



REMUNERATION TRIBUNAL

1 September 2004

The Hon Kevin Andrews MP
Minister for Employment and Workplace Relations
Parliament House
CANBERRA ACT 2600

Dear Minister

ANNUAL REPORT 2003–2004

We have pleasure in presenting to you the Remuneration Tribunal's annual report for 2003-2004. 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 2004.

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 John Conde was appointed President of the Tribunal on 25 June 2003 for a term of five years. Ms Janet Grieve continues as a Member of the Tribunal, having been appointed on 12 April 2000 for a term of five years. Mr John Allen was appointed a Member of the Tribunal on 27 August 2003 for a term of five years.

Ministerial and Parliamentary Remuneration and Allowances

The Framework

The current system of parliamentary remuneration and related entitlements (including for former Senators and Members) is regulated by seven 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;
Remuneration Tribunal Act 1973; and
Parliamentary Superannuation Act 2004

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 the 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 \$102,760 per annum on 1 July 2003 (Determination 2003/10).

On 18 May 2004 the Tribunal signed Determination 2004/15, implementing its annual review decision for the PEO structure. Reference salary A of Band A increased to \$106,770 per annum on and from 1 July 2004.

Annual Review of Parliamentary Allowances for Expenses of Office

In its June 2003 Statement on parliamentary allowances for expenses of office, the Tribunal noted that it had deferred decisions on certain matters about which it received submissions and that it would consider those matters once it was fully constituted and had had the opportunity to consult appropriately. Following the appointment of Mr Allen to the Tribunal on 27 August 2003, the Tribunal undertook further consultation and subsequently issued a Statement on outstanding matters in April 2004, covering the Life

Gold Pass and severance travel and other travel-related issues. During the reporting period the following determinations and reports were finalised:

Determinations in relation to Senators and Members

- Determination 2003/17, 14 July 2003

This determination clarified charter allowance entitlements, including combining two electorate sizes into one tier for the purpose of calculating charter allowance entitlements and clarifying the reimbursement arrangements for charter allowance. The Tribunal also specified that the communications allowance can be used for electronic services, including establishment and maintenance of web sites, along with increasing communications allowance entitlements for Senators and Members.

- Determination 2003/20, 8 September 2003

In addition to some minor amendments, this determination added three items to those for which the overseas study travel entitlement may be used by Senators and Members. The additional items, provided for within the existing financial cap, are internet connection fees/internet cafes, faxing of documents back to Australia and expenses for study items posted/couriered back to Australia.

- Determination 2004/05, 8 March 2004

This determination utilised the Australian Taxation Office reasonable travel cost ruling as the basis for travel allowance rates and increased the travelling allowance rates for Members of Parliament for each overnight stay. The determination also provided up to five overnight transit stops per annum from the existing overnight stay entitlements for Members representing an electorate of 300,000 km² or more, where they are not able to access their electorate through direct flights from within their electorate.

- Determination 2004/07, 25 March 2004

This determination on parliamentary office holders' additional salary maintained established percentage rates applied to the base parliamentary salary.

- Determination 2004/10, 16 April 2004

The Tribunal, as part of its review, recognised the need for greater accountability and transparency in relation to former parliamentarians' use of severance travel and Life Gold Pass entitlements. Accordingly, the Tribunal determined that it will require those accessing the severance travel entitlement to certify in writing that the travel be for non-commercial purposes. As a general principle, the Tribunal noted that it considered that current parliamentarian Life Gold Pass holders should also certify that their travel is for non-commercial purposes. The Tribunal also determined a number of accompanied travel-related issues including a 'no double payment' clause to minimise the possibility of misuse of accompanied travel

entitlements, and minor amendments to pre-departure statements for overseas study travel.

Reports in relation to Senators and Members

As required by the Act, the Tribunal considered a range of parliamentary matters during 2003-2004. In addition to the determinations noted above, the Tribunal issued the following reports:

- on 12 August 2003 the Tribunal provided its formal response to the Government's request to inquire into the provision of a 'redundancy-type benefit' to assist Senators and Members to re-establish themselves in the workforce. On 15 October 2003 the Minister for Employment and Workplace Relations, the Hon Kevin Andrews MP, wrote to the President of the Tribunal thanking the Tribunal for the report. The Minister's letter advised that the Government had considered the report and decided not to ask the Tribunal to make a determination about a resettlement grant for members of parliament; and
- on 25 March 2004 the Tribunal prepared the annual report on Ministers' additional salary (Report No 1 of 2004), which created an additional office of 'Other Minister who is also Manager of Government Business in the Senate', but otherwise made no changes to established percentage rates applied to the base parliamentary salary.

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 be determined by other authorities, for example by regulations made by the Governor-General.

During the year the Tribunal reviewed judicial and related offices' remuneration and determined a number of significant changes. The changes included salary packaging arrangements for federal magistrates and related offices, and Total Remuneration arrangements for the Chief Executive Officers/ Registrars of the courts.

The Tribunal also completed its inquiry, referred to it by the Government in 2002, into superannuation and income protection arrangements for federal magistrates. The report was presented to the Minister of Employment and Workplace Relations in April 2004.

2003 Annual Review of Judicial and Related Offices' Remuneration

The Tribunal issued Determination 2003/12 effective 1 July 2003 as an outcome of the Tribunal's 2003 Annual Review of remuneration for judicial and related offices.

In arriving at the decisions reflected in Determination 2003/12 and its accompanying statement, the Tribunal was mindful of a number of principles relating to judicial and related offices' remuneration including independence, recruitment and retention, workload and related factors, comparative remuneration data and economic circumstances.

The Tribunal determined an increase of 4% for judicial and related offices, effective from 1 July 2003. The Tribunal's determination of an annual increase for judicial and related offices also included the outcomes of the 2002 Annual Review.

Salary Packaging

On 17 February 2004, the Tribunal determined salary packaging arrangements for related offices. Under these arrangements an office holder can elect to take goods and services in lieu of salary, but must take at least 50% of base salary as salary. These arrangements are consistent with

arrangements applying to Principal Executive Offices and Full-Time Office Holders.

On 18 May 2004 the Tribunal extended salary packaging arrangements to federal magistrates.

Total Remuneration Arrangements for Related Offices

Total Remuneration is intended to represent an exhaustive statement of the office holder's remuneration and benefits. There are two key advantages of Total Remuneration arrangements:

- the total cost to the Commonwealth of the salary and personal benefits which comprise an office's remuneration is known and transparent; and
- an office holder has flexible access to her/his remuneration through a personalised combination of salary and non-cash benefits.

In a Statement accompanying the 2002 Annual Review, the Tribunal indicated that it supported Total Remuneration arrangements for offices in the judicial and related offices' determination to the extent possible for those offices. The interaction of the judicial pension arrangements for judges and the constitutional requirement that remuneration be fixed and not diminished during the course of a judge's appointment precludes a Total Remuneration approach for judicial offices, other than magistrates who do not fall within the ambit of the *Judges' Pensions Act 1968*.

Throughout the 2003-2004 financial year, the Tribunal progressed movement of offices to Total Remuneration. In May 2004, the Tribunal made a new Principal Determination for Judicial and Related Offices which moved the Chief Executive Offices/Registrars of the High Court, Federal Court, Family Court and Federal Magistrates Court to Total Remuneration arrangements. The Tribunal is continuing its consideration of Total Remuneration arrangements for magistrates and related offices.

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 relevant 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 Classification Band. At 30 June 2004, there were 89 PEO offices, comprising 6 defined under Section 3 of the Act and 83 declared by Ministers under Sections 3A and 3B of the Act. Nine new declarations were made and three former PEO offices were abolished in the reporting period.

During the year, Determination 1999/15 which governs the PEO Structure allowed for the remuneration of PEOs who receive less than \$290,000 TR to be increased or decreased by up to 5% by the employing body without reference to the Tribunal. The Determination provides that variations by employing bodies need to be underpinned by productivity or work value changes. 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 Tribunal considered 19 submissions on remuneration for new and existing PEOs during the reporting period.

The Tribunal varied Determination 1999/15 to adjust the parameters applying to PEO remuneration with effect from 1 July 2003. It increased the maximum of each PEO band by 4%. The Tribunal decided that the 5% that applied to variations in TR below \$290,000 remained appropriate for 2003-2004.

On 18 May 2004 the Tribunal varied the parameters applying to PEO remuneration with effect from 1 July 2004 (Determination 2004/15). The maximum of each PEO band will increase by 3.9% and clause D1 of Determination 1999/15 was amended to permit employing bodies to increase

remuneration for offices receiving less than \$300,000 per annum by up to 5% in the 2004-2005 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 82 PEO offices in the structure as at 31 December 2003 showed the following percentage changes to the levels of remuneration:

- 2 had received an increase of greater than 5%;
- 32 had received an increase of 5%;
- 19 had received an increase of 4%;
- 12 had received an increase of 3%;
- 3 had received increases between 0 and 3%;
- 7 had received no increase;
- 5 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.

A Tribunal decision taken in 2002-03 but effective from 1 July 2003, increased most full-time office holders' remuneration by 3% (Determination 2003/11). The quantum took into account the timing of earlier increases and a change to the annual pay cycle.

The increase did not apply to five offices which had not translated to Total Remuneration – these offices had received an increase in April 2003. During the year four of these offices were moved to the PEO structure. The appropriate treatment of the one remaining office is under consideration (refer Determination 2002/09 as amended). In the meantime the Tribunal granted the office a pay increase, effective from 1 July 2004, based on an annual quantum of 3.9 per cent, recognising that the previous increase was in April 2003.

The five Specified Statutory Offices received an increase of 3.9 per cent from 2 May 2004 (Determination 2004/09).

In relation to Part-time offices, the Tribunal decided to change the annual pay cycle from April to July so that it aligned with that for most full-time offices. Consequently part-time office holders did not receive an increase during 2003-04. They had previously received a 4 per cent increase in 5 April 2003. The Tribunal determined an increase to take effect from 1 July 2004 (Determination 2004/12), based on an annual quantum of 3.9 per cent, recognising that the previous increase was in April 2003. The Tribunal took the opportunity to restructure the Part-time Office Holders' Determination to make it easier for users to locate relevant provisions.

The Tribunal also reviewed the level of fees paid to boards of Government Business Enterprises and certain other key high level boards and increased the fees for some of these bodies, effective from 1 July 2004.

The Tribunal considered submissions on remuneration and/or conditions of individual offices. As a result, 28 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 and Merit Protection Commissioner. It also advised each of the relevant Ministers on the remuneration and other conditions for Executive Agency Heads. The Tribunal also provided advice to the Presiding Officers in accordance with the *Parliamentary Service Act 1999*, including on remuneration for the newly created office of Secretary, Department of Parliamentary Services.

Official Travel

In March 2004 the Tribunal determined new travelling allowance (TA) rates following a review (Determinations 2004/03 and 2004/04). The rates had last been updated in January 2001. The new rates apply to all offices under the Tribunal's jurisdiction as well as to Members of Parliament.

The Tribunal utilised the rates in the Australian Taxation Office's 'Taxation Ruling for reasonable allowances amounts for the 2003-04 income year'. This provides an appropriate reference for the Tribunal to set rates in future.

The Tribunal also took the opportunity to consolidate the provisions relating to official travel in a single determination for office holders. Previously, determinations governing particular groups of office holders contained some travel provisions in addition to other provisions and rates contained in a specific travelling allowance determination. The new Official Travel Determination for office holders contains all the provisions of general application to them.

The Tribunal consulted key stakeholders in relation to the proposed new determinations.

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) of the Act refer). During 2003-2004, the Tribunal issued two reports and 25 determinations (listed in Appendix 1).

All 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

During the year, the Tribunal held 13 formal meetings, including 3 out-of-session meetings, to consider and determine matters. In addition, discussions were held with a range of stakeholders during the course of the year. The Tribunal consulted various interested parties in person, by telephone and in discussions held in Canberra, Sydney, Melbourne and Brisbane.

Members' terms of office are as follows:

	<i>Position held</i>	<i>Appointment date</i>	<i>Term of office</i>
Mr John Conde AO	President	25 June 2003	5 years
Ms Janet Grieve	Member	12 April 2000	5 years
Mr John Allen	Member	27 August 2003	5 years

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. Support for the Tribunal's work is provided by a Secretariat located in the Department of Employment and Workplace Relations. During the year 121 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. The Tribunal particularly wishes to thank Ms Anna Clendinning who was the Secretary to the Tribunal until August 2003, and Mr Mark Jasprizza who was the Secretary for the balance of the year, for their assistance.

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. There were no FOI requests received in the reporting period. One request received in the 2002-2003 year was finalised in 2003-2004. 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 2003-2004.

Yours sincerely



John C Conde AO
PRESIDENT



Janet E Grieve
MEMBER



John D C Allen
MEMBER

Appendix 1**Remuneration Tribunal Determinations and Reports for 2003-2004**

During 2003–2004, 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

2003/17	Remuneration and Allowances for Various Holders of Public Office and Members of Parliament
2003/18	Remuneration and Allowances for Part-time Holders of Public Office
2003/19	Remuneration and Allowances for Holders of Public Office
2003/20	Remuneration and Allowances for Holders of Public Office and Members of Parliament
Report	Members of Parliament – 'resettlement grant': Response to Government request to inquire into a 'redundancy-type benefit' for 'new' Senators and Members
2003/21	Remuneration and Allowances for Holders of Public Offices
2003/22	Remuneration and Allowances for Holders of Public Offices
2003/23	Remuneration and Allowances for Holders of Public Offices
2003/24	Remuneration and Allowances for Holders of Public Offices
2004/01	Australian Industrial Relations Commission – Travelling Allowances
2004/02	Remuneration and Allowances for Holders of Public Office
2004/03 *	Official Travel by Office Holders
2004/04	Official Travel by Office Holders
2004/05 *	Members of Parliament – Travelling Allowance
Statement	Statement on Travelling Allowance: 2003-04 Review
Report 1	Report on Ministers of State - Salaries Additional to the Basic Parliamentary Salary
2004/06	Remuneration and Allowances for Holders of Public Offices
2004/07*	Parliamentary office holders - Additional salary
2004/08	Remuneration and Allowances for Holders of Public Offices

2004/09*	Specified Statutory Offices - Remuneration and Allowances
Statement	Statement on Annual Review of Parliamentary Allowances for Expenses of Office
2004/10	Members of Parliament - Entitlements
2004/11	Remuneration and Allowances for Holders of Public Offices
2004/12*	Remuneration and Allowances for Holders of Part-time Public Office
2004/13*	Remuneration and Allowances for Holders of Full-time Public Office
2004/14*	Judicial and related offices – remuneration and allowances
2004/15	Principal Executive Office - Classification Structure and Terms and Conditions
Statement	2004 Annual Review – Full-time and Part-time Offices
Statement	2004 Annual Review – Principal Executive Offices
2004/16	Remuneration and Allowances for Holders of Public Offices
2004/17	Judicial and related offices – remuneration and allowances
Statement	Statement on 2004 Review of Judicial and Related Offices' remuneration

* The documents are Principal Determinations.