



REMUNERATION TRIBUNAL

AUGUST 2003

The Hon Tony Abbott MP
Minister for Employment and Workplace Relations
Parliament House
CANBERRA ACT 2600

Dear Minister

ANNUAL REPORT 2002–2003

We have pleasure in presenting to you the Remuneration Tribunal's annual report for 2002-2003. Section 12AA(2) of the *Remuneration Tribunal Act 1973* (the Act) requires you to cause a copy of this report to be laid before each House of Parliament within 15 sitting days of your receiving it.

In accordance with the Act, the report addresses the operations of the Tribunal in the year to 30 June 2003.

The Tribunal has responsibility for determining, or advising upon, the remuneration and allowances for a broad range of senior Australian Government public offices. In undertaking its work, the Tribunal seeks to provide outcomes guided by concepts of flexibility, consistency, transparency, clarity of expression and a focus on basic remuneration principles of productivity, job complexity and merit.

Membership of the Tribunal

Mr Richard Humphry's appointment as President of the Tribunal expired on 5 March 2003. Mr John Conde, Member, was appointed Acting President of the Tribunal, from 6 March 2003 until 17 June 2003, when his term as a Member expired. Mr Conde was appointed as President of the Tribunal, for a term of five years, on 25 June 2003. Ms Janet Grieve continues as a Member of the Tribunal, having been appointed on 12 April 2000.

Ministerial and Parliamentary Remuneration

The Framework

The current system of parliamentary remuneration and related entitlements (including for former Senators and Members) is regulated by six main Acts:

Members of Parliament (Life Gold Pass) Act 2002;
Parliamentary Allowances Act 1952;
Parliamentary Contributory Superannuation Act 1948;
Parliamentary Entitlements Act 1990;
Remuneration and Allowances Act 1990; and
Remuneration Tribunal Act 1973.

The Tribunal determines certain allowances for all 226 federal Senators and Members of Parliament and the additional salary for holders of 44 Parliamentary offices such as the Leader of the Opposition, the Presiding Officers, Whips and the Chairs of various parliamentary committees. The Tribunal reports to Government on the additional salary of up to 42 Ministers, including the Prime Minister, and has a role in the setting of base salary for federal parliamentarians.

Matters relating to the provision of support for Senators and Members of Parliament that are not within the jurisdiction of the Tribunal are decided by the Government, through the Special Minister of State, or the Parliament.

Base Salary for Federal Senators and Members

As outlined in its Report 1999/01 of December 1999, the Tribunal was asked by Government to report on parliamentarians' base salary, and to identify a reference salary and mechanism for adjustment. The Government and subsequently both houses of parliament accepted the Tribunal's recommendation that the reference salary be a salary within the Tribunal's Principal Executive Office (PEO) classification structure. The relevant PEO reference salary A of Band A was \$98,800 per annum on 1 July 2002 (Determination 2002/16).

On 29 May 2003 the Tribunal signed Determination 2003/10, implementing its annual review decision for the PEO structure. Reference salary A of Band A increased to \$102,760 per annum on and from 1 July 2003.

2002 Annual Review of Parliamentary Allowances

The 2002 review commenced on 9 April 2002, when the then President of the Tribunal, Mr Richard Humphry AO, wrote to all federal Senators and Members inviting submissions. Submissions were sought by 19 July 2002. It had been the Tribunal's intention to complete the review by late September 2002. However, circumstances, including the late arrival of key submissions and the President's position being vacant from March 2003, meant that at 30 June 2003 the review was not completed. It is expected to be completed by the end of 2003. In the course of its consideration of 2002 review matters during 2002-2003, the Tribunal issued three determinations in order to progress

some procedural and other matters for which consultation was not considered necessary. These determinations are:

- Determination 2002/18, 15 October 2002

The Act requires the Tribunal to review annually the entitlements for members of Parliament. The Determination and its accompanying Explanatory Memorandum stated that the Tribunal had decided to make no changes at that time to parliamentarians' entitlements as it was awaiting key submissions to the 2002 review. Once those submissions were received, the Tribunal would make a further determination as soon as possible; and

- Determinations 2003/13 and 2003/14, 17 June 2003

These determinations deal with entitlements and travelling allowance and replaced the existing principal Determinations 1998/08 and 1998/26 respectively. Changes made include modifications to the overseas study travel provisions to meet the needs of Senators and Members more effectively (within the existing funding cap), improvements to travelling allowance and car transport arrangements to enhance their flexibility, a 10 per cent increase in the Communications Allowance in recognition of increased costs, and provision to enable Senators and Members to use one of their home telephone lines as a dedicated data line.

The Tribunal also noted in the statement accompanying these determinations that there were a number of matters on which it had reserved its decision. It noted that those matters would be considered when the Tribunal was fully constituted and had consulted appropriately.

Determinations on other Parliamentary Matters

As required by the Act the Tribunal considered a range of parliamentary matters during 2002-2003. In addition to the determinations noted above, it:

- prepared the annual report on Ministers' additional salary (Report No 1 of 2003), which made no changes to established percentage rates applied to the base parliamentary salary;
- issued a determination on parliamentary office holders' additional salary (Determination 2003/05), which made no changes to established percentage rates applied to the base parliamentary salary; and
- amended principal Determination 1998/08 to increase the Canberra travelling allowance rate from \$145 per night to \$170 per night, with effect from 1 May 2003 (Determination 2003/08).

Judicial and Related Offices' Remuneration

The Framework

Three main Acts establish the current system of judicial remuneration and benefits:

- *Judges' Pensions Act 1968;*
- *Remuneration Tribunal Act 1973;* and
- *Judicial and Statutory Officers (Remuneration and Allowances) Act 1984.*

The Tribunal has the power to determine remuneration and a range of associated entitlements for judicial and related offices. Other entitlements for those offices may also be determined by other authorities, for example by regulations made by the Governor-General.

2002 Annual Review of Judicial and Related Offices' Remuneration

Determination 2002/21, the Tribunal's current consolidated determination for judicial and related offices, was made in November 2002 following finalisation of the Tribunal's 2002 annual review. In arriving at the decisions reflected in Determination 2002/21 and its accompanying statement, the Tribunal was mindful of a number of principles relating to judicial and related offices' remuneration: independence, recruitment and retention, workload and related factors, comparative remuneration data and economic circumstances.

Judicial offices

The Tribunal determined an increase of 7% for judicial offices, effective from 1 July 2002. The Tribunal also decided that these offices would receive two further increases of 5% from July 2003 and 5% from July 2004. These increases were to be independent of the Tribunal's annual reviews of judicial remuneration.

In deciding these increases, the Tribunal noted that the federal judiciary had managed and dealt with growing demands, increased workload, greater complexity of issues and a significant responsibility to deliver decisions, often quickly, in a context of growing public scrutiny and interest.

The Tribunal recognised also that there had been a change in the nature and organisation of judicial work. The Federal Magistrates Service and tribunals are now dealing with the less complex, high volume caseload. The superior courts are managing cases with higher levels of complexity and diversity, such as those related to the 'new economy', including intellectual property, information technology, biochemistry, gene technology and the implementation of competition principles.

The review statement, available at www.remtribunal.gov.au, outlines the considerations influencing the Tribunal's decisions.

Related offices

As part of the 2002 review, the Tribunal determined an increase of 3.1% for related (non-judicial) offices, such as registrars, the chief executives of the courts and members of tribunals, effective from 1 July 2002. That increase was based on wages growth as measured by the Australian Bureau of Statistics' Wage Cost Index. The Tribunal also determined certain other changes to individual offices and other conditions which are set out in Determination 2002/21 and its accompanying statement.

2003 Annual Review of Judicial and Related Offices

Determination 2003/12 was made on 12 June 2003 as part of the 2003 review of judicial and related offices' remuneration. The Determination provided a 4% increase for judicial and related offices, with effect from 1 July 2003. The increase took into account factors including, but not limited to, indices such as the Wage Cost Index, executive remuneration data in both the public and private sectors and broader economic indicators.

The statement accompanying Determination 2003/12 also incorporated the outcomes of the 2002 review of judicial remuneration. In addition, the statement noted that the Tribunal was considering a range of other matters as part of the 2003 annual review, and may issue a further determination (during the 2003/2004 year) as part of that review once expected key submissions are received and considered.

Public office holders

The Framework

Under the Act, the Tribunal is responsible for setting the remuneration, some allowances and recreation leave for a broad range of full-time and part-time holders of public office. The Tribunal is also required under several other Acts, for example the *Public Service Act 1999*, to provide advice to the Prime Minister or another minister before the minister determines remuneration for a range of other senior Commonwealth offices.

Where the minister responsible for the Act, the Minister for Employment and Workplace Relations, makes a declaration that a full-time office is suitable for placement in the PEO Structure, the employing body (the portfolio minister or the board) determines terms and conditions, subject to parameters set by the Tribunal.

Principal Executive Offices (PEO Structure)

The Principal Executive Office (PEO) Structure enables employing bodies to determine remuneration within parameters set by the Tribunal and provides flexibility to office holders to negotiate the composition of their Total Remuneration (TR).

Before an office is placed in the PEO structure, the Tribunal advises the Minister responsible for the Act on whether a particular office is suitable for the Structure. The Tribunal also advises on the TR appropriate on that office's commencement as a PEO and on the PEO Band level. At 30 June 2003, there were 83 PEO offices, comprising 7 defined under Section 3 of the Act and 76 declared by Ministers under Sections 3A and 3B of the Act. Three new declarations were made and one former PEO office was abolished during the year.

During the year, Determination 1999/15 which governs the PEO Structure allowed for the remuneration of PEOs who receive less than \$270,000 TR to be increased or decreased by up to 5% by the employing body without reference to the Tribunal. Where PEOs receive a higher level of TR, or variations in excess of 5% are proposed, the prior agreement of the Tribunal is required. The Determination provides that variations by employing bodies need to be underpinned by productivity or work value changes.

The Tribunal varied Determination 1999/15 to adjust the parameters applying to PEO remuneration with effect from 1 July 2002. It increased the maximum of each PEO band by 3.2%. The Tribunal decided that the 5% that applied to variations in TR below \$270,000 remained appropriate for the 2002-2003 year.

In Determination 2003/10, the Tribunal varied the parameters applying to PEO remuneration with effect from 1 July 2003. The maximum of each PEO band was increased by 4% and clause D1 of Determination 1999/15 was amended to permit employing bodies to increase remuneration for offices receiving \$290,000 per annum by 5% in the 2003-2004 financial year.

PEO employing bodies are required to report to the Tribunal by 31 March each year on the TR level of each PEO as at the preceding 31 December. Reports on the 83 PEO offices in the structure as at 31 December 2002 showed the following percentage changes to the levels of remuneration:

- 9 had received an increase of greater than 5%;
- 23 had received an increase of 5%;
- 8 had received an increase of 4%;
- 22 had received an increase of 3%;
- 2 had received increases of 2% and 1% respectively;
- 13 had received no increase
(3 had been in the structure for three months or less);
- 4 offices' remuneration was decreased; and
- 2 offices were not occupied.

Holders of full-time and part-time public office

As required by the Act, the Tribunal reviewed aspects of the remuneration of executives and of members of boards and committees.

Full-time office holders were converted to a TR approach in Determination 2002/23, which took effect from 19 December 2002. That Determination included a 1.7% remuneration increase. In May 2003 the Tribunal decided on a further 3% remuneration increase to take effect from 1 July 2003.

The five full-time office holders in Determination 2002/09 that have not been translated to TR received a 4% increase in base salary from 5 April 2003.

Part-time office holders also received a 4% increase in annual and per diem fees from 5 April 2003 in Determination 2003/03.

The Tribunal considered submissions on remuneration and/or conditions of individual offices. As a result, 47 new levels of base salary, remuneration or performance bonus arrangements for new and existing public offices were approved.

In addition, in accordance with the requirements of the *Public Service Act 1999*, the Tribunal advised the Prime Minister on the remuneration of Departmental Secretaries, and the Minister Assisting the Prime Minister for the Public Service on the remuneration of the Public Service Commissioner. It also advised each of the relevant Ministers on the remuneration and other conditions for three Executive Agency Heads

Review of Full-time Offices

A major change to the remuneration for full time offices was made in December 2002 as an outcome of a major review. Prior to the changes made in Determination 2002/23 referred to above, salary and some loadings for full time offices were determined by the Tribunal. The employer approved certain other remuneration and condition components. Consequently, the actual amount of remuneration (salary and personal benefits) received by an individual office holder were, in most cases, significantly higher than the salary set by the Tribunal.

A TR approach was implemented by the Tribunal and took effect from 19 December 2002. Determination 2002/23 identifies all elements of remuneration - salary, allowances and lump sum payments - as well as items paid for by the employer that provide a personal benefit to the office holder, such as a vehicle for personal use. Employer superannuation costs are also taken into account in identifying the TR figure.

A primary objective of the move to TR was to determine the total value an office holder receives as salary and personal benefits for undertaking the functions and exercising the powers of his or her office. The change also provides office holders with increased flexibility in the way they choose to receive benefits, for example, the capacity to receive cash rather than a vehicle. The Tribunal's intention is that the salary and benefits provided by

the Determination as TR are not to be supplemented by the employer of the office holder.

Disclosure of decisions

The Act requires that all Tribunal reports and determinations be tabled in both Houses of Parliament (sub-sections 6(5) and 7(7) refer). During 2002-2003, the Tribunal issued one report and 26 Determinations (listed in Appendix 1).

All of these documents:

- were tabled in both Houses of the Parliament by the Minister for Employment and Workplace Relations, as the responsible Minister and within the timeframe required by the relevant subsections of the Act; and
- lay before each House of the Parliament for the required further 15 sitting days, without a disapproval motion being initiated by any Senator or Member.

An explanatory memorandum is tabled with each Tribunal determination. The Senate Standing Committee on Regulations and Ordinances scrutinises each Tribunal determination.

The Tribunal normally issues an accompanying statement, outlining its reasons for decisions, with each of its major determinations. The Tribunal generally takes into account a wide range of factors, including broad economic trends, issues relevant to the employment market, and specific workplace factors such as work value, productivity, recruitment and retention as appropriate to the particular offices which it has considered and determined upon. Copies of the Tribunal's determinations, statements and other information are available on its website at www.remtribunal.gov.au

Administrative and secretariat issues

Members' terms of office and their attendance at meetings for the reporting year are as follows:

	<i>Position held</i>	<i>Appointment date</i>	<i>Term of office</i>	<i>Tribunal sessions attended*</i>
Mr Richard Humphry AO	President	4 March 1998	5 years	12
Mr John Conde AO	Member	18 June 1998	5 years	17
Mr John Conde AO	President	25 June 2003	5 years	as above
Ms Janet Grieve	Member	12 April 2000	5 years	17

* *Tribunal sessions include face to face meetings and out of session consideration of items.*

Members of the Tribunal are appointed on a part-time basis and have a range of business and private interests. From time to time, a member of the Tribunal may withdraw herself or himself from the discussion of certain agenda items where there is the possibility of a real or perceived conflict of interest. Conflict of interest statements are updated on a regular basis.

The Tribunal consulted various interested parties in person, by telephone and in discussions held in Canberra, Sydney and Melbourne. In particular, the judicial and related offices' review involved extensive consultations in person with representatives of courts and tribunals and other interested parties.

Support for the Tribunal's work is provided by a Secretariat located in the Department of Employment and Workplace Relations. During the year 179 briefs were prepared for both in-session and out of session tribunal meetings. We would like to acknowledge the high standard of support provided by the Secretariat during the course of the year.

Freedom of Information Act 1982 matters

The Tribunal records held by the Secretariat are subject to the operation of the *Freedom of Information Act 1982* (the FOI Act). FOI requests are handled by the Department in accordance with established procedures. Two FOI requests were received in 2002-2003. One request received in the 2001-2002 year was finalised in 2002-2003 following a hearing in the Administrative Appeals Tribunal. For the purposes of the FOI Act, we note that the powers and functions of the Tribunal and of the Minister for Employment and Workplace Relations are as outlined in this report.

Other legislative requirements

The Tribunal has no matters to report under section 74 of the *Occupational Health and Safety (Commonwealth Employment Act) 1991*, section 516A of the *Environment Protection and Biodiversity Conservation Act 1999* or under the *Commonwealth Electoral Act 1918*.

This concludes the Tribunal's annual report for 2002-2003.

Yours sincerely



John C Conde AO
PRESIDENT



Janet Grieve
MEMBER

Appendix 1**Remuneration Tribunal Determinations and Reports for 2002-2003**

During 2002–2003, the Tribunal issued the following reports and determinations. Copies of these documents can be obtained from:

1. the tabling offices of the Senate or the House of Representatives; and
2. the Tribunal's website www.remtribunal.gov.au

Document Description

2002/14	Remuneration and allowances for various public office holders
2002/15	Remuneration and allowances for various public office holders
2002/16	PEO Classification Structure and Terms and Conditions
Statement	PEO Classification Structure and Terms and Conditions – Statement (Determination 2002/16)
2002/17	Remuneration and allowances for various public office holders
2002/18	Members of Parliament: Allowances
2002/19	Remuneration and Allowances for Holders of Public Offices
2002/20	Recreation Leave for Full-Time Holders of Relevant Offices
2002/21 *	Judicial and related offices - remuneration and allowances
Statement	Major review of judicial and related offices' remuneration (Determination 2002/21)
2002/22	Remuneration and Allowances for Holders of Public Offices
2002/23 *	Remuneration and Allowances for Holders of Full-Time Public Office
2003/01	Remuneration and Allowances for Holders of Public Offices
2003/02	Remuneration and Allowances for Holders of Public Offices
2003/03 *	Remuneration and Allowances for Holders of Part-time Public Office
2003/04	Remuneration and Allowances for Holders of Public Offices
Report 1	Report on Ministers of State - Salaries Additional to the Basic Parliamentary Salary
2003/05 *	Parliamentary office holders - Additional salary
2003/06 *	Specified Statutory Officers - Remuneration and Allowances
2003/07	Remuneration and Allowances for Certain Holders of Public Office
Statement	Statement on 2003 Review of Remuneration and Allowances for Holders of

	Public Offices (Determinations 2003/03, 2003/06 and 2003/07)
2003/08	Remuneration and allowances for various public office holders
2003/09	Remuneration and allowances for various Holders of Public Office
2003/10	PEO Classification Structure and Terms and Conditions
2003/11 *	Remuneration and Allowances for Holders of Full-Time Public Office
2003/12	Judicial and Related Offices Remuneration
Statement	Statement on Judicial and Related Offices - Remuneration and Allowances (Determination 2003/12)
Annual Review Statement	2002 Annual Review of Parliamentary Allowances for Expenses of Office
2003/13 *	Members of Parliament - Travelling Allowance
2003/14 *	Members of Parliament - Entitlements
2003/15 *	Remuneration and Allowances for various Holders of Public Office
2003/16	Remuneration and Allowances for various Holders of Public Office

* The documents are Principal Determinations.