to the Tribunal and provided details of further additional savings. The Tribunal reviewed that request and found that the identified savings met the conditions required to provide for the additional increase. Those conditions being:
  - a) the additional savings were not savings already identified to fund the initial increase.
  - b) savings were achieved from the date that Members of the NSW ALC elected to move from travel allowances to reimbursement of expenses.

## Public Office Holders Group

- c) savings relate to the identified change in personal appointment benefits being the reimbursement of travel expenses.
  - d) the identified savings exceeded the additional cost and were achieved prior to 30 June 2020.
14. On that basis the Tribunal gave approval for the second increase of 3.5 per cent to be awarded from the date requested by the CEO being 1 April 2020. The Tribunal being satisfied that sufficient officer-related savings were achieved to offset the additional increase by that date.
15. In accordance with the Tribunal's determination of 27 August 2019 the following salaries were applicable from 1 April 2020:
- Chairperson                 \$177,100
  - Deputy Chairperson     \$169,050
  - Member                         \$161,000

## Section 3

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### 2020 Annual Determination

16. 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.
17. The Tribunal received two submissions from office holders for consideration in the 2020 annual review.
18. The Crime Commissioner advised that officers within the Commission do not seek an adjustment of salary above the general increase of up to 2.5 per cent as part of the 2020 review.
19. The Executive Manager, Parliamentary Services indicated his intention, at a future date, to request a review of the office based on changes in work value. Any such request will need to be supported by evidence of officer-related savings to offset any additional increase. The Executive Manager also informed the Tribunal that the Governor has given approval for the title of the role to be changed from Executive Manager, Parliamentary Services to Chief Executive, Parliamentary Services. The Tribunal notes that the SOOR Act has not been amended to reflect this change and the Tribunal will continue to refer to this role as the Executive Manager, Parliamentary Services until such time as Schedule 2, Part 2 is amended.
20. These submissions were all received prior to the amendments to the SOOR Regulation which mandate no increase with effect from 1 July 2020.
21. 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

## Public Office Holders Group

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 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.

## Public Office Holders Group

- 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
- 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.

22. 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 Public Office Holders 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.

23. This determination is consistent with the temporary wages policy which the Tribunal is required to give effect to pursuant to the SOOR Regulation.

24. The Tribunal consulted with the Assessors prior to making this determination.

25. Pursuant to section 13 of the SOOR Act the Tribunal determines that the remuneration to be paid to office holders in the Public Office Holders Group on and from 1 July 2020 shall be as specified in Determination No. 1.

**Statutory and Other Offices Remuneration Tribunal**



**Richard Grellman AM**

**Dated:** 7 September 2020

## Public Office Holders Group

# Section 4

## Determinations

### Determination No. 1-Public Office Holder Group

**Annual determination of the remuneration of the Public Office Holder Group effective on and from 1 July 2020**

Public Office Holder	Salary per annum
Public Service Commissioner	\$541,365
Chief Commissioner of the Law Enforcement Commission	\$511,520
Auditor General	\$503,605
Ombudsman	\$502,300
Commissioner, NSW Crime Commission	\$498,410
Assistant Commissioner, NSW Crime Commission	\$472,180
President, Mental Health Review Tribunal	\$407,570
Electoral Commissioner	\$391,995
Full-time Commissioner for Integrity of the Law Enforcement Conduct Commission	\$383,640
Full-time Commissioner for Oversight of the Law Enforcement Conduct Commission	\$383,640
Valuer General	\$362,625
Workers Compensation Independent Review Officer	\$361,850
Deputy President Mental Health Review Tribunal	\$356,590
Information Commissioner	\$353,600
Privacy Commissioner	\$341,230
Mental Health Commissioner	\$328,075
Parliamentary Budget Officer	\$323,365
Principal Claims Assessor ( <i>Motor Accidents Compensation Act 1999</i> ), and Principal Claims Assessor ( <i>Motor Accidents Injuries Act 2017</i> ) (while ever these offices are held concurrently by the same person)	\$322,115
Inspector of Custodial Services	\$311,840
Small Business Commissioner	\$307,225
Deputy Chairperson, Law Reform Commission	\$304,165
Commissioner, Law Reform Commission	\$289,430
Clerk of the Legislative Assembly	\$283,990
Clerk of the Parliaments	\$283,990
Executive Manager, Parliamentary Services	\$283,990
Registrar Workers Compensation Commission	\$283,990
Senior Arbitrator, Workers Compensation Commission (legally qualified)	\$263,590
Deputy Mental Health Commissioner	\$262,685
Deputy Clerk, Legislative Assembly	\$243,785
Deputy Clerk, Legislative Council	\$243,785



## Public Office Holders Group

Public Office Holder	Salary per annum
Senior Arbitrator, Workers Compensation Commission (not legally qualified)	\$242,760
Arbitrator, Workers Compensation Commission (legally qualified)	\$232,730
Registrar, Aboriginal Land Rights Act 1983	\$225,220
Assessor ( <i>Local Court Act 2007</i> )	\$215,495
Arbitrator, Workers Compensation Commission (not legally qualified)	\$209,225
Chairperson, Board of the Aboriginal Housing Office	\$168,155
Part-time Chairperson of a Board of Governors of a Corporation constituted by the <i>Electricity Retained Interest Corporations Act 2015</i>	\$165,575
Member of the New South Wales Aboriginal Land Council (Note 1)	\$161,000
Part-time Member of a Board of Governors of a Corporation constituted by the <i>Electricity Retained Interest Corporations Act 2015</i>	\$88,305
Chairperson, Infrastructure NSW	\$86,545
President Mental Health Review Tribunal (part time daily rate)	\$1,690
Deputy President Mental Health Review Tribunal (part time daily rate)	\$1,480
Assessor <i>Local Court Act 2007</i> (daily rate)	\$895

Note 1	The Chairperson shall receive an allowance of 10% (i.e. a total of \$177,100 per annum) and the Deputy Chairperson shall receive an allowance of 5% (i.e. a total of \$169,050 per annum).
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### Leave Loading

An 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



**Richard Grellman AM**

**Dated:** 7 September 2020

Public  
Service  
Senior  
Executives

Annual  
Determination

*Report and determination  
under section 240 of the  
Statutory and Other  
Offices Remuneration Act  
1975*

7 September  
2020

## Public Service Senior Executives

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# Section 1

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## Background

### Legislative Framework

1. Senior executives employed under the *Government Sector Employment Act 2013* (GSE Act) are referred to as Public Service senior executives (PSSEs).
2. Section 35 of the GSE Act provides that the Minister may determine bands in which senior executives are to be employed. The following four bands were determined by the former Premier on 14 February 2014:

Band 4	Secretary level
Band 3	Deputy Secretary level
Band 2	Executive Director level
Band 1	Director Level

3. Section 40 of the GSE Act provides for the remuneration package of a PSSE to be within the range determined under the *Statutory and Other Offices Remuneration Act 1975* (SOOR Act) for the band in which the executive is employed. Remuneration packages are expressed as a total cost of employment, whether the amount is monetary remuneration for the executive, or partly as that remuneration and partly as the cost to the employer of the executive's employment benefits.
4. Section 240 of the SOOR Act provides for the Tribunal to make an annual determination of remuneration packages for senior executives on and from 1 July in that year.
5. The Tribunal's determination provides for remuneration ranges for Bands 1 to 4 and specific remuneration packages for individual office holders identified in the determination.
6. This determination, made under Part 3B of the SOOR Act, also applies to any senior executive employed in the following aligned services:

## Public Service Senior Executives

- NSW Police Force senior executive to whom Part 5 of the *Police Act 1990* applies, also the Commissioner of Police
  - NSW Health Service senior executive to whom Part 3 of Chapter 9 of the *Health Services Act 1997* applies
  - Transport Service senior executive to whom Part 7A of the *Transport Administration Act 1988* applies.
7. Executive employment arrangements for Health Service senior executives, Transport Service senior executives and NSW Police Force senior executives align with those of PSSEs to the extent provided for in the legislation governing their employment.
  8. A small number of ‘transitional former senior executives’ and NSW Police Force senior executives continue to be eligible for remuneration packages as determined under Part 3A of the SOOR Act. The remuneration ranges in the Transitional Senior Executives determination apply to these executives.

## Government Wages Policy

9. In determining remuneration for PSSEs 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.
10. 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). 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.
11. On 29 May 2020, the Premier, the Hon Gladys Berejiklian MP, made the *Industrial Relations (Public Sector Conditions of Employment) Amendment (Temporary Wages*

## **Public Service Senior Executives**

*Policy) Regulation 2020*. That regulation amended the IR Regulation 2014 to implement a temporary wages policy, being a 12-month pause on wage increases for public sector employees covered by the IR Act.

12. On 2 June 2020, the amending regulation was disallowed by the Legislative Council. The effect of that disallowance is that the Government's wages policy which provides for increases of up to 2.5 per cent continues to apply.
13. While the Tribunal is required to give effect to the Government's wages policy in the making of this determination, it is open to the Tribunal to determine an increase of up to 2.5 per cent or no increase at all.
14. The Tribunal notes that the Government's position on wage increases, as put forward in the Crown Employees (Public Sector - Salaries 2020) Award and Other Matters, is with the IRC pending determination.

### **2019 Annual Determination**

15. The Tribunal's 2019 annual determination for PSSEs dated 27 August 2019 provided for a 2.5 per cent increase in the minimum and maximum remuneration ranges for each band. The increase also applied to the remuneration packages for those senior executives named in the determination. As part of the 2019 annual determination, the Tribunal determined to alter the range of remuneration packages for PSSE Band 4 for each executive named in the role of Secretary of a Department, which excluded the discretionary remuneration range, to take effect from 1 July 2019:

- Mr Tim Reardon, Secretary, Department of Premier and Cabinet: \$629,100 per annum
- Mr Jim Betts, Secretary, Department of Planning, Industry and Environment: \$605,500 per annum
- Mr Mike Pratt, Secretary, NSW Treasury; Mr Mark Scott, Secretary, Department of Education; Ms Elizabeth Koff, Secretary, Ministry of Health; Mr Rodd Staples, Secretary, NSW Transport; Mr Michael Coutts-Trotter, Secretary, Department of

## **Public Service Senior Executives**

Communities and Justice; and Mr Glenn King, Secretary, Department of Customer Service: \$599,000 per annum.

### **2019 - 2020 Special Determinations**

16. The Tribunal has made four special determinations, pursuant to section 24P of the SOOR Act, since the making of the 2019 annual determination which amend that determination.
17. On 30 March 2020, the Tribunal determined to alter the range of remuneration packages for Band 4 PSSEs to provide Mr Michael Fuller in the role of Commissioner of Police with a remuneration package of \$649,500 per annum effective from 1 January 2020.
18. On 28 February 2020, the Tribunal determined to alter the range of remuneration packages for Band 3 PSSEs to provide Dr Jim Bentley in the role of Chief Executive Officer, NSW Water, Department of Planning, Industry and Environment with a remuneration package of \$588,102 per annum, with effect from the date of his appointment.
19. On 10 December 2019, the Tribunal determined to alter the range of remuneration packages for Band 3 PSSEs to provide Mr Steffen Faurby in the role of Managing Director, Technical and Further Education Commission with a remuneration package of \$575,000 per annum, with effect from the date of his appointment being 13 January 2020.
20. On 21 October 2019, the Tribunal determined to alter the range of remuneration packages for Band 4 PSSEs to provide Ms Emma Hogan in the role of Secretary of the Department of Customer Service with a remuneration package of \$599,000 per annum effective from the date of her appointment being 21 October 2019.
21. One previous special determination made by the Tribunal no longer applies as the executive named in the special determinations has vacated the specified role since the making of the 2019 annual determination. Accordingly, the different remuneration

## **Public Service Senior Executives**

package that applied to Ms Sandra Chipchase in the role of Chief Executive Officer,  
Destination NSW has been removed from Determination No 1.



## Section 2

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### Government Submission

22. 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 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’

## Public Service Senior Executives

(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
- 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.

## Section 3

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### 2020 Annual Determination

#### No Increase

23. Given the current economic and social circumstances, the Tribunal has determined that there be no increase in the minimum and maximum of the remuneration ranges for Bands 1 to 4. There is also no increase in the remuneration packages for those senior executives named in the determination.
24. This is consistent with the Tribunal's determinations for the Public Office Holders Group, Court Related Office Holders Group and Judges and Magistrates Group. The Tribunal also notes that other remuneration tribunals subject to the IR Regulation have also provided no increase.
25. The Tribunal consulted with the Assessors prior to making this determination.
26. Annual and Special determinations are published on the NSW Remuneration Tribunals website.

#### Statutory and Other Offices Remuneration Tribunal



**Richard Grellman AM**

**Dated:** 7 September 2020

## Public Service Senior Executives

# Section 4

### Determination No.1-Remuneration Package Ranges for the PSSEs

The Tribunal determines that the remuneration package ranges for Public Sector Senior Executive Bands and different remuneration packages that apply to senior executives named effective on and from 1 July 2020 shall be:

Public Sector Senior Executive Bands			
Band	Per annum range		
Band 4 - Secretary level	\$487,051	to	\$562,650
Band 3 - Deputy Secretary level	\$345,551	to	\$487,050
Band 2 - Executive Director level	\$274,701	to	\$345,550
Band 1 - Director level	\$192,600	to	\$274,700

Different remuneration packages that apply to the senior executives named	
<b>Band 4 – Secretary level</b>	
Mr Michael Fuller, Commissioner of Police: \$649,500 per annum	
Mr Tim Reardon, Secretary, Department of Premier and Cabinet: \$629,100 per annum	
Mr Jim Betts, Secretary, Department of Planning, Industry and Environment: \$605,500 per annum	
Ms Elizabeth Koff, Secretary, Ministry of Health: \$599,000 per annum	
Mr Michael Pratt, Secretary, NSW Treasury: \$599,000 per annum	
Mr Mark Scott, Secretary, Department of Education: \$599,000 per annum	
Mr Rodd Staples, Secretary, Transport for NSW: \$599,000 per annum	
Mr Michael Coutts-Trotter, Secretary, Department of Communities and Justice: \$599,000 per annum	
Ms Emma Hogan, Secretary, Department of Customer Services: \$599,000 per annum	
<b>Band 3 – Deputy Secretary level</b>	
Mr Simon Draper, Chief Executive Officer and Co-ordinator General, Infrastructure NSW: \$599,000 per annum	
Dr Jim Bentley, Chief Executive Officer, Water NSW, Department of Planning, Industry and Environment: \$588,102 per annum	
Mr Samuel Sangster, Chief Executive Officer, Western City and Aerotropolis Authority: \$584,250 per annum	
Mr Steffen Faurby, Managing Director, Technical and Further Education Commission: \$575,000 per annum	
Dr Nigel Lyons, Deputy Secretary, Strategy and Resources, Ministry of Health: \$533,050 per annum	
<b>Band 2 – Executive Director level</b>	
Mr Tim O'Connor, Executive Director, Criminal Investigations, NSW Crime Commission: \$409,500 per annum	
Mr Jon Spark, Executive Director, Financial Investigations, NSW Crime Commission: \$379,500 per annum	
Mr Stephen Loquet, Chief Information Officer, Department of Education: \$378,850 per annum	

### Statutory and Other Offices Remuneration Tribunal



**Richard Grellman AM**

**Dated:** 7 September 2020