

**REMUNERATION TRIBUNAL  
ANNUAL REPORT  
2008-2009**

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## REMUNERATION TRIBUNAL

14 October 2009

The Hon Julia Gillard MP  
Deputy Prime Minister  
Minister for Employment and Workplace Relations  
Parliament House  
CANBERRA ACT 2600

Dear Minister

We have pleasure in presenting to you the Remuneration Tribunal's Annual Report for 2008-2009. The report covers the activities of the Tribunal during the year ended 30 June 2009.

Section 12AA(2) of the *Remuneration Tribunal Act 1973* requires you to cause a copy of this report to be laid before each House of Parliament within 15 sitting days of receipt.

Yours sincerely

Handwritten signature of John C Conde in cursive.

John C Conde AO  
PRESIDENT

Handwritten signature of Janet E Grieve in cursive.

Janet E Grieve  
MEMBER

Handwritten signature of John D C Allen in cursive.

John D C Allen  
MEMBER



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## President's Overview

The Tribunal's principal responsibility is to enquire into and determine, or report on, the remuneration and allowances of public offices at least annually. In meeting this responsibility, the Tribunal conducts general reviews of offices in its jurisdiction, as well as reviews of individual offices or groups of offices.

A significant decision during the reporting year was to defer consideration of an annual adjustment until after 30 September 2009. A copy of the Statement issued by the Tribunal on 19 May 2009, conveying its decision, is available on the Tribunal's website<sup>1</sup>. As it is particularly relevant to these comments, a copy is also included in this Annual Report (**Appendix 5**).

Ordinarily, the Tribunal determines, with effect from 1 July each year, a common adjustment in the remuneration of each office in its jurisdiction. The Overview to the Tribunal's 2005-2006 Annual Report included an outline of the factors taken into account in deciding the annual adjustment.

Decisions about annual adjustments invariably reflect a balance between competing considerations. The Tribunal's May 2009 Statement reflects such a balance - on the one hand, the difficult economic circumstances, and, on the other, continuing increases in the remuneration of Australian Public Service (APS) employees.

The public offices for which the Tribunal determines remuneration - particularly the full-time offices - are not somehow isolated from the overall machinery of federal public administration. Indeed, it is arguable that they are central to it. Each has been established by statute and, frequently, is the principal office of a significant government authority.

In assessing appropriate remuneration for office holders in the Tribunal's jurisdiction, a highly relevant consideration is that the staff of agencies are often APS employees and the most senior direct reports will be APS Senior Executive Service (SES) employees. The working relationships between offices for which the Tribunal determines remuneration, and between APS employees whose remuneration is set by different means, require the close attention that the Tribunal pays to remuneration in the APS.

The primary responsibility for many government authorities and enterprises is invested in public offices. It is the Tribunal's firm view that this level of responsibility should be reflected both in the absolute remuneration of the office and in their remuneration relative to that of the employees who work for them.

The Tribunal's decision to defer its annual review meant that the remuneration of public offices will have been frozen since 1 July 2008, the date of effect of the last annual adjustment. It seems that there has been no pause in the remuneration increases of SES employees.

The Tribunal acknowledges the strength of the argument that, in periods of economic difficulty, increases in remuneration, particularly for higher income earners, should be moderated. This was an important element in the Government's submission to the Tribunal in advance of the annual review in 2008. Such moderation may send signals to others to limit claims for increased remuneration. In the absence of direct relationships between the remuneration of one group and another, however, the effects are diffuse and unsynchronised.

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<sup>1</sup> <http://www.remtribunal.gov.au/determinationsReports/byYear/2009/2009%20Statement%20for%20Annual%20review%20-%2019%20May%202009.pdf>

The Tribunal also notes that the adjustments that it has determined in recent years have, in any event, been modest but, even so, it is not easy to discern consequential or similar moderation in remuneration movements in the federal public sector more broadly.

This is not the first time that the Tribunal has referred to its concerns about the remuneration of office holders in its jurisdiction relative to that of APS SES employees. Increases in SES remuneration - particularly at the Band 2 and Band 3 levels - have consistently exceeded those determined by the Tribunal for public offices for a considerable period.

Equally significantly, the remuneration of only a handful of full-time public offices in the Tribunal's jurisdiction exceeds that of SES Band 3 employees.

In the Tribunal's view, these remuneration relativities provide strong support for the following conclusions:

- (a) as full-time offices, unlike SES employees, have statutory and, often, chief executive, responsibilities, the remuneration of these offices is less than it might justifiably be, relative to that of SES employees (noting also that no public office in the Tribunal's full-time office jurisdiction has access to performance pay); and
- (b) to the extent that the sustained increases in the remuneration of SES employees indicate that they are not regarded as being amongst the 'highly paid', then it is difficult to so regard the full-time offices in the Tribunal's jurisdiction.

The Tribunal has drawn attention previously to the significant and diverse roles of part-time offices in federal public administration. In the Tribunal's assessment, the data also show that the remuneration of part-time offices (which have no access to the leave and similar entitlements of APS employees) is also less than it might justifiably be, relative to APS employees.

These circumstances present a challenge for the equitable determination of an adjustment in remuneration at this time.

If allowed to continue, these adverse shifts in relativities and inadequate recognition via remuneration of the responsibilities of significant public offices (full-time and part-time), will undermine the quality of public administration.

The Tribunal has observed before that capable people of high quality continue to serve the nation by bringing their energies and skills to the public sector for remuneration that is less than that available in the private sector.

There must be, however, limits to the accommodation to be expected of people of goodwill when the scope of their responsibilities, and government expectations of them, continue to increase. As the Tribunal has also observed previously, the continuing commitment of such people should not be taken for granted.

### Parliamentarians

By Government decision, parliamentarians have demonstrated a greater level of restraint than most wage and salary earners. Parliamentarians' remuneration remains at the level set, by regulation, as at 1 July 2007. The remuneration of ministers and parliamentary office holders also remains frozen at 1 July 2007 levels, notwithstanding the continued increases in the remuneration of the SES employees with whom ministers work.

The annual "allowance" (in the terms of the Constitution) or, more prosaically, the base salary of parliamentarians, is not their sole entitlement of office. During the reporting year, the application of several entitlements attracted public attention and comment. This continues. The present many and varied sources of entitlements create uncertainty and increase the potential for error.

Perhaps the most significant consequence of the present arrangements for the specification and administration of entitlements is that it is not easy for the media or public to understand them. For example, it is difficult to ascertain the base salary of a parliamentarian. The current regulation, besides being somewhat tortuous, does not include the amount. There is an impression that opacity continues to feature in these arrangements. It would be no surprise to the Tribunal if, despite the administrative guidance available to them, some parliamentarians had difficulty in understanding their entitlements.

There also seems to be ample scope for uncertainty about whether any of a range of entitlements is properly to be regarded as personal remuneration (that is, reward for undertaking the responsibilities of a parliamentarian) or a provision to meet business costs (that is, the cost of performing electorate and parliamentary duties). Electorate Allowance is perhaps the most pertinent example.

The Tribunal has noted previously that it is some time since the full suite of parliamentarians' entitlements has been reviewed. The Tribunal believes that there is scope for the refinement and simplification of entitlements and for a clearer distinction to be drawn between personal remuneration and business costs.

#### Reviews of Judicial Relativities and Departmental Secretaries

These reviews have been mentioned in previous Annual Reports; each is expected to be finalised in the 2009-2010 reporting year.

In November 2008, the Tribunal wrote to the Chief Justices of the High Court of Australia and of the superior federal courts, the Chief Federal Magistrate and the Attorney-General advising each of the position it had reached in its review of remuneration relativities between the federal courts.

This review has been conducted against a background in which the remuneration of judges of the superior federal courts has been in alignment for some years. The present alignment has not always been the status quo.

The Tribunal's experience over an extended period shows that the circumstances of individual authorities and agencies may develop at significantly different rates. The Tribunal therefore considers that no existing remuneration relativity is necessarily immutable and that remuneration relativities should be reviewed appropriately from time to time. The remuneration of an office should reflect its roles and responsibilities and not be driven by some slavish adherence to any artificial point of reference or historical link.

Immutable adherence to such historical linkages assumes that the work value of different offices evolves at the same rate. The Tribunal does not accept this.

In undertaking the review of judicial relativities, the Tribunal has been conscious that changes to the family law system are having notable effects on the work of the Family Court of Australia and the Federal Magistrates Court. The changes are likely to continue. The Tribunal accepts that the nature of such changes, and the rates at which they are introduced, may well be relevant to its conclusions about appropriate remuneration for judges involved primarily in family law work. The Tribunal will therefore give particular

attention to these changes and their effects so as to ensure that its conclusions accommodate them.

Last year, I mentioned some tentative conclusions that the Tribunal had drawn from its review of Departmental Secretaries. The work since has served only to fortify those views.

In the Tribunal's judgement, the unique nature of the work of Secretaries and the central role of these offices in public administration are neither understood well nor acknowledged appropriately.

Secretaries are at the very apex of the Australian Public Service. Prime Ministers and Ministers rely on them for the provision of public services and turn to them for strategic advice about the whole spectrum of government domestic and foreign activities.

The work of Secretaries extends further than leading and managing the operations of specific departments. They have direct, and indirect, roles with their departments in recommending and administering frameworks for the legal and regulatory regimes of the nation.

It is evident that some Secretaries have wider portfolios than their colleagues. Every Secretary handles a breadth of demands and responsibilities which give these offices similarities to the highest executive offices in the private sector. Notwithstanding this, the Tribunal does not consider remuneration parity between Secretaries and their private sector counterparts to be appropriate. One of our main concerns is to ensure that the office of Secretary is set on an appropriate footing relative to other offices in the federal public sector.

The Tribunal intends to publish the report of the review of Secretaries in two parts. The first is expected to cover:

- the attributes of these offices;
- their present remuneration arrangements;
- the distinctions between them;
- the standing of these offices relative to other federal public offices; and
- their responsibilities relative to senior positions in the private sector.

The second part will address the remuneration of these offices. Suffice it to say, at this stage, that the Tribunal considers that:

- the present remuneration range is less than it should be, relative to the remuneration levels of other federal public offices; and
- the present distinction between the two current levels of Secretary does not reflect properly the differences in the scope of the responsibilities among all these offices.

In finalising its work on Secretaries, the Tribunal intends to give consideration to two related matters. First, the appropriate ongoing remuneration for the holders of senior offices who take up, on transfer (or otherwise), appointment to a second public office for which the Tribunal has either determined, or advised, remuneration lower than that of the office from which the appointee has been transferred. The Tribunal's preliminary view is that, although income maintenance can be supported, it should be for a limited period – perhaps no more than twelve months.

The second matter concerns the appropriate level of remuneration for Australian Public Service employees designated as "Associate Secretaries". The Tribunal notes that this designation has no statutory foundation; in practice, those so designated are SES employees and their remuneration is fixed at the upper end of the SES Band 3 range. The Tribunal's concern is that, in the absence of consistent means of establishing and varying SES remuneration across the Australian Public Service, any movement in the remuneration of Secretaries will create a "remuneration vacuum" likely to engender, over time, competitive tensions between Departments to fill the perceived void. The Tribunal, while conscious that SES employees are not "public offices" in the terms of the *Remuneration Tribunal Act 1973* and are, therefore, not within the Tribunal's jurisdiction, will consult relevant office holders to inform its judgement about the most suitable means of providing appropriate guidance on this matter.

### Conclusion

The setting of remuneration for public offices seems always to be "work in progress". Developments in public administration invariably affect different offices in different ways and at different times. The remuneration framework that exists at any given time is never entirely free of inconsistencies. As the Tribunal noted in its submission to the Productivity Commission's enquiry into executive remuneration:

*"We have anomalies and inconsistencies in both full-time and part-time offices within our responsibilities where, clearly, men and women of capacity accept appointment without appropriate financial reward. .... We have commented on these matters in recent Annual Reports and we will continue with our reviews so that, in the medium term, attention is drawn to such difficulties, and, as circumstances permit, they are corrected."*

The Tribunal sees little benefit in making determinations that have limited prospect of acceptance. The Tribunal recognises that, in order to address anomalies and inconsistencies effectively, a long-term perspective and a thorough understanding of the factors behind the present circumstances are necessary.

For example, the history of the present parliamentary Life Gold Pass entitlement can be traced back to 1918. It is by no means a tenuous link. The general features of the arrangements, now, are not dissimilar to those established in 1918. Electorate allowance was introduced in 1952. Severance travel entitlements were first determined by the Tribunal over 30 years ago, in 1976.

These kinds of entitlements are unique to parliamentarians. It seems to the Tribunal, however, that whenever they are mentioned publicly, adverse comment inexorably follows. However, there is little parallel comment about the unique features of work as a parliamentarian.

Parliamentarians are not "employed" in the conventional sense; being representatives of individual electorates or, in the case of the Senate, representing a State or a Territory. There is no obvious private sector comparator. Unlike many employed people, parliamentarians' terms and conditions are not expressed in an award or certified agreement. They have no accumulating entitlement to sick leave, annual leave or long service leave. They have no workers compensation protection.

It is, therefore, not surprising that parliamentarians' terms and conditions should have unique features. That is not to say that the continuing relevance of such conditions should not be a matter of public interest and comment. However, adverse publicity about an entitlement seems inevitably to be followed by calls for its unilateral abolition.

Such an approach would be unacceptable in any workplace. Parliamentary entitlements should be treated no differently. However, just as changes to an entitlement in a workplace agreement may be negotiated, and, perhaps, converted to salary, changes to parliamentary entitlements, whatever their history, should also be capable of being varied while preserving the overall value of the package.

There is a good deal to be said for bringing parliamentary conditions into line with contemporary standards.

### Recent Developments

On 8 September 2009, Senator the Honourable Joe Ludwig, Special Minister of State, announced the establishment of an independent panel to report, within six months, on the reform of parliamentary entitlements. In my capacity as President of the Remuneration Tribunal, I have been appointed as a member of the panel.

On 24 September 2009, the Tribunal issued a Statement setting out its reasoning and conclusions on an appropriate adjustment to the remuneration of public offices for 2009. The Tribunal determined an adjustment of 3%, with effect from 1 October 2009.

These matters will be considered, as appropriate, in the Tribunal's Annual Report for 2009-2010.

### Acknowledgements

The development and refinement of the long term perspective necessary for the Tribunal to meet its responsibilities effectively requires the goodwill and insight of experienced office holders and others with commitment to, and understanding of, public administration. My colleagues and I value greatly the responsiveness and openness of those with whom we have the opportunity to discuss such matters.

The Tribunal's effectiveness also depends heavily on the support from its Secretariat. The Tribunal could not undertake the substantive reviews mentioned in this report, or future work, without an effective Secretariat. In 2008-2009, the Secretariat, ably led by Mr Derren Gillespie, continued to provide reliable, insightful and timely advice. My colleagues and I acknowledge the professionalism and commitment of the officers concerned and thank them warmly.

Finally, I thank my fellow Tribunal Members - Ms Janet Grieve and Mr John Allen - for their work and support in 2008-2009.

John C Conde AO  
President

## 1. Introduction to the Tribunal

The Remuneration Tribunal is an independent statutory authority established under the *Remuneration Tribunal Act 1973* (the Act) responsible, primarily, for inquiring into and determining, or reporting on, the remuneration and allowances to be paid to holders of public offices (including parliamentary offices) at least annually.

In undertaking its work, the Tribunal takes into account the attributes of the job; appropriate relativities; considerations related to job complexity, merit and productivity; and a range of indicators of movements in remuneration. The Tribunal aims to develop remuneration arrangements that are flexible and broadly consistent, having regard to the particular nature and range of offices in its jurisdiction.

## 2. Membership of the Tribunal

The Tribunal consists of three part-time members who are appointed by the Governor-General.

The current members of the Tribunal are:

**Mr John Conde AO** — President - appointed on 19 June 2008 as Member and President for five years from 25 June 2008. Mr Conde was originally appointed as a member of the Remuneration Tribunal on 18 June 1998. Mr Conde is the Chairman of Energy Australia, BUPA Australia and Whitehaven Coal Limited. Mr Conde is a Director of the DEXUS Property Group. Mr Conde is Chairman of Sydney Symphony Limited and the Homebush Motor Racing Authority Advisory Board. He is a member of the Grant Samuel Advisory Board and holds positions on the NSW Corporate Committee of the Australian Olympic Committee, the Australian Major Performing Arts Group board, the Australian Elizabethan Theatre Trust, the advisory council of The Children's Hospital (Westmead) and Bond University's Board of Trustee Members.

**Ms Janet Grieve** – appointed from 12 April 2005 for five years. Ms Grieve was originally appointed as a member of the Tribunal on 12 April 2000. Ms Grieve has sat formerly on a number of industry and government boards.

**Mr John Allen** – appointed on 19 June 2008 for a term commencing on 27 August 2008 until 31 December 2009. Mr Allen was originally appointed as a member of the Remuneration Tribunal on 27 August 2003. Mr Allen is Principal of John Allen & Associates, Chairman of the Australian Government Solicitor Advisory Board and a member of the Council of Leadership Victoria (The Williamson Community Leadership Program). Previously for the Victorian State Government he has sat on a hospital board and chaired a law reform committee.

### 3. The Work of the Tribunal

During the year, the Tribunal held 43 meetings, including by teleconference. It also met with a range of interested parties. The Tribunal considered approximately 125 briefings; determined 67 matters; and expressed its conclusions in 19 Determinations.

#### Annual Adjustment

The Tribunal conducted its work this year against a background of challenging economic circumstances. The Statement issued by the Tribunal on 5 June 2008 reflected the prevailing circumstances.

In May 2008, the Attorney-General had written to the Tribunal, on behalf of the Government, drawing attention to the Government's advocacy of "*pay restraint throughout the community, particularly for high income earners*", having "*regard to the overall economic climate*".

The Tribunal noted, then, that:

- the inflation rate for the twelve months to March 2008 had been 4.2%;
- the average annualised wage increase (AAWI) in public sector wage agreements concluded in the December 2007 quarter had been 4.2%; and
- the average annualised wage increase for all current public sector wage agreements had been 4.3%.

The Tribunal has been and remains particularly conscious of movements in the remuneration of Senior Executive Service (SES) employees in the Australian Public Service, this group being of particular relevance in view of the close working relationships between SES officers and the holders of public office. As the Tribunal's June 2008 Statement indicated, APS Remuneration Survey data had shown that SES remuneration had increased by between 5% per annum and 6% per annum compounded over of the previous eight years - increases well in excess of the increases determined by the Tribunal for public offices.

The June 2008 Statement conveyed the Tribunal's decision to increase the remuneration of public offices by 4.3%, with effect from 1 July 2008, having taken these various considerations into account.

The June 2008 Statement also noted the Tribunal's decision to revisit these matters towards the end of 2008 and a further Statement was issued on 4 December 2008. That Statement included the following observations:

*"...the dimensions of the global financial crisis have become clearer. In this context, and taking into account the other factors to which the Tribunal must have regard, the Tribunal has decided to maintain the current general levels of remuneration and other related matters for full-time and part-time public office holders and SSOs at this time. This will also apply to the classification bands of the Principal Executive Office (PEO) structure and to the reference rates of individual PEOs.*

*We continue to note, however, that the remuneration relativities of offices in the Tribunal's jurisdiction have declined significantly compared to the Senior Executive Service (SES) of the Australian Public Service. This matter remains under consideration."*

The Tribunal approached its 2009 annual review in an environment of continuing difficult economic circumstances.

On 19 May 2009, the Tribunal issued a further Statement (the May 2009 Statement) conveying its decision to defer any annual adjustment until after 30 September 2009.

In doing so, the Tribunal noted that:

- the Consumer Price Index for the year to March 2009 had increased by 2.5%;
- the AAWI in public sector wage agreements, concluded in the December 2008 quarter, was 4.4%; and
- the remuneration of APS SES employees had continued to increase in the then most recent reported period (to December 2008) by between 5% and 6%.

The Tribunal also reiterated its concern about the deterioration in remuneration relativities between public office holders in its jurisdiction and the SES and stated that:

*“...it would not be desirable for the remuneration of office holders in its determinative jurisdiction to be eroded further by inflationary or other pressures, notwithstanding the fact that economic circumstances remain difficult.”*

### 3.1 Full-Time Public Office Holders

#### **The Framework**

Under the *Remuneration Tribunal Act 1973* (the Act), the Tribunal is responsible for setting the total remuneration, some allowances and recreation leave for full-time public offices.

The Act defines 'public office'. It includes all offices established by a Commonwealth law (also known as statutory offices) and appointments made under a Commonwealth law as well as (but not limited to) appointments made by the Governor-General or a Minister of State which are formally referred into the Tribunal's jurisdiction by the Minister responsible for the Act (s3). The attributes of a 'public office' establish whether appointment to it is made on a full-time, or other, basis.

The Tribunal inquires into and determines remuneration and 'significantly related' matters for holders of public office (under s7). The Act specifies that the Tribunal determine matters at intervals of not more than one year (s8).

The annual adjustment of 4.3% determined by the Tribunal for full-time offices on 5 June 2008 [Determination 2008/08] came into effect on 1 July 2008.

The Tribunal's May 2009 Statement applies to these offices. Consequently there has been no general adjustment in the remuneration of full-time offices since then.

During the reporting period the Tribunal received and considered a number of submissions on remuneration, conditions and/or allowances for new and established offices. A list of new full-time public offices for which the Tribunal determined remuneration in the year to 30 June 2009 is included at Appendix 2.

As at 30 June 2009, the Tribunal was responsible for determining the remuneration and allowances of 97 full-time offices.

#### Specified Statutory Officers

The Tribunal determines remuneration and allowances for the following full-time offices:

- Chief of the Defence Force;
- Commissioner of Taxation;
- Auditor-General for Australia;
- Chief Executive Officer of Customs; and
- Australian Statistician.

The remuneration of these offices - referred to as Specified Statutory Officers - is set out in Determination 2008/06. It was last increased by 4.3% with effect from 1 July 2008, consistent with the adjustment made by the Tribunal for other public offices. The Tribunal's May 2009 Statement about the deferral of its decision on the 2009 annual adjustment also applies to these offices.

Historically, the remuneration of these offices has been aligned broadly with that of Departmental Secretaries in the Australian Public Service. There are differences in terms and conditions between these offices and Departmental Secretaries; the respective specifications of terms of appointment, for example, are distinct.

The Tribunal will review this group of public offices once it has completed its review of Departmental Secretaries. The Tribunal expects that it will consider, amongst other matters, developments in the roles and responsibilities of each office and the nature, and extent, of any differences between them.

## 3.2 Part-Time Public Offices

### The Framework

The *Remuneration Tribunal Act 1973* (the Act) defines 'public office'. It includes all offices established by a Commonwealth law (also known as statutory offices) and appointments made under a Commonwealth law as well as (but not limited to) appointments made by the Governor-General or a Minister of State which are formally referred into the Tribunal's jurisdiction by the Minister responsible for the Act (s3). Under the Act the Tribunal is responsible, for setting the remuneration and some allowances of public offices.

The Tribunal inquires into and determines remuneration and 'significantly related' matters for holders of public office (under s7). The Act specifies that the Tribunal determine matters at intervals of not more than one year (s8).

Appointments to a wide range of public offices are made on a part-time basis. These offices are very diverse and include the chairs and members of boards, councils, committees and administrative tribunals whose work may be regular or intermittent.

Determination 2008/07, made on 5 June 2008, applied the 2008 annual adjustment of 4.3% to part-time offices in the Tribunal's jurisdiction, with effect from 1 July 2008. There has been no subsequent general adjustment to the remuneration of these offices and the Tribunal's decision to defer its 2009 annual review decision also applies to them.

During the reporting period, the Tribunal considered submissions on remuneration and/or conditions for a number of individual offices. New offices for which the Tribunal determined remuneration during the year included:

- Chair and Member of the Civil Aviation Safety Authority Board; and
- Commissioner, Australian Transport Safety Bureau Commission.

Responsibility for a very considerable part of the business of government is vested in part-time offices. They are the most diverse, as well as the most numerous, offices in the Tribunal's determinative jurisdiction. In many instances, a reference to an individual office - for example, a member of a board - means that the terms of the determination apply to several appointees to the office concerned. As at 30 June 2009 the Determination 2008/07 applied to over 220 bodies.

The working arrangements of part-time offices are themselves diverse. Some are involved in a regular schedule of meetings; the demands on others are more fluid. Annual fees have been determined for some offices; more frequently, these are specified on a daily basis. Of necessity, the Tribunal's Determination is expressed in terms of sufficient generality as to be able to be applied to all part-time offices. Consequently, the provision of guidance about the application of terms and conditions, as determined, to specific part-time office holders, and to their supporting administrative staff, is a significant element of the ongoing work of the Tribunal's Secretariat.

### 3.3 Principal Executive Offices

#### The Framework

The *Remuneration Tribunal Act 1973* (the Act) provides for the Tribunal to determine a classification structure for Principal Executive Offices [s5(2a)] and to determine the terms and conditions applicable to each classification within the classification structure [s7(3D)].

The Minister for Employment and Workplace Relations, as the Minister responsible for the Act, has the power to make declarations concerning Principal Executive Offices (PEO), having taken into account the advice of the Tribunal [s3(a)]. The Minister may declare an office to be a PEO, the classification to which the PEO is assigned and the PEO's employing body [s3(a) and (b)].

The employing body is responsible for determining the terms and conditions applying to a PEO. Any such determination must be consistent with the terms and conditions determined by the Tribunal for the classification of the office concerned [s12C] and the Tribunal's Guidelines.

The Tribunal has established a total remuneration reference rate for each PEO as the basis on which an employing body is able to exercise discretion in determining remuneration. Reference rates are generally adjusted annually to reflect the outcome of the Tribunal's annual review. Employing bodies have a discretionary range of 5% above and 10% below the reference rate, although the reference rate must not be exceeded in the first twelve months of a new appointee's term without the prior approval of the Tribunal. PEOs also have access to performance pay of up to 15% for Bands A to C and up to 20% for Bands D and E.

A full list of Principal Executive Offices can be found on the Tribunal web site at [www.remtribunal.gov.au/principalExecutiveOffices/currentDetermination/listPEO.asp](http://www.remtribunal.gov.au/principalExecutiveOffices/currentDetermination/listPEO.asp).

By Determination 2008/10 the band maxima and reference salaries of the Principal Executive Office (PEO) classification structure were increased by 4.3% with effect from 1 July 2008, consistent with the Tribunal's general remuneration adjustment (Determination 2008/10).

The Tribunal's decision to defer its 2009 annual review until after 30 September 2009 announced in the May 2009 Statement also applies to the PEO classification structure and reference rates established by the Tribunal for individual PEOs. Consequently, there were no general adjustments to reference rates or band ranges during the 2008-09 reporting period.

#### Performance Pay

The Tribunal's initial determination of terms and conditions for PEOs in 1999 included provision for performance pay. PEOs are the only offices in the Tribunal's determinative jurisdiction to have such an entitlement.

The Government announced its intention to move away from direct ministerial involvement in decisions about performance pay prior to the 2007 election. Following correspondence between the Minister and the Tribunal about means of implementing the Government's policy, the Tribunal, in May 2009, advised ministers exercising the responsibility of an 'employing body' about the approach to be taken to abolishing performance pay arrangements in such circumstances.

One consequence of this initiative is that there will be, for some time, two 'classes' of PEOs - those with access to performance pay (and for whom an authority other than a Minister is

the 'employing body') and those who do not. Offices in the latter category will have had up to 50% of the maximum achievable amount of performance pay consolidated into 'total remuneration' with a proportionate adjustment in base salary (that is, salary for superannuation purposes).

Where performance pay has been abolished, remuneration arrangements applying to PEOs will be very similar to those determined directly by the Tribunal for offices in its full-time office jurisdiction. One continuing distinction is the employing body's discretion to increase the total remuneration of a PEO by up to 5% above the reference rate advised for the office by the Tribunal. In circumstances in which overall remuneration arrangements are similar, remuneration for offices with like levels of responsibility should be much the same. In the Tribunal's judgement, initial indications are that the total remuneration of a PEO where adjusted to reflect the removal of performance pay may be greater than that indicated by consideration of the responsibilities of the office concerned when compared to a like office in the Tribunal's full-time office jurisdiction. If these initial impressions are borne out more generally as movement away from performance pay extends, then a general review of the remuneration for full-time offices may be necessary.

### 3.4 Judicial and Related Offices

#### **The Framework**

The *Remuneration Tribunal Act 1973*, empowers the Remuneration Tribunal to determine remuneration and associated entitlements for the federal judiciary, administrative tribunals and related offices in those organisations.

The extent of the Tribunal's power varies between offices. Depending on the type of office concerned, remuneration may be expressed as base salary or as 'Total Remuneration'. Associated entitlements may include: the value attributed to the Commonwealth's superannuation contributions or superannuation support, travelling allowance, Commonwealth and private vehicle costs, recreation leave, separation benefits, lump sum payments, other benefits received by way of remuneration packaging; and minimum annual fees for part-time office holders.

#### The Judiciary

The Tribunal determines base salary and related benefits for the Chief Justices and Justices of the High Court, Federal Court and Family Court; the Chief Federal Magistrate and Magistrates of the Federal Magistrates Court of Australia; and Judges who sit as Presidents of an administrative tribunal (see below). The Tribunal also determines recreation leave entitlements (but not other leave entitlements) for Federal Magistrates.

In determining remuneration for judges, the Tribunal is mindful of sub-section 72(iii) of the Constitution, which prohibits diminution of a judge's remuneration while the judge remains in office.

#### Administrative Tribunals

The Tribunal determines remuneration and related benefits for the non-judicial Presidents, Deputy Presidents and Members of tribunals such as the Copyright Tribunal, the Australian Competition Tribunal, the Australian Law Reform Commission and the National Native Title Tribunal.

#### Related Offices

The Tribunal determines remuneration and related benefits for a range of non-judicial positions in the courts, including the chief executives of the High Court, Federal Court, Family Court and Federal Magistrates Court of Australia. Remuneration for these offices is expressed as 'Total Remuneration'.

#### Entitlements Outside the Tribunal's Determinative Powers

The Tribunal does not determine the entire range of employment provisions available for judicial and related offices. They may receive other entitlements outside the Tribunal's determinative powers, for instance under:

- legislation administered by the Commonwealth Attorney-General, including: the *Judges' Pensions Act 1968*, the *Judicial and Statutory Officers (Remuneration and Allowances) Act 1984*, and the *Judges (Long Leave Payments) Act 1979*;
- general Commonwealth laws concerned with employment, such as the *Long Service Leave (Commonwealth Employees) Act 1979*; and
- the authority of the relevant federal court, tribunal or the administering government department.

## **The Federal Judiciary**

### Annual Adjustment

The Tribunal determined a 4.3% adjustment for these offices on 5 June 2008 with effect from 1 July 2008. In its letter inviting submissions to its 2009 annual review, the Tribunal indicated that it was likely that, in the current economic circumstances, any adjustment would be modest.

The Tribunal's decision to defer its 2009 annual review applies to these offices. The Tribunal is statutorily required to determine remuneration for judicial and related offices at periods of no more than one year, so was obliged to make a new determination by 5 June 2009. In making its decision on any adjustment to apply for 2009-2010, the Tribunal noted that the situation with respect to remuneration was unclear and that further research would be appropriate. In these circumstances, the Tribunal determined by Determination 2009/07 that remuneration for judicial and related offices would remain at the 2008-2009 levels with effect from 1 July 2009, thereby accommodating both the obligation under the Act and its decision to defer the annual review.

### Review of Relativities

As has been reported previously, the Tribunal is conducting a review of remuneration relativities in the Federal, Family and Federal Magistrates Courts. In last year's report, the Tribunal noted that the Attorney-General's Department had commissioned a review into the delivery of family law services by the Family Court and the Federal Magistrates Court, and that the Tribunal had postponed the finalisation of its review of remuneration relativities pending the outcome of the Attorney-General's review.

In November 2008, the Government released the report "Future Governance Options for Federal Family Law Courts in Australia" and subsequently released a discussion paper and invited public comment.

On 5 May 2009, the Attorney-General announced a restructure of the Federal Courts which involves:

- merging the Federal Magistrates Court into the Family Court and Federal Court;
- consolidating all family law matters under the Family Court; and
- consolidating all general federal law matters under the Federal Court.

These changes, if implemented, are very significant. The Tribunal understands that the Government's intention is to implement these changes at the earliest opportunity. That said, the Tribunal is not yet aware of a specific timeframe and understands that legislative changes will be required to implement the restructure.

As also reported last year as part of the review of remuneration relativities, the Tribunal received a submission from the Federal Court which covered developments in the Federal Court in respect of which the Attorney-General's Department review of family law services had little, if any, relevance.

In November 2008, the Tribunal wrote to the Attorney-General, and the federal courts, conveying preliminary views arising from its review of remuneration relativities among the federal courts, and particularly relating to its review of the Federal Court. The Tribunal noted that it considered the work of the Federal Court had developed to a point where it should be recognised in additional remuneration, and that these developments also applied to the High Court. The Tribunal expressed the view that it would determine equivalent increases for the

judicial officers of the superior federal court handling family law matters once the restructure arising from the family law review had been implemented.

As yet, the Tribunal has not determined any variations to the remuneration of any judicial office.

#### Judicial Remuneration Coordination Group

As has occurred each year since 1990, in May 2009 the Tribunal convened a meeting of the Commonwealth/State Judicial Remuneration Coordination Group to discuss issues relevant to the remuneration of the judiciary across all jurisdictions.

### 3.5 Ministerial and Parliamentary

#### **The Framework**

##### Base Salary

In 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 Reference Salary A in Band A of the Principal Executive Office structure. This recommendation was given effect by the *Remuneration and Allowances Regulations 1999*. The *Remuneration and Allowances Act 1990* (R&A Act) and the Regulations under that Act provide the mechanism for setting the annual base salary to be paid to Members of the Parliament. Prior to the making of the R&A Act, the Tribunal had determined the annual base salary directly.

The percentage of the reference salary which constitutes the base salary for parliamentarians has varied over time. Most recently, a 2008 amendment to the Regulations means that the base salary, expressed as an annual figure, is effectively Reference Salary A less \$5,470.

##### Additional Salary for Ministers and Parliamentary Office Holders

The Tribunal reports annually to the Minister on the additional salary of ministers of state. The actual salaries are a matter for decision by Executive Government.

The Tribunal determines the additional salary for holders of more than 50 parliamentary offices such as the Leader and Deputy Leader of the Opposition, the Presiding Officers, Whips, and the Chairs and Deputy Chairs of various parliamentary committees.

##### Other Allowances and Entitlements

The Tribunal also determines a range of allowances and entitlements for Federal Senators and Members (including Ministers). These include travelling allowance rates and travel-related provisions (eg travel on scheduled domestic flights, car transport and overseas study travel), electorate allowance, qualifying periods for Life Gold Pass, severance travel (for those not qualifying for Life Gold Pass), and certain office facilities.

##### Entitlements Outside the Tribunal's Determinative Powers

The Tribunal does not determine the entire range of entitlements available for Members of Parliament. 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. The following Acts are relevant in this regard:

- *Parliamentary Allowances Act 1952*;
- *Ministers of State Act 1952*;
- *Parliamentary Contributory Superannuation Act 1948*;
- *Members of Parliament (Staff) Act 1984*;
- *Remuneration and Allowances Act 1990*;
- *Members of Parliament (Life Gold Pass) Act 2002*;
- *Parliamentary Superannuation Act 2004*; and
- *Parliamentary Entitlements Act 1990*

#### **Parliamentary Base Salary**

Last year's report detailed the method of calculating the base salary for parliamentarians. Until 2007/08, the base salary was set, by Regulation under the *Remuneration and Allowances Act 1990*, at an amount equivalent to Reference Salary A in Band A of the Principal Executive Office (PEO) structure. Following an amendment to this Regulation in

2007/08, the base salary, as an annual amount, is now Reference Salary A less \$5,470. Consequently the base salary for parliamentarians has remained at \$127,060 since 1 July 2007.

As reported in the PEO section of this report, the Tribunal has deferred any decision on an adjustment to the PEO Classification Bands and Reference Salaries until at least 30 September 2009. This includes Reference Salary A.

### **Additional Salary for Ministers and Parliamentary Office Holders**

With effect from 1 November 2008, the Tribunal made Determination 2008/19 setting the rates of additional salary for parliamentary office holders. While maintaining the overall pattern of rates (expressed as a percentage of base salary) of additional salary, some changes were made to nomenclature and to rates for certain offices. The purpose of the changes was to ensure that the entries applied no matter which of the major parties formed Government, as some of the previous entries (e.g. 'Second Government Party') applied only in certain circumstances.

In April 2009, the Tribunal decided to remove additional salary for deputy chairs of Senate Legislative and General Purpose Standing Committees, in anticipation of a change to the Senate Committee system which took effect from 14 May 2009.

As the additional salaries of parliamentary office holders and Ministers of State are expressed as percentages of the base salary, there will be no change in their remuneration until at least 30 September 2009, in line with the decision of the Tribunal to defer any adjustment until then.

### **Allowances and Entitlements for Senators and Members**

As has been the case in previous years, several issues, including in relation to charter allowance and communications allowance, were considered in the course of the year following representations from various parties, without any changes being made to substantive provisions.

However, the Tribunal considered that the real value of electorate allowance had diminished since 2000, when it was last increased. The Tribunal decided to adjust the allowance, albeit at a lesser rate of increase than would be represented by the accumulated CPI increases since 2000, and to restructure the allowance so that all Senators and Members receive a standard base amount and Members representing larger electorates receive supplementary amounts.

The *Parliamentary Entitlements Act 1990* (the PE Act) gives the Tribunal limited power to determine benefits additional to those in that Act. The main limitations on the Tribunal's power are that this provision is only related to benefits not in the nature of remuneration; and any Regulation made under the PE Act 'covers the field' in relation to the subject of that Regulation.

### 3.6 Official Travel

#### The Framework

Under the *Remuneration Tribunal Act 1973*, the Tribunal is responsible for setting travel allowances for office holders within its jurisdiction.

The general provisions for non-parliamentary office holders are set out in a single determination, which provides for different tiers of travel entitlement. The various remuneration determinations specify the travel tier applicable to an office and may also contain specific travel-related provisions for an office or a group of offices. Provisions for parliamentary office holders are set out in separate determinations.

The Tribunal adjusted the travelling allowance rates applicable to full and part-time office holders, Principal Executive Offices, and judicial and related office holders with effect from 31 August 2008. The changes were made through Determination 2008/14 Official Travel by Office Holders, which amended the principal Determination 2004/03.

The travel allowance rates and general travel provisions for parliamentary offices are contained in Determination 2008/15 – Members of Parliament – Travelling Allowance; and Determination 2006/18 – Members of Parliament Entitlements.

In considering the travel allowance rates provided in the determinations, the Tribunal had regard to the rates in the Australian Taxation Office's *'Income tax: what are the reasonable travel and overtime meal allowance expense amounts for 2008-2009?'*

#### Enquiries about Travel Provisions

In the Tribunal Secretariat's experience, the travel provisions give rise to a considerable number of enquiries concerning their proper application. It is relevant to note, in this regard, that while the Tribunal determines these entitlements, it neither administers them nor stipulates the particulars of their application in the diverse circumstances of the agencies and public offices concerned.

The responsibility for the administration of travel entitlements, sits broadly, with the relevant agency and the portfolio department. Tribunal Determination 2004/03 - Official Travel by Office Holders, does include certain relevant provisions including clauses 1.6 (*Official travel*); 1.7 (*No double payment*); and 1.8 (*Value for money*).

However, the most relevant provision, in this particular regard, is clause 1.9 - Agency Guidelines. This clause establishes a clear link to the Chief Executive's Instructions anticipated by the *Financial Management and Accountability Act 1997* and the FMA Regulations. It is through these Instructions (and, as appropriate, any instructions that may have been issued by an Agency Head under the *Public Service Act 1999*) that an agency's policies may be set out and the associated requirements on officials when undertaking a broad range of financial management tasks may be specified.

An essential consideration in all transactions is that they should be consistent with the efficient, effective and ethical use of Commonwealth resources.

When it comes to travel by air, it is intended in the Tribunal's determination that office holders should neither gain, nor lose, financially as a consequence of air travel arising directly in connection with their responsibilities as an office holder. Consequently, the Tribunal would expect travel for an office holder to be approved only where its purpose is consistent with the duties of the office holder. Ordinarily, it would be expected that, for example, travel for a member of the Board of an Australian Government agency would be subject to the explicit approval of the agency's Chairman or the Chief Executive or a delegated officer. Specifically, the Tribunal expects that an appropriate framework of authority and delegations will be in place to approve any travel, including overseas travel - indeed, any activity incurring cost to the Commonwealth. For overseas travel undertaken by the Chairman, the Tribunal would anticipate that prior approval from the relevant Minister would be obtained.

The Tribunal determines the travel entitlement of each public office by specifying the Tier of entitlement to apply to that office. The Tier specifies the maximum rates of travel allowance, and class of travel, for the office concerned. Such a specification does not afford the office holder any entitlement to convert, cash out, divert or otherwise obtain any benefit of a personal kind. In particular, the determination of the Tier does not mean travel need be at the class specified; indeed, it is possible, and at times no doubt entirely reasonable, that travel be undertaken at a lower class if that is more convenient for the agency concerned or seems more appropriate to the officer concerned. In this regard, travel between, for example, Canberra and Sydney, will often entail other than business class travel. Travel at a class below the maximum specified in the Tier applicable certainly does *not* entitle an office holder to benefit from the difference in cost.

The Tribunal regards such considerations as being practical, reasonable and justified.

### 3.7 Recreation Leave

#### **The Framework**

Under the *Remuneration Tribunal Act 1973*, the Tribunal is responsible for determining the recreation leave entitlements of full-time holders of relevant offices.

Relevant offices are those in relation to which there is a specific law of the Commonwealth (usually the Act establishing the office) which provides that the office holder has such recreation leave entitlements as are determined by the Remuneration Tribunal.

Judges, parliamentarians and part-time office holders do not have recreation leave entitlements determined by the Tribunal.

During the reporting period, there were five Determinations which contained provisions relating to recreation leave: Determination 2007/09: Recreation Leave for Full-Time Holders of Relevant Offices; Determination 2005/19: Principal Executive Office - Classification Structure and Terms and Conditions; Determination 2008/08: Remuneration and Allowances for Holders of Full-Time Public Office; Determination 2008/06: Specified Statutory Officers – Remuneration and Allowances; and Determination 2008/09: Judicial and Related Offices – Remuneration and Allowances.

### 3.8 Advisory Functions

#### The Framework

The Tribunal is required under several Acts to provide advice before remuneration for a relevant office is determined by the relevant minister. The Tribunal provides advice under the *Public Service Act 1999* to the Prime Minister about the remuneration of Departmental Secretaries; to the Cabinet Secretary about the remuneration of the Public Service Commissioner and Merit Protection Commissioner; and to Agency Ministers about the heads of Executive Agencies, the Bureau of Meteorology, National Archives of Australia, CrimTrac, and Insolvency and Trustee Service Australia; and to the Presiding Officers under the *Parliamentary Service Act 1999*.

In accordance with the requirements of the *Public Service Act 1999*, the Tribunal advised the Prime Minister on the remuneration of Departmental Secretaries. It also advised each of the relevant Ministers on the remuneration and other conditions of Executive Agency Heads and the Office of the Public Service Commissioner. The Tribunal provided advice to the Presiding Officers in relation to remuneration of the Heads of Parliamentary Departments, in accordance with the *Parliamentary Service Act 1999*.

The advice provided by the Tribunal included notification of the deferral of its 2009 Annual Review of remuneration for public office holders to 30 September 2009.

#### **4. Financial Matters**

The Tribunal's financial requirements are met through the Department of Education, Employment and Workplace Relations (DEEWR), sub-program 9 "Secretariat to the Remuneration Tribunal". There is no separate form of accounts applicable to the Tribunal.

The Tribunal is supported by a Secretariat staffed by DEEWR employees. Appendix 3 provides contact details for the Secretariat.

Financial reporting for the Tribunal can be found within the DEEWR Annual Report.

#### **5. Consultancies**

Following the expiration of the original contract, DEEWR entered into a new three year contract with Morris Walker Pty Ltd (Morris Walker). This will expire in December 2011.

As part of its review of Departmental Secretaries, DEEWR entered into a contract with Egan Associates – provision of assistance with the review of Departmental Secretaries, including preparation of associated papers.

See DEEWR's Annual Report and the AusTender website for further information.

#### **6. Legislative Requirements**

##### **6.1 *Occupational Health and Safety Act 1991***

The Tribunal Secretariat is provided by DEEWR and is subject to its policies and practices in relation to occupational health and safety. Information about DEEWR's policy is available in the DEEWR Annual Report.

##### **6.2 *Advertising and Market Research (Commonwealth Electoral Act 1918)***

The Tribunal did not undertake any paid advertising or market research activities in the reporting year, except to the extent that the consultancy with Egan Associates (refer section 5 above) involves market research.

##### **6.3 *Environment Protection and Biodiversity Conservation Act 1999***

The Tribunal Secretariat is provided by DEEWR and is subject to its policies and practices in relation to meeting the requirements of the *Environment Protection and Biodiversity Conservation Act 1999*. Information about DEEWR's policy is available in the DEEWR Annual Report.

#### **6.4 Freedom of Information Act 1982**

The Tribunal is subject to the provisions of the *Freedom of Information Act 1982* (FOI Act). The Tribunal received four requests for access to documents under the FOI Act during the reporting year.

The information required to be published under Section 8 of the FOI Act is set out at Appendix 4.

#### **6.5 Legislative Instruments Act 2003**

Tribunal determinations are legislative instruments for the purposes of the *Legislative Instruments Act 2003* (the LI Act). Under the LI Act, Tribunal Determinations made after 1 January 2005 (the date of commencement of most provisions of the LI Act) have been provided to the Attorney-General's Department by the Tribunal for registration on the Federal Register of Legislative Instruments. The LI Act then requires the Attorney-General's Department to table a copy of the Determination in both houses of the Parliament within 6 sitting days of registration. Sub-section 7(8) of the *Remuneration Tribunal Act 1973* provides that either house may pass a resolution 'disapproving' the determination within 15 sitting days after the determination has been tabled.

## Appendix 1 – List of Determinations and Reports for 2008-2009

During the reporting year, the Tribunal issued the following Reports, Determinations and Statements. Copies of these documents can be obtained from:

- The tabling offices of the Senate or the House of Representatives;
- The Tribunal's website [www.remtribunal.gov.au](http://www.remtribunal.gov.au); and
- The Federal Register of Legislative Instruments website [www.frli.gov.au](http://www.frli.gov.au)

2009/08	Remuneration and Allowances for Holders of Public Office and Members of Parliament - Entitlements
2009/07*	Judicial and Related Offices – Remuneration and Allowances
Statement	2009 Review of Remuneration for Holders of Public Office
2009/06	Members of Parliament - Travelling Allowance and Entitlements
2009/05	Remuneration and Allowances for Holders of Public Office
Statement	Statement by Tribunal President - Judicial Review
2009/04	Remuneration and Allowances for Holders of Public Office; and Members of Parliament - Entitlements and Office Holders Additional Salary)
Statement	Remuneration Tribunal Statement on Electorate Allowance
2009/03	Remuneration and Allowances for Holders of Public Office
2009/02	Remuneration and Allowances for Holders of Public Office
2009/01	Remuneration and Allowances for Holders of Public Office and Members of Parliament - Entitlements
2008/22	Remuneration and Allowances for Holders of Public Office
Statement	Review of Remuneration for Holders of Public Office
2008/21	Remuneration and Allowances for Holders of Public Office
2008/20	Remuneration and Allowances for Holders of Public Office
Report 1	Report on Ministers of State - Salaries Additional to the Basic Parliamentary Salary
2008/19*	Parliamentary Office Holders - Additional Salary
2008/18	Remuneration and Allowances for Holders of Public Office
2008/17	Remuneration and Allowances for Holders of Public Office
2008/16	Remuneration and Allowances for Holders of Public Office
2008/15*	Members of Parliament - Travelling Allowance
2008/14	Official Travel by Office Holders
2008/13	Remuneration and Allowances for Holders of Public Office
2008/12	Members of Parliament Travelling Allowance

\* These documents are Principal Determinations

## **Appendix 2 – Variation to Bodies/Offices in 2008-2009**

### **Full-Time Offices**

#### **New**

Chief Executive Officer, Australian Fisheries Management Authority Commission  
Infrastructure Coordinator, Infrastructure Australia  
Assistant Director, Social Security Appeals Tribunal  
Chief Scientist (moved from the Part-Time Office Holder Determination)  
Chief Executive, National Capital Authority (moved from the PEO Structure)  
Chief Executive Officer, Australian Organ and Tissue Donation and Transplantation Authority  
Fair Work Ombudsman  
General Manager, Fair Work Australia  
Chair, Tax Practitioners Board  
Member, Tax Practitioners Board  
Chief Commissioner, Australian Transport Safety Bureau Commission  
Chief Executive, Murray-Darling Basin Authority

#### **No Longer Appearing in the Determination**

Member, Veterans' Review Board  
Chair, Murray-Darling Basin Authority (moved to the Part-Time Office Holder Determination)

#### **Renamed**

Nil

### **Part-Time Offices**

#### **New**

Chair, Murray-Darling Basin Authority (moved from the Full-Time Office Holder Determination)  
Screen Australia  
National Film and Sound Archive  
NHMRC – Expert Advisory Group on Antimicrobial Resistance  
National Housing Supply Council  
National Indigenous Health Equality Council  
Australian Organ and Tissue Donation and Transplantation Authority Advisory Council  
Health and Hospitals Fund Advisory Board  
Defence Science and Technology Organisation Advisory Board  
Tuggeranong Office Park Pty Limited (TOP)  
Member, Tax Practitioners Board  
Committee Member, Tax Practitioners Board  
Ministerial Advisory Committee on Blood Borne Viruses and Sexually Transmissible Infections  
Patent and Trade Marks Attorneys Disciplinary Tribunal  
Civil Aviation Safety Authority Board (CASA)  
Commissioner, Australian Transport Safety Bureau Commission  
Wheat Exports Australia  
Education Investment Fund Advisory Board

## **No Longer Appearing in the Determination**

Australian Film Commission  
Film Australia Limited  
Film Finance Corporation Australia  
Life Insurance Actuarial Standards Board  
National Institute of Clinical Studies  
Acute Care Advisory Committee  
Australian Prescriber Executive Editorial Board  
Medical Services Review Tribunal  
Chief Scientist (moved to the Full-Time Office Holder Determination)  
Research Quality Framework Assessment Panels  
Research Quality Framework Reference Committee  
Dairy Adjustment Authority  
Broadcasting Council  
National Standards Commission  
Health Services Australia Ltd  
Ministerial Advisory Committee on AIDS, Sexual Health and Hepatitis  
National Land and Water Resources Audit Advisory Council  
Telstra Sale Company Limited  
Australian Health Information Council  
Australian Influenza Vaccine Committee  
Medical Services Committees of Inquiry  
Optometrical Services Committee of Inquiry  
Optometrical Services Review Tribunal  
Therapeutic Goods Committee, Subcommittee on Child Resistant Packaging  
Export Wheat Commission  
Higher Education Endowment Fund Advisory Board

## **Renamed**

Adverse Drug Reactions Advisory Subcommittee: now Adverse Drug Reactions Advisory Committee  
Influenza Vaccine Committee: now Australian Influenza Vaccine Committee  
Australian Fisheries Management Authority: now Australian Fisheries Management Authority Commission  
Pharmaceutical Health and Rational Use of Medicines Committee: now National Medicines Policy Committee

### **Appendix 3 – Secretariat**

The Tribunal is supported by a Secretariat staffed by officers of the Department of Education, Employment and Workplace Relations.

The Secretary to the Tribunal is Mr Derren Gillespie.

The Secretariat can be contacted by writing to:

The Secretary  
Remuneration Tribunal Secretariat  
PO Box 281  
CIVIC SQUARE ACT 2608

Or via:

Phone: (02) 6121 7965  
Fax: (02) 6218 4056  
Email: [enquiry@remtribunal.gov.au](mailto:enquiry@remtribunal.gov.au)

This Annual Report is available on the Tribunal's website: [www.remtribunal.gov.au](http://www.remtribunal.gov.au)

Media inquiries should be directed to:

Ms Danielle Morris  
Morris Walker Pty Limited

Phone: (02) 6162 0021  
Fax: (02) 6162 0023  
Mobile: 0412 181 389  
Email: [dmorris@morriswalker.com.au](mailto:dmorris@morriswalker.com.au)

## **Appendix 4 – Freedom of Information Act 1982**

### **Establishment**

The Remuneration Tribunal is an independent statutory authority established under the *Remuneration Tribunal Act 1973* (the Act).

### **Organisation**

The Tribunal comprises three part-time members, one of whom is appointed as President.

### **Functions/Powers**

The Tribunal's role is to determine, report on or provide advice about remuneration, allowances and entitlements that are within its jurisdiction, for the following:

- Full-time and part-time holders of various public offices;
- Judicial and non-judicial offices of federal courts and tribunals;
- Principal Executive Offices; and
- Federal Parliamentarians, including Ministers and Parliamentary Office Holders.

There are a number of offices where the Tribunal provides advice to the employer, which then determines the remuneration.

The *Public Service Act 1999* requires the Minister to consult the Tribunal about the remuneration of offices before making a determination. These are:

- the Prime Minister for Secretaries of Departments;
- Cabinet Secretary in relation to the Public Service Commissioner and the Merit Protection Commissioner; and
- The relevant Minister in respect of Australian Public Service Executive Agencies.

The *Parliamentary Service Act 1999* requires the Speaker of the House of Representatives and the President of the Senate to consult the Tribunal about the remuneration of the offices of Secretaries of the Parliamentary Departments, the Parliamentary Service Commissioner and the Parliamentary Service Merit Protection Commissioner prior to making a determination.

Under Section 11(1) of the *Remuneration Tribunal Act 1973*:

- a) the Tribunal may inform itself in such manner as it thinks fit;
- b) the Tribunal may receive written or oral statements;
- c) the Tribunal is not required to conduct any proceeding in a formal manner; and
- d) the Tribunal is not bound by the rules of evidence.

## **Categories of Documents**

Documents maintained by the Tribunal include:

- Determinations, Explanatory Statements and Reports made by the Tribunal;
- Minutes of Tribunal Meetings and documents placed before meetings;
- Submissions from interested parties; and
- Files dealing with matters that have been referred to the Tribunal.

## **FOI procedures and initial contact points**

Formal FOI procedures for the Tribunal are managed by the Department of Education, Employment and Workplace Relations. In the first instance persons wishing to gain access to documents relating to the work of the Tribunal should write to or contact the Secretary of the Tribunal at the following address:

The Secretary  
Remuneration Tribunal  
PO Box 281  
CIVIC SQUARE ACT 2608

Phone: (02) 6121 7965  
Fax: (02) 6218 4056  
Email: [enquiry@remtribunal.gov.au](mailto:enquiry@remtribunal.gov.au)

Media inquiries should be directed to:

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Mobile: 0412 181 389  
Email: [dmorris@morriswalker.com.au](mailto:dmorris@morriswalker.com.au)



## Remuneration Tribunal

### 2009 Review of Remuneration for Holders of Public Office

#### Statement

The Tribunal's obligation, under sub-sections 7(3) and 7(4) of the *Remuneration Tribunal Act 1973* (the Act), is to inquire into and determine remuneration and significantly related conditions for offices within its jurisdiction at least annually.

The Tribunal determines remuneration for a wide range of the most senior full-time and part-time public offices, including the federal judiciary. The Tribunal's determinations - available on its website - <http://www.remtribunal.gov.au/> - list all such public offices.

The Tribunal also provides advice, under various statutes, to ministers and others responsible for determining remuneration for a range of offices, including Secretaries of Australian Public Service Departments.

Over recent years, the Tribunal has determined increases in remuneration for offices in its jurisdiction of the order of four per cent. In settling on the quantum of an increase each year, the Tribunal has considered data from various sources, as well as external factors. The Tribunal has detailed this in previous statements.

The Tribunal noted in the Statement on the 2008 review that it would have been disposed to determine a significantly greater adjustment than that decided, had it not been for the challenging circumstances then current.

The Tribunal notes that the Consumer Price Index for the year to March 2009 increased by 2.5 per cent and that the average annualised wage increase in public sector wage agreements, concluded in the December 2008 quarter, was 4.4 per cent.

Remuneration of the Senior Executive Service (SES) of the Australian Public Service (APS) continued to increase in the last reported period, up to December 2007, by between five and six per cent. These figures were provided in the 2007 APS Remuneration Survey. The 2008 Survey has not yet been released - in past years the Survey has been released around July.

The Tribunal has expressed concern previously about the remuneration of office holders in the Tribunal's jurisdiction relative to that of the SES in the APS, and does not wish to make any decision that would exacerbate this. The Tribunal is also of the view that it would not be desirable for the remuneration of office

holders in its determinative jurisdiction to be eroded further by inflationary or other pressures, notwithstanding the fact that economic circumstances remain difficult.

The Tribunal has therefore decided to defer any decision on an annual adjustment until after 30 September 2009. This decision will apply to all offices in the Tribunal's jurisdiction, including judicial and related offices.

### **Parliamentarians**

The Tribunal does not have the jurisdiction to determine the basic salary of parliamentarians. Their salaries are linked, presently, by Government Regulation to a particular salary point in the Tribunal's Principal Executive Office remuneration structure.

The Tribunal's decision to defer the annual review also means that there will be no change in the Principal Executive Office structure until after 30 September 2009. As the additional salaries of parliamentary office holders and Ministers of State are expressed as percentages of the basic salary, there will, therefore, also be no change in their remuneration.

### **Federal Judicial Offices and the Tribunal's Review of Relativities between the Federal Courts**

The Tribunal is obliged to review the remuneration of judicial and related offices at least annually. This has been done, without amendment to the current remuneration of these offices, by Determination 2009/07. This Determination will be tabled in Parliament and made available on the Tribunal's website.

The Tribunal mentioned, in its 2006/2007 and 2007/2008 Annual Reports, that it was undertaking a review of relativities between the federal courts.

The Tribunal has noted the Attorney-General's recent announcement of proposed changes to those federal courts concerned primarily with family law matters, consequent upon his review of the family law system. The Tribunal will assess the effect of these proposals (particularly their implementation) in settling its conclusions on appropriate relativities.

Enquiries may be directed to the Tribunal's Media Adviser on (02) 6162 0021 or through [enquiry@remtribunal.gov.au](mailto:enquiry@remtribunal.gov.au).

Remuneration Tribunal  
19 May 2009

## **Appendix 6 – Acronyms**

APS	Australian Public Service
CEO	Chief Executive Officer
DEEWR	Department of Education, Employment & Workplace Relations
FTOH	Full-Time Office Holder
FOI	Freedom of Information
FOI Act	Freedom of Information Act 1982
LI Act	Legislative Instruments Act 2003
PEO	Principal Executive Office
PTOH	Part-Time Office Holder
RTS	Remuneration Tribunal Secretariat
SES	Senior Executive Service
SSO	Specified Statutory Office