



Remuneration Tribunal
2009 Review of Remuneration for Holders of Public Office

STATEMENT

Overview

This Statement sets out the Tribunal's reasoning and conclusions on an appropriate adjustment to the remuneration of public offices in its jurisdiction for 2009. The Tribunal has determined an adjustment of 3.0% with effect from 1 October 2009. The Tribunal believes this strikes an appropriate balance between ongoing economic uncertainty on the one hand and the sustained increases in remuneration in the wider Australian Public Service on the other.

This is equivalent to an annual increase of 2¼% from 1 July 2009.

Background

Ordinarily, the Tribunal determines an adjustment in the remuneration of public offices with effect from 1 July each year.

This year, the Tribunal decided to defer its decision on an annual adjustment until after 30 September 2009. The Tribunal's Statement of 19 May 2009 conveyed this decision and outlined the considerations behind it. The Statement is available on the Tribunal's website¹.

The Statement referred to the continuing difficult economic circumstances. It also reiterated the Tribunal's concern about the remuneration of office holders in the Tribunal's jurisdiction relative to that of the Senior Executive Service (SES) employees in the Australian Public Service (APS). The Statement noted that it would not be desirable for the remuneration of office holders in the Tribunal's determinative jurisdiction to be eroded further by inflationary or other pressures, notwithstanding the difficult economic circumstances.

Remuneration of Public Offices

In deciding remuneration for public offices, the balancing of competing considerations is an ongoing challenge for the Tribunal.

The general economic situation sets the broad framework within which adjustments are made; challenging circumstances have a moderating effect. Movements in federal public sector remuneration must also be taken into account; they tend to exert upward pressure.

The Tribunal's own disposition, as indicated in its recent submission² to the Productivity Commission's enquiry into the framework of private sector directors' and executives' remuneration, has been, and continues to be, one of moderation. The submission included the following observations:

¹ <http://www.remtribunal.gov.au/statementsreports/default.asp?menu=Sec8&switch>

² <http://www.remtribunal.gov.au/statementsreports/Submission%20to%20Productivity%20Commission%20on%20Executive%20Remuneration%2021.7.2009.pdf>

"The Tribunal's approach to the setting of remuneration for public offices could properly be described as conservative - even cautious.

"It has been invariably the case that the remuneration of public offices is not only less than that of comparable jobs in the private sector, but very much less. This is so even after setting aside entirely the excesses in recent years in corporate remuneration that are now, hopefully, being purged."

The Tribunal's submission also included the following observation:

"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. They accept the appointment because of a genuine desire to serve and a preparedness to balance honour and prestige with simple financial gain. 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, in its 2005-2006 Annual Report stated:

".....the Tribunal is also conscious that the public sector must be able to engage highly capable people if the many and diverse functions of government are to be performed effectively, particularly where appointments are made for relatively short periods - three to five years - and the prospects of renewed appointment are uncertain. It would be to the disadvantage of government were the remuneration of senior offices to lose touch with developments in remuneration more generally.

"Relativities within the public sector are also an important consideration. The Senior Executive Service (SES) is the senior management group of the Australian Public Service. It is not uncommon for SES officers to be the direct reports of office holders whose remuneration is determined by the Tribunal, or is subject to its advice. The Tribunal has noted movements in the remuneration of SES offices in recent years with interest. There appears to have been a continuing and not insignificant reduction in the relativities between SES remuneration and the remuneration of senior office holders.

"The Tribunal aims to ensure that relativities between public offices in its own jurisdiction are appropriate."

The Economic Situation

The Tribunal derives guidance about general economic circumstances from Government submissions; comment published by the Reserve Bank of Australia and other authoritative commentators; various statistics, including those published by the Australian Bureau of Statistics; and measures of movements in remuneration from a range of sources.

The submission made on behalf of the Government by the Attorney-General, the Hon Robert McClelland MP, in May 2008, included the following:

"Having regard to the overall economic climate, the Government is advocating pay restraint throughout the community, particularly for high income earners.

"Any remuneration increases determined by the Tribunal..... should be based on considerations of work value and productivity improvements."

The Government's submission in May 2009 was similar:

"Any remuneration increases determined by the Tribunal..... should consider work value and productivity improvements. In addition, the global financial crisis has had a significant impact on the national economy and is an important factor to consider."

The Tribunal's Statements of 5 June 2008 and 19 May 2009 reflected the weight accorded to these submissions.

Present Conditions

Since May 2009, the general economic outlook appears to have improved. In this regard, the Tribunal has noted the following comments in the Minutes of the Monetary Policy Meeting of the Reserve Bank Board held on 4 August 2009:

"Over the past month there had been additional evidence of an improvement in the global economy, especially in Asia. Global growth forecasts had been revised upwards for the first time in more than a year."

"The news on the domestic economy had mostly been positive over the past month, with the economy continuing to hold up better than had been expected. Business surveys had continued to strengthen and consumer sentiment had risen sharply over the past two months."

"The outlook for 2010 was also slightly stronger..... Overall, however (members) concurred that the economic outlook had improved."

"There had been a material improvement in conditions in financial markets over the past month, especially in the two weeks leading up to the meeting."

"On the basis of the available information, members judged that financial markets had improved substantially and that the global economic outlook was also better. Output was stabilising in the advanced economies and recovering quite strongly in Asia. Forecasts for global growth, while still low, were being raised for the first time in a year."

The subsequent Monetary Policy Meeting of the Reserve Bank Board was held on 1 September 2009. The Minutes of that meeting, published on 15 September 2009, suggest to the Tribunal that developments since the previous meeting had not changed the Board's assessment materially. The Minutes included the following observations:

"The information presented to members showed that the situation in the global economy was continuing to improve."

"Members noted that indicators of the domestic economy over the past month had again been better than expected."

"Measures of confidence of both households and businesses had recovered strongly."

The Treasurer, the Hon Wayne Swan MP, in a speech given at Chatham House on 4 September 2009, included the following observations that the Tribunal considers relevant to its present deliberations:

" While most other advanced economies have experienced deep contractions in output and employment over the past year - the Australian economy has continued to grow.

"Our latest GDP figures released two days ago show that Australia has the strongest growth of any of the world's 33 advanced economies.

"Australia is the only advanced economy to have recorded positive growth over the past year."

In an address to the Canberra International CEO Forum, on 18 August 2009, the Treasurer, like the Reserve Bank Board, referred to improvements in confidence:

"And perhaps the most important impact, something that exceeds the sum of the parts of our stimulus, has been the impact on confidence. Data released by Westpac and the Melbourne Institute last week shows consumer confidence rose again in August, up another 3.7 per cent. Over the past three months, consumer confidence has increased by 27.8 per cent, the biggest three month gain in the history of the series..... And, ultimately, as I have said before, it is the confidence of consumers and businesses that will provide the spark for a sustained economic recovery."

These assessments indicate that economic circumstances have improved since 2008 and are suggestive of further improvement in the period ahead.

However, the Tribunal is also mindful that considerable uncertainty remains. As the Reserve Bank Board observed on 4 August 2009:

"The risks of a further large slump had diminished, though had not disappeared."

The Minutes of the 1 September meeting include a similar reservation:

"Members concluded on balance that the global economy was most likely on a sustained, if modest, recovery path, though it was still too soon to be confident of this assessment."

The Treasurer expressed a similar reservation in his 19 August 2009 address:

"While these are encouraging signs, I know that we continue to face substantial challenges as the full impacts of the global recession continue to wash through our entire economy. Global economic growth going forward will be weaker than over the past decade."

More broadly, the Tribunal is conscious of recent observations by the Chief Executives of some major listed companies to the effect that, while there is cause for optimism, risks remain.

Federal Public Sector Remuneration and Productivity Improvement

The Government's policy on workplace relations arrangements in Australian Government employment is set out in the "Australian Government Employment Bargaining Framework". The references to "productivity improvement" in the Framework are consistent with similar references in the Government's 2008 and 2009 submissions to the Tribunal.

The Framework, under the heading 'Part 2 - Remuneration Policy', states:

"Improvement in pay and conditions are to be linked to improvements in productivity:

2.1 *improvements in remuneration are to be offset by genuine quantifiable productivity initiatives"*

The remuneration-fixing framework established by the previous Government (Policy Parameters for Agreement Making in the Australian Public Service) placed like emphasis on linking improvements in pay and conditions to productivity gains.

The Tribunal notes that, drawing upon data from surveys of Senior Executive Service (SES) remuneration, the compound increases in median total remuneration (excluding performance pay) of APS SES employees, under these productivity-related agreement-making frameworks, have been as follows over the ten years to end-2008:

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%pa
SES2	144773	148365	160882	166041	171672	187959	203410	210861	220691	233566	248133	5.54%pa
SES1	120952	123649	132287	135541	139948	154097	164981	170416	177857	185606	196880	4.99%pa

With effect from 1 September 2009, the Bargaining Framework was strengthened by subjecting new or varied enterprise agreements, entailing an Average Annualised Wage Index (AAWI) in excess of 3%, to additional scrutiny. Where the AAWI does not exceed 3%, this additional scrutiny will not apply.

The Tribunal understands that there is some recent evidence of agreements in the APS being concluded on the basis of annual adjustments of 3%. However, the Tribunal also notes that, for the year to 31 December 2008, AAWI for all APS agreements struck in 2008 was 4.5%³ (and 4.3% in calendar 2007). It will, therefore, take some time for a consistent lower threshold of increases to be established broadly in the APS.

More generally, the data on trends in federal enterprise bargaining for the June quarter 2009⁴ show that the AAWI for all wage agreements formalised in the quarter was 3.9% (private sector - 4.1%; public sector - 3.9%), and that the AAWI for all current agreements was 4.1% (private sector - 4.1%; public sector - 4.1%).

Public Offices and the Senior Executive Service

Public offices are not isolated from the overall machinery of federal public administration. Indeed, it is arguable that they are central to it.

Offices are generally established by statute and each is, frequently, the principal office of a significant government authority. It is the Tribunal's view that, as the primary responsibility for many government authorities and enterprises is vested

³ workplace.gov.au - Key Pay Indicators Online

⁴ workplace.gov.au - Trends in Federal Enterprise Bargaining

in public offices, this level of responsibility should be reflected both in their absolute remuneration and in their remuneration relative to that of the employees who work for them.

From a remuneration perspective, a highly relevant consideration is that office holders are often responsible for staff who are, not infrequently, APS employees. Often, the most senior direct reports to a public office holder will be APS SES employees. These coincident working relationships between offices for which the Tribunal determines remuneration, and between APS employees whose remuneration is set by different means, underpin and explain the close attention that the Tribunal pays to developments in remuneration in the APS.

In the Tribunal's view, 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 Tribunal has referred on numerous occasions to its concerns about the remuneration of office holders in its jurisdiction relative of that of APS SES employees. The Statement issued by the Tribunal in June 2008⁵, for example, included the following:

"For several years, the Tribunal has been conscious of movements in the remuneration of the Senior Executive Service (SES) of the Australian Public Service (APS). APS remuneration survey data published to the end of 2006 show that SES remuneration had increased by between 5% p.a. and 6% p.a. for each of the previous eight years. More recent data indicate that this trend continued in 2007. Such movements are of particular import because many of the office holders for whom the Tribunal determines remuneration have APS SES officers working with, and for, them. The shifts in remuneration relativities that have occurred over a sustained period at these senior levels are, in the Tribunal's view, inconsistent with the responsibilities of the offices concerned and should be redressed."

It is also relevant that the remuneration of nearly all full-time public offices falls within the remuneration ranges reported for the SES Bands.

Indeed, the remuneration of very few full-time public offices determined by the Tribunal exceeds SES Band 3 third quartile Total Reward (that is, including provision for performance pay). 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.

In this regard, the Tribunal also notes that the data show that the remuneration of most part-time offices is equivalent to that of sub-SES classifications in the APS. The Tribunal does not think that the responsibilities of these APS classifications are equivalent to those invested in part-time offices. The Tribunal also observes that the holders of part-time offices have none of the other benefits associated with APS employment (leave - of all kinds - perhaps being the most significant example). These considerations confirm that the remuneration of these offices is less than it should be and requires adjustment.

⁵ <http://www.remtribunal.gov.au/determinationsReports/byYear/default.asp?menu=Sec7&switch=on>

The Need for Caution

On the basis of the considerations set out above, the Tribunal would be inclined to determine annual increases in the remuneration of public offices that are no less than the increases in remuneration of SES Band 2 and Band 3 employees.

Under the various bargaining frameworks, movements in SES remuneration reflect productivity improvements in the authorities and agencies in which they work. In the Tribunal's view, where the principal office of an authority or agency is a public office, the role of the office holder - like the roles of the SES - in achieving improved productivity should be recognised, equally, in remuneration.

However, notwithstanding the indications, at this time, of more positive economic circumstances, the Tribunal has decided to temper remedying the clearly evident and sustained adverse shifts in relativities (and the associated inadequate recognition of productivity improvements achieved in public administration).

Caution continues to be appropriate.

Accordingly, the Tribunal has decided that any increase, at this time, in the remuneration of public offices should be:

- less than the compound annual percentage increases in SES remuneration;
- less than the AAWI of current Australian Public Service agreements;
- less than the AAWI for all agreements (private and public sector) concluded in the June 2009 quarter and for all current agreements (private and public sector); and
- no more than the 3% accommodated by the revised Australian Government Employment Bargaining Framework.

Consistent with these considerations, the Tribunal has determined, effective 1 October 2009, an increase of 3%. The Tribunal notes that this is equivalent to its having determined an annual increase of 2¼% with effect from 1 July 2009.

Parliamentarians

The Tribunal has noted in its annual reports for the past several years that there has been no thorough review of parliamentary remuneration and entitlements for a considerable period.

The Tribunal's responsibilities do not extend to the full range of parliamentary remuneration and entitlements. The present framework, and the consequential distribution of responsibilities between the Tribunal and authorities administering other legislation, has evolved in a complex manner over an extended period and in directions that have been dictated, from time to time, by public sentiment.

The many and varied sources of existing entitlements create uncertainty and increase the potential for error. Perhaps the most significant consequence of the current arrangements for the specification and administration of entitlements is that it is not easy for anyone to understand them. It is even difficult to ascertain the base salary of a parliamentarian; the current regulation is convoluted and does not express base salary as a dollar amount.

There also seems to be 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).

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 support to meet business costs.

The Tribunal therefore welcomes the initiative by the Special Minister of State, Senator the Hon Joe Ludwig, to establish a panel⁶ to conduct a review of parliamentary entitlements. 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.

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 3% adjustment determined by the Tribunal will also apply to the PEO classification structure's remuneration bands and reference salaries.

Work Value

The Tribunal's annual adjustments take account of the evolution that occurs, over time, in the responsibilities of public offices. The legislation programs of governments, including the assiduous making of legislative instruments, is one source of such change.

However, developments in public administration can bring about significant changes in the roles and responsibilities of public offices. The Tribunal adverted to this in its 2005-2006 Annual Report. Such developments might occur as a consequence of major amendments to legislation or organisational restructuring, or through the gradual accretion of changes that, in aggregate, amount to more than the ordinary evolution of responsibilities. In such cases - where the work value for the particular office has changed relative to others - the Tribunal needs to evaluate the nature and extent of the change and, if appropriate, adjust the remuneration of the public office, or offices, concerned.

In previous Annual Reports, the Tribunal has mentioned that it has been undertaking a review of remuneration relativities between the federal courts. That review is nearing completion.

In the Tribunal's judgement, the review has demonstrated:

- sustained incremental expansion in the responsibilities of Judges of the Federal Court of Australia, together with increases in the breadth of law, and number of legal and factual issues both across caseload and within

⁶ The President of the Remuneration Tribunal is a member of the panel

individual cases, which a Federal Court Judge must now consider to fulfil his or her day to day duties; and

- significant change, still underway, in the structure of the family law system involving the Family Court of Australia and the Federal Magistrates Court, so as to increase the average complexity of matters dealt with by Judges of each court. This has occurred principally as a consequence of the continuing refinement of the allocation of the work between the courts.

The Tribunal considers that changes in these courts, and the evolution of the law, more generally, in federal and state jurisdictions, have demonstrable and significant effects on the work of Judges of the High Court of Australia, sufficient to warrant an adjustment in the remuneration of these judicial officers.

In November 2008, the Tribunal wrote to the Attorney-General, the Hon Robert McClelland MP, to inform him of the conclusions reached, through the review, to that point. The Tribunal has since afforded close attention to the changes to the family law system being introduced by the Attorney-General. The Tribunal anticipates that it will publish the report of its review, including its conclusions about justified adjustments in remuneration, by the end of October 2009.

Similar considerations are relevant to Departmental Secretaries. Previous Annual Reports have referred to the Tribunal's review of Secretaries. In the Tribunal's judgement, the unique nature of the work of Secretaries and the central role of these offices in public administration are less well understood than they should be and acknowledged infrequently.

It is evident that some Secretaries have wider portfolios than their colleagues. However, every Secretary handles a breadth of demands and responsibilities which afford 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 expects to have finalised the first part of this review during calendar year 2009 and to publish its second and final report subsequently.

Outlook

It continues to be the Tribunal's policy that the remuneration of public offices be determined conservatively and in a manner that demonstrates restraint. As the Tribunal has said previously, 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. Consistent with this, the Tribunal intends to revisit the remuneration of the public offices to which this Statement relates, possibly at frequencies of less than a year.

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

Remuneration Tribunal

24 September 2009