



Remuneration Tribunal

2010 Review of Remuneration for Holders of Public Office

Statement

Overview

The Tribunal has determined an adjustment of 4.1% to the remuneration of public offices in its jurisdiction with effect from 1 August 2010. In arriving at this conclusion, the Tribunal, while taking account of developments in the wider national economy, has ascribed particular weight to movements in remuneration in the public sector generally including the Australian Public Service. The Tribunal's decision is equivalent to an annual increase of 3.8% from 1 July 2010.

Background

In 2009, the Tribunal determined an annual general increase in the remuneration of federal public offices with effect from 1 October 2009.

Ordinarily, the Tribunal determines the annual adjustment with effect from 1 July each year. However, as indicated in the Tribunal's Statements of 19 May and 24 September 2009, the Tribunal deferred its 2009 decision because of continuing uncertainties in economic circumstances. The deferral of the increase to 1 October 2009 meant that the effective annual increase for the year commencing on 1 July 2009 was 2.25%.

On 31 May 2010, the Tribunal issued a Statement advising that the 2010 annual adjustment would take effect on and from 1 August 2010. On 20 July 2010, the Tribunal issued a further Statement advising that, in the light of the announcement of the federal election to be conducted on 21 August 2010, it had decided to defer the Statement about the decision on the 2010 annual adjustment until after the election.¹

Remuneration of Public Offices

The Statement of 24 September 2009 outlined the factors that the Tribunal takes into account in deciding remuneration for public offices.

The Tribunal's own disposition has been, and continues to be, one of moderation. This stems in part from the Tribunal's long espoused view that the rewards for working in the public sector are not to be found entirely in remuneration. However, movement in federal public sector remuneration is a factor to which the Tribunal ascribes weight.

The Tribunal considers that the remuneration determined for public offices in its jurisdiction must be sufficient to ensure that the federal public sector is able to engage highly capable people to undertake effectively the many and diverse functions of government. The large-scale challenges with which governments must deal involve significant developments over extended periods and high levels of resources. At the most senior levels, the holders of public offices must

¹ The Tribunal's Statements of 19 May and 24 September 2009, and 31 May and 20 July 2010, are available on its website - <http://www.remtribunal.gov.au/statementsreports/default.asp?menu=Sec8&switch=>

be capable of taking long-term perspectives and of framing advice and acting accordingly. Remuneration must also properly reflect variations in the functions of organisations.

In the Tribunal's view, the roles and responsibilities of the principal office of a federal government agency are invariably more significant and onerous than those of any other employee in the agency; the remuneration of the principal office must reflect this critical distinction.

The Tribunal has commented frequently on the significant movements in remuneration, over a sustained period, of Senior Executive Service (SES) employees in the Australian Public Service; they have outstripped, by a considerable margin, adjustments determined by Tribunal. It is not uncommon for SES employees to be the direct reports of office holders whose remuneration is either determined by the Tribunal or subject to its advice. Given the movements in SES remuneration, the relationship between risk and responsibility, on the one hand, and remuneration, on the other, is out of alignment. In the Tribunal's judgement, this factor alone indicates that the remuneration of senior public offices is less than it should be.

These considerations continue to be of particular concern to the Tribunal.

The Economic Situation

The Tribunal derives guidance about general economic circumstances from material published by a range of authoritative sources including the Reserve Bank of Australia and the Australian Bureau of Statistics. Perhaps the most recent significant general survey of the Australian economy was that published by Fair Work Australia in its decision concerning its Annual Wage Review 2009-10.

The Tribunal's Statement of 24 September 2009 also noted the submissions made on behalf of the Government, in 2008 and 2009, by the then Attorney-General, the Hon Robert McClelland MP. Although the Government did not make a submission on this occasion, the Tribunal has taken account of the views expressed previously.

Present Conditions

In September 2009, the Tribunal noted that the general economic outlook appeared to have improved and that the assessments at that time suggested further improvement in the period ahead.

Those expectations, on balance, have been largely borne out, although uncertainty remains.

In its August 2010 Statement on Monetary Policy, the Reserve Bank of Australia summarised domestic economic conditions as follows:

"The Australian economy continued to expand at a solid pace over the first half of 2010. The economy is benefiting from elevated commodity prices and high levels of public investment. Employment growth has been strong and confidence remains generally positive. Over the period ahead, some rebalancing of growth is expected, with public investment likely to decline as stimulus projects are completed, while private demand is expected to strengthen. The outlook for investment in the resources sector remains especially positive and the high level of the terms of trade is boosting incomes and demand.

*"The latest available GDP data show that real GDP increased by 0.5 per cent in the March quarter, to be 2.7 per cent higher over the year. The level of output in Australia is now 2.5 per cent above that in the September quarter of 2008, whereas for most other advanced economies, the level of output remains around or below its earlier peak. As discussed in previous Statements, the share of investment in GDP in Australia remains much higher than in other advanced economies and Australia's exports have performed relatively well. Looking forward, timely indicators of economic activity, including measures of consumer and business confidence and information from the Bank's liaison program, are consistent with continued growth in economic activity."*²

Fair Work Australia, in the Statement issued in conjunction with its 2009-10 Annual Wage Review decision, included the following general assessment:

*"The 2010–11 Budget forecasts attributed the relatively shallow downturn in the domestic economy to monetary and fiscal policy stimulus, noting that private sector activity is expected to drive growth in 2010–11. Growth in GDP in 2010 is expected to be 3 per cent and in 2011, 3½ per cent driven by household consumption, business investment and exports. Unemployment is expected to continue to fall. Employment is expected to grow at an annual rate of 2¼ per cent to June 2012. Wages are expected to grow strongly. Underlying inflation is expected to stabilise at around 2½ per cent. The RBA's forecasts for inflation are slightly higher at around 3 per cent."*³

Federal Public Sector Remuneration

The Tribunal's September 2009 Statement referred to the then policy on workplace relations arrangements in Australian Government employment and the significance of the link therein between improvements in pay and conditions and improvements in productivity. Such linkages have been a continuing feature of federal public sector bargaining arrangements. The Statement also included the following table showing movements in the median total remuneration of SES employees under these bargaining arrangements.

Median SES Total Remuneration (excluding performance pay)												
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	Compound Annual Increase
SES3	173410	179757	194309	202884	210725	229147	250607	260983	276446	293404	315007	6.15%
SES2	144773	148365	160882	166041	171672	187959	203410	210861	220691	233566	248133	5.54%
SES1	120952	123649	132287	135541	139948	154097	164981	170416	177857	185606	196880	4.99%

² Reserve Bank of Australia - Statement on Monetary Policy - August 2010 - Domestic Economic Conditions - p29

³ Fair Work Australia - Statement - Annual Wage Review 2009-10 - 3 June 2010 - paragraph 10

This data showed that median SES Band 3 total remuneration (excluding performance pay) had increased by a compound rate of 6.15% since 1998 - that is, remuneration had increased by over 6% a year for each of the ten years to the end of 2008. It is relevant to note that the annual rate of increase over this period was greater than that over the nine years to the end of 2007.

Remuneration data to the end of 2009 for SES employees had not been published at the time of this Statement. However, were the data to show a degree of moderation - for example, a modest increase over the year to the end of 2009 of 2.5% for SES Band 3 employees - it would have only a slight impact on the compound annual increase over the 11 years preceding that point. A 2.5% increase would bring the compound annual increase over the 11 years to 31 December 2009 back to 5.8% from the 6.1% over the 10 years to the end of 2008. The same assumption about the 2009 increase in SES Band 3 TRP would mean that the 7.1% aggregate increase determined by the Tribunal for full-time public offices in its jurisdiction since 31 December 2008 would still be considerably less than the 9.9% aggregate increase in median TRP for SES Band 3 employees in the two years to 31 December 2009.

The Tribunal introduced 'total remuneration' arrangements for full-time public offices late in 2002. Although variations have since been made to the remuneration of some public offices to take account, for example, of developments in the scope of their individual roles and responsibilities, the remuneration of most such offices has only been adjusted by the annual adjustments determined by the Tribunal.

The following table - in which remuneration is expressed in index terms - compares the increases in the remuneration of SES employees since 2003 with increases in the remuneration of public offices covered by the Tribunal's annual adjustments:

Index Movement 2003 - 2008							
	2003	2004	2005	2006	2007	2008	Compound Annual Increase
SES 3	100	109.37	113.89	120.64	128.04	137.47	6.57%
SES 2	100	108.22	112.18	117.41	124.26	132.01	5.71%
SES 1	100	107.06	110.59	115.42	120.45	127.76	5.02%
Full-time Public Office	100	103.9	108.46	113.26	118.01	123.09	4.24%

It is evident that increases achieved by SES employees have exceeded those determined by the Tribunal by a considerable margin. Were the Tribunal disposed simply to address the continuous adverse shift in relativities that had occurred over the five years from 2003, then an adjustment of more than 10% would have been justified in 2008-2009.

In its September 2009 Statement, the Tribunal noted the distinctions between the roles of SES employees and those of the holders of public offices, particularly where the latter have responsibility for exercising statutory responsibilities and for leading agencies of considerable significance. As the Tribunal observed, then:

"... while the responsibilities of an SES office may be onerous, they are, in general, not of the same order as those of an agency head or of a public office carrying particular statutory powers."

The evident and sustained adverse shifts in relativities - unsupported by demonstrable changes in the roles and responsibilities of the SES and untested by any external authority - create unsatisfactory tensions within the overall structure of public administration and, ultimately, are unsustainable. As the Tribunal expressed it in September 2009:

"This means that in every year in which the Tribunal determines an annual adjustment that is less than the averages indicated by the SES remuneration survey data, the remuneration of public offices falls behind."

More generally, wage growth in the public sector has continued at around 4% per annum. The Reserve Bank in its August 2010 Statement on Monetary Policy, noted that *"(p)ri vate-sector wages grew at a below-average pace, to be 2.6 per cent higher over the year, while public-sector wage growth remained solid at 4.3% over the year."*⁴

The following table shows trend movements in the Wage Price Index published by the Australian Bureau of Statistics⁵. Since 2005, at least, only the March and June and September quarters of 2008 have shown annual increases of less than 4% in the public sector.

Wage Price Index			
[Trend change from corresponding quarter of previous year]			
Year	Quarter	Australia	Public Sector
2010	Jun	3.0	4.0
	Mar	2.9	4.2
2009	Dec	3.0	4.2
	Sep	3.4	4.5
	Jun	3.9	4.5
	Mar	4.2	4.4
2008	Dec	4.2	4.1
	Sep	4.0	3.8
	Jun	4.1	3.8
	Mar	4.1	3.9

Similarly, the most recent edition (December quarter 2009) of the Department of Education, Employment and Workplace Relations' publication, *"Trends in Federal Enterprise Bargaining"* shows Average Annualised Wage Increases (AAWI) incorporated in public sector agreements approved in each quarter of 2009 ranged from 3.6% to 4.3% and in 2008, from 3.8% to 4.4%. The AAWI for public sector collective agreements approved in the December 2009 quarter was 4.2%.

⁴ Reserve Bank of Australia - Statement on Monetary Policy - August 2010 - Price and Wage Developments - p51

⁵ 6345.0 - Labour Price Index, Australia, June 2010 - Trend

This data suggests that an annual adjustment of at least 4% in the remuneration of public offices would be justified, particularly taking into account the modest and belated increase (3% from 1 October 2009) determined by the Tribunal for public offices last year.

More recently, the AAWI for agreements assessed under the APS Bargaining Framework appears to have trended down.

However, the Tribunal is not inclined to accord weight to such data until there is sustained evidence of such a trend and, more significantly, arrangements have been established to increase the consistency and robustness of APS pay and classification outcomes, including in respect of the SES.

In this regard, the Tribunal ascribes particular importance to the implementation of the recommendations of the Advisory Group on Reform of Australian Government Administration in its March 2010 report *"Ahead of the Game - Blueprint for the Reform of Australian Government Administration"* concerning APS classification arrangements and the foreshadowed review of the size, capability and work level standards for each level of the SES.

The Tribunal's Conclusion

As noted above, the compound annual increase in SES Band 3 remuneration over the 10 years to December 2008 was 6.15%. The AAWI, year on year, for public sector collective agreements approved in the December quarter 2009 was 4.2%. The AAWI for all wage agreements (private and public sector) approved in the December 2009 quarter and for all current wage agreements (private and public sector) were 4% and 4.1% respectively.

Having considered all the matters referred to in this Statement, the Tribunal has determined an increase in the remuneration of public offices of 4.1% with effect from 1 August 2010.

The Tribunal reiterates its policy that the remuneration of public offices should be determined conservatively. However, remuneration for federal public offices should be sufficient to ensure that Australian government agencies attract and retain highly skilled and committed people. The Tribunal considers it essential that the remuneration of the most senior public offices be restored to appropriate levels, over time.

Work Value

Parliamentarians

In its September 2009 Statement, the Tribunal referred to - and welcomed - the initiative by the Special Minister of State, Senator the Hon Joe Ludwig, to establish a panel to conduct a review of parliamentary entitlements. The President of the Remuneration Tribunal was appointed a member of the panel in that capacity. The Tribunal stated then:

"The review affords the Government, the Opposition, individual Senators and Members, and others, the opportunity to give careful consideration to the present remuneration arrangements of parliamentarians, and to establish, for the first time in many years, a transparent and well-defined foundation for the future."

The Tribunal made two submissions to the Review; each is available on the Tribunal's website.⁶ The first of the submissions summarised the Tribunal's position as follows:

- *the approach adopted at the time of the making of the Remuneration and Allowances Act 1990 (the R&A Act) and the Parliamentary Entitlements Act 1990 (the PE Act) - namely separating 'entitlement delivery' into two streams - was soundly based in logic and principle, and should continue to be the basis of the expression and delivery of parliamentary entitlements;*
- *the 'two streams' should be:*
 - *payments in the nature of remuneration, or which provide, at least in part, a personal financial benefit to the parliamentarian and which would be so understood by the community; and*
 - *funds made available for the business expenses of parliamentarians to enable them to fulfil their function and which do not provide, and cannot be converted to provide, a personal financial benefit;*
- *the remuneration elements of the current parliamentarian's 'package' be rationalised and consolidated:*
 - *express parliamentarian's remuneration as a 'total remuneration' amount, including the present 'base salary', consistent with contemporary remuneration practice; and*
 - *there should be few, if any, benefits of a personal nature outside this 'total remuneration' amount;*
- *the remuneration of parliamentarians should be determined independently and by an examination of the roles and responsibilities of a parliamentarian, rather than determined by the Parliament itself based on some linkage to non-parliamentary offices;*
- *for the sake of transparency, the remuneration package should be published in a consolidated and clear form; and*
- *transition to such arrangements should be effected on a 'no additional cost' basis.*

As at the date of this Statement, the Committee's Report of the Review of Parliamentary Entitlements had not been published.

The Tribunal continues to regard its submissions to the Review as setting out practical means of establishing appropriate remuneration and business-support arrangements for parliamentarians. In the absence of reform, there is a real prospect that the remuneration and conditions of parliamentarians will become even more detached from contemporary arrangements without any reduction in the risks that stem from the existing ones. In this regard, the Tribunal notes the following observations from the Overview to its 2007-2008 Annual Report:

"The history of parliamentary remuneration is marked by actions which have either deferred or disallowed increases proposed by third parties, or

⁶ Remuneration Tribunal - Submissions to the Committee for the Review of Parliamentary Entitlements
<http://www.remtribunal.gov.au/statementsreports/default.asp?menu=Sec8&switch=>

which have actually reduced the remuneration. Therefore, over the decades, the remuneration of parliamentarians relative to public offices in particular, and remuneration in general, has declined.

*"The Tribunal's concern is that there has been no thorough review of the remuneration of parliamentarians for nearly twenty years. In these circumstances, base salary is not only less now than it might otherwise have been, it is also significantly below the level at which it would have been at 30 June 2008, had there been a consistent, sustained, basis for its fixation."*⁷

The Tribunal's proposal that it conduct a 'work value' review of parliamentarian's remuneration is now timely. Such an examination of the roles and responsibilities of a parliamentarian would serve as a basis for the Tribunal's independent determination of appropriate remuneration.

The Federal Judiciary

The September 2009 Statement mentioned the Tribunal's review of relativities among the federal courts. The Tribunal's Report was published in October 2009. The Tribunal concluded that:

- there was a work value case to increase the remuneration of the Judges of the Federal Court by 6%;
- on the basis that most of the work value changes in the Federal Court would apply to the High Court, the same adjustment in remuneration would apply;
- the increase indicated for the Federal Court may also apply to the Family Court when it was accepted that the demonstrable and sustained transfer of all of the more straightforward matters to the lower court had occurred and that like considerations applied to the Federal Magistrates Court.

The Tribunal also noted that, in practice, changes were taking place, administratively, between the Family Court and the Federal Magistrates Court consistent with the directions advocated in the report of the review of family law services commissioned by the Attorney-General's Department. The Tribunal, in its report, referred to an increase in the average length of cases undertaken by the Family Court; improved effectiveness in the protocols between the courts in the family law system directing caseload to the most appropriate level of judicial office; and foreshadowed reductions in the number of Judges in the Family Court. On this basis, the Tribunal concluded that, at the time of its report, the present relativities among superior court judges would be maintained.

As the immediate consequence of its review, the Tribunal decided that an adjustment of 1.5% would be made to the remuneration of judicial offices in the High Court, Federal Court, Family Court, and Federal Magistrates Court, with effect from 1 November 2009. A further adjustment of 1.5% was determined with effect from 1 May 2010. The Tribunal also indicated its intention to determine two further 1.5% adjustments for each of the judicial offices concerned, with the adjustments to have been phased-in by 1 May 2011. The Tribunal noted, in the following terms, the conditionality of future adjustments in the remuneration of judicial offices in the family law system:

⁷ Remuneration Tribunal - 2007-2008 Annual Report - Overview - p4 - <http://www.remtribunal.gov.au/publications/default.asp>

"The Tribunal will also continue to monitor the restructuring of the family law courts, so as to be confident that the developments expected, at this time, to occur in the family law system are realised. The application of the three further adjustments foreshadowed in this statement is contingent on this.

"The Tribunal will also watch developments in the Federal Magistrates Court closely, with a view to deciding whether any changes in the roles and status of its Magistrates in the federal judicial structure may warrant an alteration in their remuneration, relative to that of judicial officers of the immediate federal superior courts." ⁸

Prior to the 21 August election, both the Government and the Opposition announced separate policies, each of which would lead to structural reform of the federal court system.

Clearly, further significant developments in the federal judicial system are in prospect and the Tribunal will pay close attention to them.

Secretaries of Departments

In March 2010, the Tribunal published Part I of the Report of its review of the office of Secretary. Part I reflected the outcome of the thorough assessment of these offices, taking account of other public offices and of comparisons with the private sector. The Tribunal is continuing its consideration of these offices with the aim of publishing a further report regarding appropriate remuneration for them later in 2010. It is evident, however, that their present remuneration is less than it should be.

The Tribunal also intends to review the Specified Statutory Offices and the principal offices of the Australian Prudential Regulation Authority; the Australian Securities and Investments Commission; and the Australian Competition and Consumer Commission.

Remuneration Tribunal

24 August 2010

Enquiries

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

⁸ Tribunal report - "Review of Remuneration Relativities among Australia's Federal Courts" - p11