



REMUNERATION TRIBUNAL

REVIEW OF THE OFFICE OF SECRETARY

REPORT - Part II

December 2011

REMUNERATION TRIBUNAL

REVIEW OF THE OFFICE OF SECRETARY

REPORT - Part II

December 2011

© Commonwealth of Australia 2011

This work is copyright. Apart from any use as permitted under the Copyright Act 1968, no part may be reproduced by any process without prior written permission from the Commonwealth. Requests and inquiries concerning reproduction and rights should be addressed to the Commonwealth Copyright Administration, Attorney General's Department, National Circuit, Barton ACT 2600 or posted at <http://www.ag.gov.au/cca>

Preface

This is the second and final part of the Tribunal's Report of its Review of the office of Secretary. The need for a review was raised by the Tribunal more than five years ago, although Secretaries' remuneration was not able to be determined by the Tribunal until the passage of the *Remuneration and Other Legislation Amendment Act 2011*.

The Tribunal's Part I Report was published in March 2010; it is available on the Tribunal's web site¹. The Tribunal observed, then, that:

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 domestic and foreign activities which define our nation, our security, our stability and our quality of life.

The work undertaken by the Tribunal since (including the consideration of other public offices) has confirmed that assessment.

In this part - Part II - of its Report, the Tribunal sets out its conclusions on an appropriate classification structure, and associated remuneration, for Secretaries.

The Tribunal foreshadowed in its Part I Report that its ultimate proposals on remuneration would include an initial reasonable adjustment for existing office holders and the transition to a longer term structure entailing levels of remuneration which could be expected to be substantially above the current levels.

The conclusions set out in this Report reflect these considerations. The remuneration increases, to be implemented over time, are substantial. However, Secretaries' remuneration has been well below where it should have been for many years. The Tribunal considers it necessary that the remuneration of Secretaries should now be 'rebased' to correct this.

The Tribunal has included a draft determination with this Report. It is intended to convey the Tribunal's developed thinking on all aspects of the classification structure, remuneration arrangements and other terms and conditions for Secretaries. The other terms and conditions largely reflect those set out in the Determination of 30 June 2011 made by the Prime Minister under s61 of the *Public Service Act 1999* as it then was. In adopting this approach, the Tribunal aims to achieve a degree of continuity; they will, however, be reviewed over time.

The Tribunal has not yet determined these matters. It expects to do so before the end of March 2012.

This Report also expresses the Tribunal's concern about the remuneration arrangements, and outcomes, applying to the Senior Executive Service (SES) of the Australian Public Service, particularly SES Band 3 employees. In the Tribunal's experience, the current arrangements promote inconsistency, internal leapfrogging, and entail additional and unnecessary costs to the Commonwealth. In the Tribunal's judgement, action needs to be taken to establish consistency between the remuneration arrangements applying to Secretaries and those applying to their direct reports.

It is not intended that the remuneration arrangements proposed for Secretaries should give rise to any changes in the remuneration of any Australian Public Service employee. Indeed to maintain the integrity and efficacy of the classification structure, remuneration arrangements and other matters, it is vital that they do not. The Tribunal will be attentive to progress made in bringing about the necessary consistency in its further consideration of the transition arrangements applying to the remuneration of Secretaries.

¹ Remuneration Tribunal – Review of the Office of Secretary -
<http://www.remtribunal.gov.au/statementsreports/default.asp?menu=Sec8&switch=>

This review has reinforced the Tribunal's respect for the diversity, scope and significance of the functions undertaken by the federal public administration. The calibre of the appointees to the office of Secretary must be consistent with the effective provision of the services which public administration is expected to deliver. In the Tribunal's assessment, remuneration arrangements must be such as to ensure that public expectations continue to be met; the arrangements now proposed are intended to do that.

The Tribunal's Forward Program

In July 2009, the Remuneration Tribunal made a submission to the inquiry then being conducted by the Productivity Commission into executive remuneration in Australia². The submission described the Tribunal's approach to the setting of remuneration for public offices as being "conservative - even cautious". The Tribunal went on to observe that:

"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."

The Tribunal did not contend then - and does not contend now - that there should be some kind of alignment between remuneration in the public and private sectors. However, if the public sector is to be able to recruit and retain people with the necessary capabilities, public sector remuneration at the most senior levels cannot lose touch, entirely, with the fixed component of private sector remuneration, at least.

The determination of appropriate remuneration arrangements for offices in its jurisdiction is always "work in progress". As the Tribunal also noted in its submission to the Productivity Commission's inquiry:

"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."

Once it has made the determination reflecting the conclusions arising from its review of the office of Secretary (and that of the Specified Statutory Offices), the Tribunal will turn its attention to its previously foreshadowed reviews of the part-time and the other full-time public offices in its jurisdiction.

Acknowledgements

This most significant review would not have been settled as effectively as it has been without the insight, commitment and effort of my fellow current Tribunal Members, Mr John Prescott AC and Ms Jillian Segal AM, and former Members, Ms Janet Grieve and Mr John Allen. They, like me, acknowledge the importance of a highly effective federal public administration and of the need to attract and retain people of quality to work in it and, in the case of Secretaries, to lead it.

We, the Tribunal, acknowledge the considerable contributions of Mr John Egan of Egan Associates; of the Secretaries themselves; and of the Tribunal's Secretariat, to this project. Particular thanks are due to the Tribunal's Secretary, Mr Derren Gillespie; his commitment and his drive have been fundamental to this project from its inception.

John C. Conde AO
15 December 2011

President

² Remuneration Tribunal - Tribunal Statements - Submission to the the Productivity Commission's Inquiry Into Executive Remuneration - 21 July 2009 - <http://www.remtribunal.gov.au/statementsreports/default.asp?menu=Sec8&switch=on>

TABLE OF CONTENTS

Summary of the Tribunal's Proposals.....	i
1. Introduction	1
2. The Work of Egan Associates	4
3. Egan Associates' Review of Remuneration for the Office of Secretary	7
4. Classification Structure - the Tribunal's Conclusions.....	17
5. Superannuation.....	29
6. Termination and Redeployment	34
7. Other Terms and Conditions	37
8. Secretaries' Direct Reports	38
9. Next Steps.....	45

Appendices

Appendix 1 – Tribunal Statement of 29 March 2010	48
Appendix 2 – Division 4 of the <i>Remuneration Tribunal Act 1973</i>	55
Appendix 3 – Remuneration and Other Legislation Amendment Bill 2011 – Bills Digest No 104	60
Appendix 4 – Determination of Secretaries' remuneration and other conditions, made by the Prime Minister on 30 June 2011	74
Appendix 5 – Draft Determination 2012/xx – Departmental Secretaries – Classification Structure and Terms and Conditions.....	90

Summary of the Tribunal's Proposals

1. In its Part I Report issued in March 2010, the Tribunal foreshadowed a classification structure; remuneration arrangements; and variations to termination and redeployment provisions, for Secretaries.
2. The proposals set out in the Part II Report are consistent with those foreshadowed in its Part I Report.
3. However, in view of the standing of the office of Secretary and the scope and extent of the changes in the arrangements governing their entitlements, the Tribunal has decided that it would publish its proposals but would not determine them at this stage.
4. In this regard, the Tribunal is mindful that, on 12 December 2011, the Prime Minister announced changes to the Administrative Arrangements Order which are likely to bear upon the responsibilities of individual Secretaries. The Tribunal will need to take these variations in the Administrative Arrangements Order – as well as any other significant changes that have been made since the publication of its Part I Report – into account in settling its assignment of Secretaries to the classification structure.
5. The Tribunal is also conscious that, in respect of this significant group of public offices (and in contrast to other public offices in its jurisdiction), its remit extends to the determination of all terms and conditions. These matters have, hitherto, been the responsibility of the Prime Minister. The Tribunal considers it necessary that there should be both continuity between the arrangements determined by the Prime Minister and those intended to be determined by the Tribunal, and confidence about their implementation and subsequent operation.
6. The Tribunal has included in its Part II Report a draft of its intended determination. In settling the draft, the Tribunal will take account of the foregoing matters. The Tribunal expects to have made its determination no later than 31 March 2012; it may do so before then.

The Tribunal's Proposals

Classification Structure

(a) The Structure

Consistent with the proposals foreshadowed in its Part I Report, the classification structure proposed to be determined by the Tribunal has the following features:

- two levels (Level 1 being the upper, and Level 2 being the lower, level);
- Level 1 structured so as to have two discrete points above the ceiling of the standard Level 1 classification band, establishing remuneration for the offices of Secretary of the Department of the Prime Minister and Cabinet and Secretary of the Department of the Treasury;
- each Level having three pay points; and
- the highest pay point of the lower level is coincident with the lowest pay point of the higher level.

(b) Proposed pay points and transition arrangements

7. In its Part I Report, the Tribunal foreshadowed the phased introduction of new remuneration arrangements for Secretaries, including an initial reasonable adjustment of remuneration for existing office holders.

8. Consistent with this, the Tribunal proposes that the transition to the mature remuneration structure for Secretaries will be phased-in over six steps.

9. The date of effect of the initial step will be settled by the Tribunal in the context of its making its initial determination (which will occur before the end of March 2012); the transition to the final classification structure and rates is expected to have been completed by 1 July 2014.

10. The proposed pay points and transition paths are as follows:

Intended Dates of Effect of 'steps'						
	Initial Adjustment	1 Jul 2012	1 Jan 2013	1 Jul 2013	1 Jan 2014	1 Jul 2014
Introduction of \$825000 point by 1 Jul 2014						
Level 1A (PM&C) Current Upper Level TR 539580	620000	661000	702000	743000	784000	825000
Introduction of \$805000 point by 1 Jul 2014						
Level 1B (Treasury) Current Upper Level TR 539580	615000	653000	691000	729000	767000	805000
Introduction of Upper Level (Level 1) Transition Points						
Level 1 (Current Higher Level TR) 539580	612500	646000	679500	713000	746500	780000
	612500	638000	665500	693000	720500	740000
Level 1 (Current Higher Level TR) 539580	612500	630000	647500	665000	682500	700000
Introduction of Lower Level (Level 2) Transition Points						
Level 2 (Current Lower Level TR) 504810	575000	600000	625000	650000	675000	700000
	572500	593000	613500	634000	654500	675000
Level 2 (Current Lower Level TR) 504810	570000	586000	602000	618000	634000	650000

Superannuation (Chapter 5)

(a) Defined Benefit Schemes

11. Secretaries' base salary (salary for superannuation purposes) will be set at 70% (down from 80%) of total remuneration for members of those schemes. This will be done in stages early in the transition to the new classification structure.

(b) Accumulation Schemes

12. In relation to the accumulation schemes, it is the Tribunal's view that the revised superannuation contribution rules contain all the guidance necessary for individual officers to make their own arrangements as regards contributions. The Tribunal's disposition, in the longer term, is simply to specify Total Remuneration; it would then be up to individual Secretaries who are members of an accumulation scheme to decide what they contribute by way of superannuation.

13. In the longer term, for the accumulation schemes, the employer superannuation contributions should reflect the actual cost to the employer of the Secretary's membership of that scheme.

Termination & Redeployment (Chapter 6)

14. Where a Secretary is terminated in accordance with the provisions of subsection 59(1) of the *Public Service Act 1999* and the Commonwealth has not made the Secretary an offer of suitable alternative employment, the Tribunal intends that the Secretary will be entitled to:

- (a) for a termination 12 months or more before the end of the Secretary's term of appointment - 12 months' 'Reference Salary' at the time of termination; or
- (b) for a termination less than 12 months before the end of the Secretary's term of appointment - 1 month's 'Reference Salary' for each full month of the balance of the term not served, subject to a minimum payment of 6 months' Reference Salary at the time of termination.

15. 'Reference Salary' means the Secretary's Total Remuneration, less the rate of the Employer's Superannuation Contribution for the Secretary.

16. Where an offer of 'suitable alternative employment' involves acceptance of appointment to a position in the Tribunal's determinative jurisdiction, the Tribunal intends that income be maintained for 12 months.

Other Terms and Conditions (Chapter 7)

17. To this point, the remuneration and other conditions of Secretaries have been specified by a determination made by the Prime Minister. The Tribunal, now being responsible for determining the terms and conditions that are to apply to the office of Secretary, intends, at the outset, to maintain a degree of consistency with the terms and conditions for Secretaries determined by the Prime Minister.

Secretaries' Direct Reports (Chapter 8)

18. The Tribunal considers that there are clear benefits in having consistent remuneration arrangements between the principal APS management level - Secretaries - and their direct reports. The Tribunal is conscious that responsibility for the determination of SES remuneration lies with the relevant Agency Head. However, the Tribunal considers that Secretaries would be assisted in the exercise of this responsibility were APS-wide guidance to be issued. Proposals aimed at reinforcing the achievement of this objective are set out in Chapter 8 of the Report.

1. Introduction

Background

1.1 The office of Secretary is the principal office in the Australian Public Service.

1.2 In its Part I Report, published in March 2010, the Tribunal made the following observations about them:

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 domestic and foreign activities which define our nation, our security, our stability and our quality of life.

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

While some Secretaries have demonstrably wider portfolios than their colleagues - the Secretaries of the Department of the Prime Minister and Cabinet and the Department of the Treasury, for example - every Secretary handles a breadth of demands and responsibilities akin to those of the highest executive offices in the private sector.

1.3 In May 2006, the Tribunal wrote to the then Secretary of the Department of the Prime Minister and Cabinet, drawing attention to changes in remuneration relativities between SES employees and Secretaries.

1.4 The then Prime Minister, the Hon John Howard MP, referred to the Tribunal's May 2006 letter and stated:

"As far as remuneration is concerned, I accept the view that increases in secretaries' remuneration have not kept pace with the increases awarded to SES officers and have fallen significantly behind comparable positions in the private sector."

1.5 However, the Prime Minister did not consider that it was then an appropriate time to adjust the remuneration of Secretaries.

1.6 In June 2007, the Tribunal again referred to the apparent adverse shifts in remuneration relativities between Secretaries and senior SES employees, and proposed that a review be undertaken:

"In the Tribunal's view, it is important that the overall value of the secretaries' remuneration package should be informed by movements in appropriate elements of the executive remuneration market, without being driven by them."

"The Tribunal last reviewed the remuneration of departmental secretaries in January 1999. In our view, it would be appropriate to review the remuneration of these offices and certain associated offices in the Tribunal's determinative jurisdiction...."

1.7 On this occasion, the Prime Minister agreed to the Tribunal undertaking a review:

"I note your advice that the Tribunal has not reviewed the remuneration of departmental secretaries since 1999. In the circumstances, I agree that it would be appropriate for the Tribunal to conduct a review of the remuneration of secretaries....."

1.8 This Report is the culmination of that work.

The Part I Report

1.9 In conjunction with the publication of its Part I Report on 29 March 2010, the Tribunal also issued a Statement which included a copy of the summary of the conclusions in the Part I Report. That Statement is appended to this Report as Appendix 1.

1.10 Part I covered:

- the attributes of the office of Secretary;
- their remuneration arrangements;
- the distinctions between them (including the Tribunal's conclusions about classification arrangements);
- the standing of these offices relative to other federal public offices; and
- their responsibilities relative to senior positions in the private sector.

1.11 Part I also outlined the Tribunal's objectives for, and its approach to, the review.

1.12 At the time of publication of its Part I Report, the Tribunal had expected to publish Part II before the end of 2010.

1.13 In the event, Part II has been published a year later.

1.14 As noted in the Tribunal's 2009-10 Annual Report, the Tribunal had decided not to publish Part II of its Report until the Government had restored the Tribunal's jurisdiction to determine remuneration and conditions for Secretaries.

1.15 The Overview to the Tribunal's 2009-10 Annual Report addressed the matter of timing specifically in the following terms:

"In its Part I Report, the Tribunal referred to the policy commitment enunciated in September 2007 by the then Shadow Minister for Public Administration and Accountability, Senator Penny Wong, to restore the jurisdiction of the Remuneration Tribunal to fix pay and conditions of agency heads and Secretaries. The Tribunal understands that further consideration has been given to implementing this policy. The Tribunal would not expect to publish its Part II report in advance of the extension of its determinative jurisdiction to Secretaries, at least."

Amendments made to the Remuneration Tribunal Act 1973

1.16 The introduction of the Remuneration and Other Legislation Amendment Bill 2011 in the House of Representatives on 24 March 2011 by the Special Minister of State for the Public Service and Integrity, the Hon Gary Gray AO MP, commenced the process of giving effect to the commitment made in 2007 by the then Shadow Minister for Public Administration and Accountability, Senator Penny Wong.

1.17 The *Remuneration and Other Legislation Amendment Act 2011* (ROLA 2011) was proclaimed early in August 2011. The amendments made to the *Remuneration Tribunal Act 1973* (the Act) by ROLA 2011 in respect of the office of Secretary are significant; they are encapsulated in Division 4 of the Act, "*Remuneration etc. for Departmental Secretaries*".

- the provisions of the Division 4 are attached as Appendix 2;
- with the approval of the Parliamentary Library, a copy of the Bills Digest is included at Appendix 3.

1.18 Division 4 provides for the Tribunal to determine a classification structure for offices of Departmental Secretary.

1.19 It is important to note that the Tribunal does not determine the remuneration of all Secretaries directly.

1.20 Other than in respect of the offices of Secretary of the Department of the Prime Minister and Cabinet and Secretary of the Department of the Treasury (for which the Tribunal determines the amount of remuneration), the Secretary of the Department of the Prime Minister and Cabinet, in consultation with the President of the Tribunal and the Public Service Commissioner, is empowered to assign each Departmental Secretary to an amount of remuneration. In this regard, it is relevant to note that, by s14(4) of the Act, the amount of remuneration to which a Secretary is assigned must be consistent with the classification structure determined by the Tribunal.

1.21 Further, s15 of the Act enables the Tribunal to enquire into, and determine, from time to time, "*the terms and conditions (other than remuneration) that are to apply to the offices of Departmental Secretary*". By this provision, the Tribunal is responsible for setting all terms and conditions (other than remuneration) of Secretaries.

The Part II Report

1.22 In this, the second and final part of its Report of its review of the office of Secretary, the Tribunal presents its conclusions on an appropriate classification structure, and associated remuneration arrangements, for Secretaries.

1.23 In doing so, the Tribunal has built upon the proposals advanced in the Part I Report:

- confirming the structure then proposed;
- settling the pay points associated with the classification structure;
- laying out the anticipated transition path of pay points to the developed classification structure (commencing on 1 January 2012 and concluding, on present expectations, on 1 July 2014);
- settling the classification of individual offices of Secretary; and
- finalising the associated terms and conditions (in a manner broadly consistent with those determined previously by the Prime Minister).

The Tribunal has not, yet, determined these matters. However, it expects to have done so by the end of March 2012.

2. The Work of Egan Associates

Introduction

2.1 In undertaking this review, the Tribunal commissioned external advice from Egan Associates, including the personal involvement of Egan Associates' principal, Mr John Egan, an acknowledged authority in the sphere of public and private sector job evaluation.

2.2 The Tribunal, in seeking such advice, was conscious of the benefit of being able to draw upon the insights of a consultant with a demonstrable feel for work at the most senior levels in the public and private sectors derived from his extensive experience.

2.3 That is not to say, however, that the Tribunal has felt bound by the advice provided by Egan Associates.

2.4 Indeed, the Tribunal at all times has regarded the advice from its external consultant as complementing its own judgements based on its familiarity with, and its extensive experience in determining remuneration for, the most senior federal public offices. The advice from Egan Associates has been a touchstone - rather than a substitute - for the Tribunal's own assessments.

2.5 The conclusions now presented are those of the Tribunal.

2.6 In arriving at them, the Tribunal's intention has been to balance two considerations, namely:

- the need for appropriate remuneration arrangements for this, the most senior group of Australian Public Service offices; and
- broad consistency between the remuneration arrangements determined for Secretaries and those determined for senior federal public offices, more generally.

2.7 In doing so, the Tribunal has been mindful of the distinct and particular aspects of the remarkably diverse range of functions undertaken in the federal public sector. The considerable range of "work value" accommodated by the classification structure now determined for Secretaries by the Tribunal is one reflection of this.

Egan Associates' Reports

2.8 In the course of this review, Egan Associates has provided the Tribunal with two reports.

2.9 The first - "*Review of Work Value for the Office of Secretary*" - was published in conjunction with the Tribunal's Part I Report; it is available on Tribunal's website¹.

2.10 Its second report - "*Review of Remuneration for the office of Secretary*" - has also been published on the Tribunal's website in conjunction with the Tribunal's Part II Report; the Tribunal intends that a CD-ROM copy of the Egan Associates report will be included with the final printed version of this Part II Report.

¹ Remuneration Tribunal - Review of the Office of Secretary - 29 March 2010 - <http://www.remtribunal.gov.au/statementsreports/Egan%20Associates%20Report%20-%20Secretaries%20-%20Review%20of%20Work%20Value.pdf>

Summary of the Egan Associates proposals and the Tribunal's Conclusions

2.11 The main elements of the second Egan Associates report are summarised in Chapter 3.

In summary, Egan Associates' proposals and the Tribunal's responses are as follows:

Egan Associates' Proposal	Tribunal Position																												
Classification Structure Classification structure with two 'bands'; three pay points in each band - with a preference that the highest point of the lower band coincide with the lowest point of the upper band.	Classification Structure Tribunal proposals consistent with this.																												
Top pay points Loading of up to 20% above the reference rate (lowest point of the upper band) to accommodate the offices of Secretary of the Department of the Prime Minister and Cabinet and of the Department of the Treasury.	Top pay points Range proposed by the Tribunal broadly consistent with this; but more conservative than Egan Associates' proposal.																												
Timing Fully developed structure to be established by July 2013.	Timing Slower and lower - fully developed structure to be established by July 2014.																												
Proposed final pay points (setting aside top points): <div style="border: 1px solid black; padding: 10px; margin: 10px auto; width: 60%;"> <p style="text-align: center;">Egan Associates Jan 2013</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center; border-bottom: 1px solid black;">Level 1</th><th style="text-align: center; border-bottom: 1px solid black;">Level 2</th></tr> </thead> <tbody> <tr> <td style="border: 1px solid black; text-align: center; padding: 5px;">\$859,625</td><td></td></tr> <tr> <td style="border: 1px solid black; text-align: center; padding: 5px;">\$830,563</td><td></td></tr> <tr> <td style="border: 1px solid black; text-align: center; padding: 5px;">\$747,500</td><td></td></tr> <tr> <td></td><td style="border: 1px solid black; text-align: center; padding: 5px;">\$747,500</td></tr> <tr> <td></td><td style="border: 1px solid black; text-align: center; padding: 5px;">\$698,750</td></tr> <tr> <td></td><td style="border: 1px solid black; text-align: center; padding: 5px;">\$650,000</td></tr> </tbody> </table> </div>	Level 1	Level 2	\$859,625		\$830,563		\$747,500			\$747,500		\$698,750		\$650,000	Proposed final stage pay points (setting aside top points): <div style="border: 1px solid black; padding: 10px; margin: 10px auto; width: 60%;"> <p style="text-align: center;">Tribunal July 2014</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center; border-bottom: 1px solid black;">Level 1</th><th style="text-align: center; border-bottom: 1px solid black;">Level 2</th></tr> </thead> <tbody> <tr> <td style="border: 1px solid black; text-align: center; padding: 5px;">\$780,000</td><td></td></tr> <tr> <td style="border: 1px solid black; text-align: center; padding: 5px;">\$740,000</td><td></td></tr> <tr> <td style="border: 1px solid black; text-align: center; padding: 5px;">\$700,000</td><td></td></tr> <tr> <td></td><td style="border: 1px solid black; text-align: center; padding: 5px;">\$700,000</td></tr> <tr> <td></td><td style="border: 1px solid black; text-align: center; padding: 5px;">\$675,000</td></tr> <tr> <td></td><td style="border: 1px solid black; text-align: center; padding: 5px;">\$650,000</td></tr> </tbody> </table> </div>	Level 1	Level 2	\$780,000		\$740,000		\$700,000			\$700,000		\$675,000		\$650,000
Level 1	Level 2																												
\$859,625																													
\$830,563																													
\$747,500																													
	\$747,500																												
	\$698,750																												
	\$650,000																												
Level 1	Level 2																												
\$780,000																													
\$740,000																													
\$700,000																													
	\$700,000																												
	\$675,000																												
	\$650,000																												

Egan Associates Proposal (cont)	Tribunal Conclusion (cont)
<p>Salary for superannuation purposes</p> <p>Reduce superannuable component of salaries to 70 per cent from 1 July 2013.</p>	<p>Salary for superannuation purposes</p> <p>For defined benefit schemes, the Tribunal intends to reduce base salary to 70 per cent of total remuneration from 1 Jan 2013, with faster reduction to that point.</p>
<p>Termination</p> <p>Six months notice of termination plus a further payment equivalent to six months to be made on actual termination.</p>	<p>Termination</p> <ul style="list-style-type: none"> • 12 months or more before the end of appointment - 12 months' pay; • less than 12 months before the end of appointment - one month's pay for each month foregone with minimum of six months
<p>Future adjustment</p> <p>Align with an agreed benchmark of comparators.</p>	<p>Future adjustment</p> <p>To be consistent with Tribunal's approach to public offices generally.</p>
<p>Parking</p> <p>Fixed allocation irrespective of location for the provision of on-site parking.</p>	<p>Parking</p> <p>No change to the current provisions in the initial Tribunal determination; matter to be subject to further review over time.</p>

3. Egan Associates' Review of Remuneration for the Office of Secretary

Key Elements of the Egan Associates' Remuneration Report

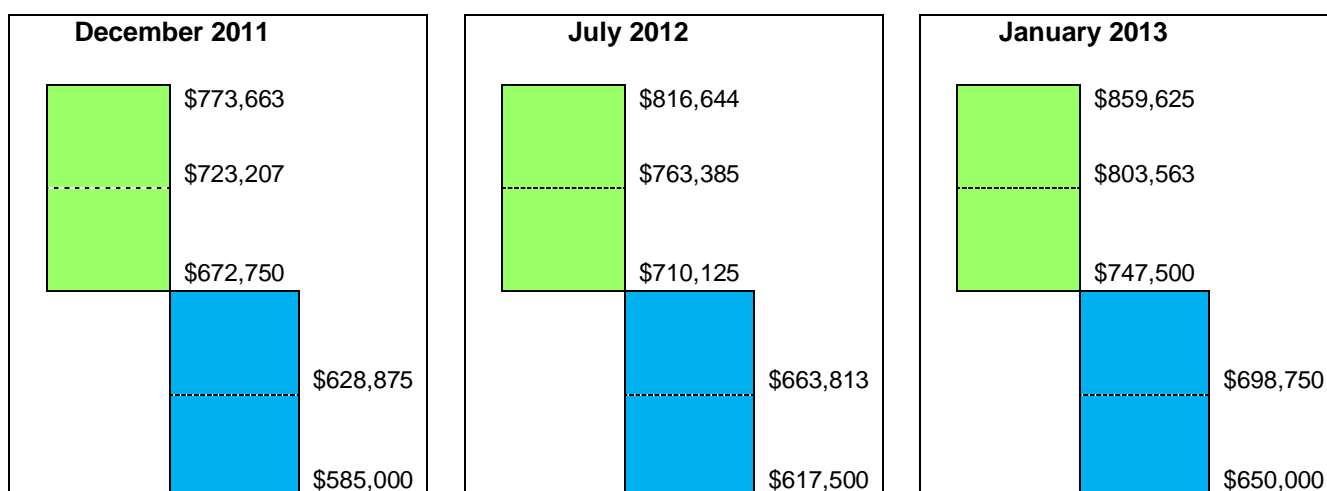
3.1 The Executive Summary of the Egan Associates' Remuneration Report is published in this chapter.

3.2 Although the Tribunal has decided not to accept all of them, it is useful to recite the Egan Associates' recommendations so that the Tribunal's conclusions can be seen in this context.

3.3 The Egan Associates' Report includes the following summary proposals:

- to endeavour to bring Secretaries' total fixed remuneration levels in close approximation to a market total fixed remuneration (TFR) 25th percentile by the beginning of the 2013 calendar year;
- confirmation of the classification structure advanced by the Tribunal in the Part I Report – the key feature of which is a structure with a conjunction between the maximum pay for a position classified in the lower level (Level 2) and the minimum rate for the upper level (Level 1); and
- providing for the positions of Secretary of the Department of the Prime Minister and Cabinet and the Secretary of the Department of the Treasury by establishing remuneration of a maximum of 20 per cent above the reference rate for the upper level (Level 1).

3.4 Setting aside provision for the offices of Secretary of the Department of the Prime Minister and Cabinet and Secretary of the Department of the Treasury, Egan Associates proposed a pay structure and transition arrangements along the following lines:



3.5 Having given consideration to various possible comparators and noting the difficulty in drawing like-with-like comparisons between the most senior offices in the Australian Public Service on one hand, and private companies and private/public bodies (such as universities on the other), Egan Associates identified what it regards as "best fit comparators".

3.6 It stated its conclusions in this regard as follows:

Best fit comparators

Having regard to the obligations of Secretaries in both classification levels, I have formed a view that the most appropriate comparator for the two unique roles in Level 1, that of the Secretary of the Department of the Prime Minister and Cabinet and the Secretary of the Department of the Treasury, is the second highest paid executive in the top 25 corporations as one key and unique indicator.

In respect of the generic Level 1 classification I formed the view that an amalgam of the second highest paid executive in those companies ranked between 1 and 50 and CEOs in the ASX 100 ranked between 40 and 90 represented the best comparator group. This latter combination has due regard for both operating expenditures and appropriations in respect of the majority of positions classified at Level 1 and the level of stewardship of Government appropriations.

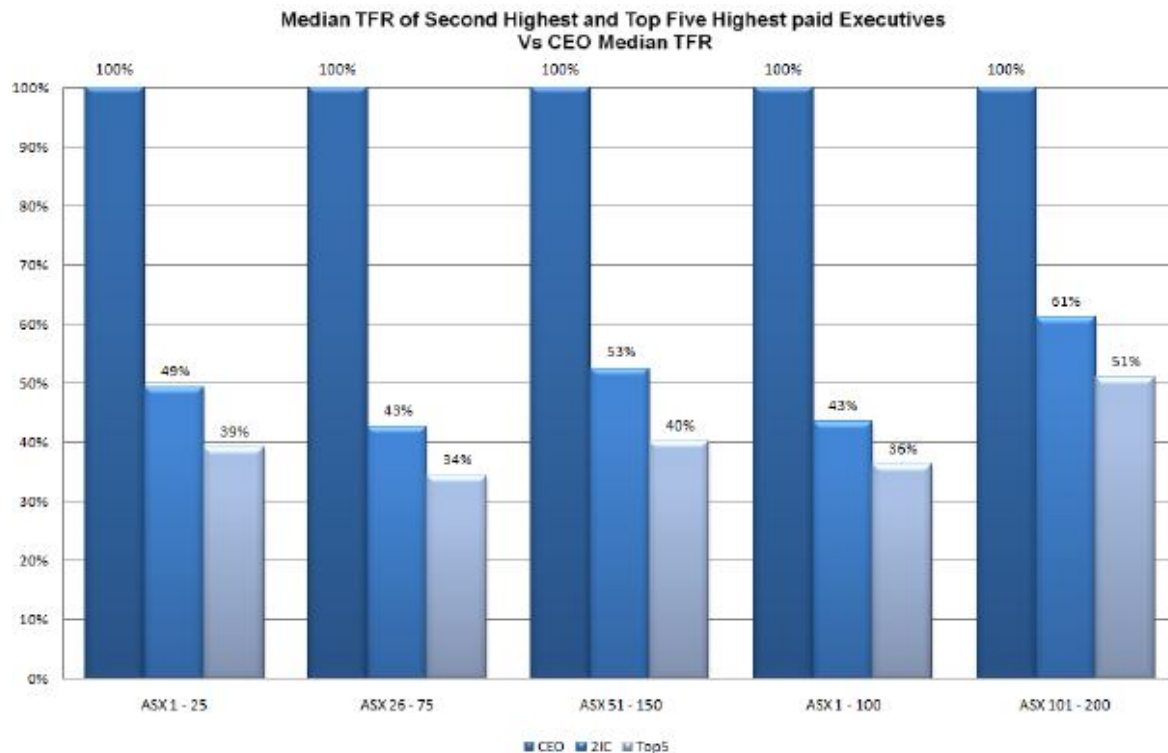
For the second cohort, that is those positions of Secretary in Level 2, it was my judgement that an appropriate comparator would be the second highest paid executive in those companies ranked 11 – 50 and having regard to an aggregate circumstance of direct operating expenditure and stewardship of Government appropriations it was my judgement that the relevant cohort at the CEO level for these positions were companies ranked from 75 – 125.

3.7 In terms of positioning relative to the identified 'market', Egan Associates made the following observation:

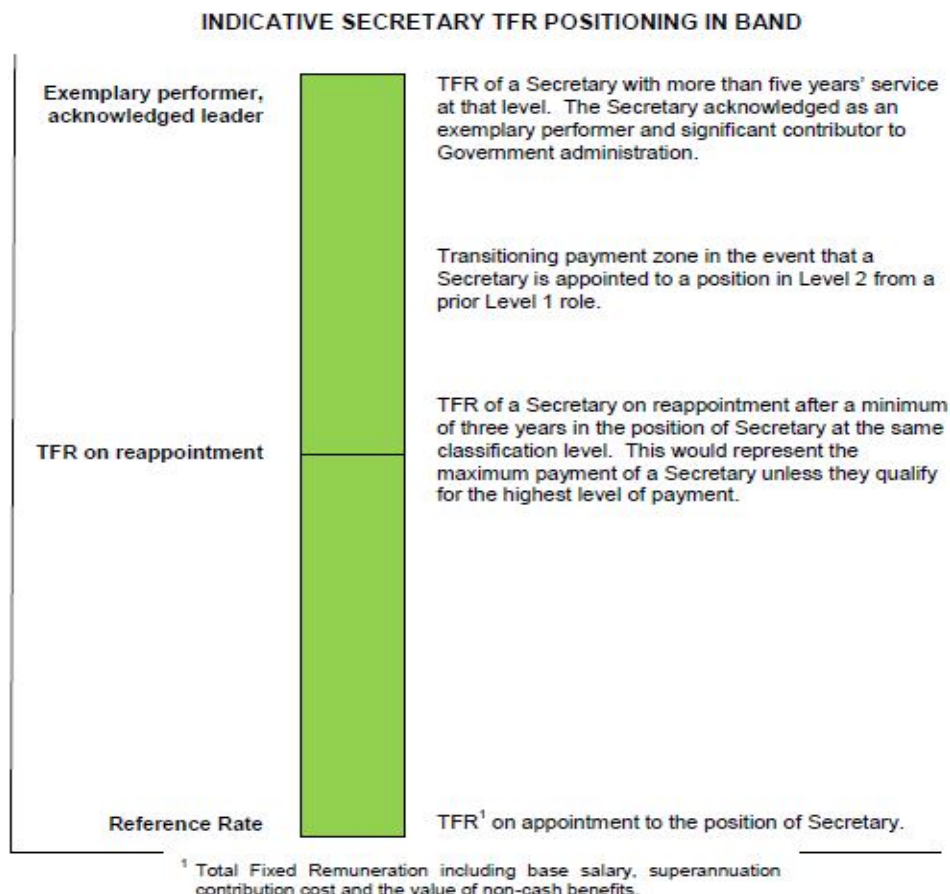
"My research revealed that the relative competitive positioning of Secretaries' remuneration had declined over the last generation from at or around the market 25th percentile (even with the inclusion of performance pay) to the first decile (the lowest ten per cent) in respect of the most complex and onerous roles. Such a strategy, in my judgement, would not ensure that the Government of today or future Governments would have access to individuals of the highest calibre. I note that over the past fifteen years only three Secretaries have been appointed from outside the Australian public sector's employment.

"If the Government were to embrace earlier competitive positioning in respect of fixed remuneration while ignoring performance aligned reward as they move forward, the retaining of the long established market positioning pay profile of Secretaries in the second quartile of a broad national market would require an increase in current rates of reward."

3.8 Egan Associates also drew attention to apparent relativities between the Secretary and his, or her, direct reports and those between a chief executive in the private sector and the 2IC (second-in-command) and their top five reports. The Egan Associates Remuneration Report (at its Appendix B) presented the data relative to both to the median and average chief executive "total fixed remuneration". The data relative to median TFR is as follows:



3.9 Egan Associates also gave consideration to factors that might be relevant to positioning an individual Secretary within the classification band relevant to the office. It presented its conclusions diagrammatically, as follows:



3.10 Egan Associates further recommended that a select committee, consisting of the President of the Remuneration Tribunal and the Public Service Commissioner, be formed to assist the Secretary of the Department of the Prime Minister and Cabinet if separation or payment is to be considered above or below the reference rate.

Superannuation

3.11 Egan Associates also considered superannuation arrangements for Secretaries, noting that the determination made by the Prime Minister, current at the time of the report, specified that a Secretary's superannuation salary is fixed at 80 per cent of total fixed remuneration. This compares with a range of between 70 and 80 per cent over the past decade, with research undertaken for the Remuneration Report indicating that *"at a senior executive level in the private sector 80 per cent would be regarded as a high proportion of TFR to be superannuable, whereas 70 per cent would be closer to the norm."*

3.12 Noting the variability in actual costs of funding superannuation arrangements for Secretaries, ranging from an averaged 21.4 per cent in respect of the Commonwealth Superannuation Scheme (CSS) to 15.4 per cent in respect of the Public Sector Superannuation Accumulation Plan (PSSAP), Egan Associates concluded that *"as part of any change to a Secretary's total fixed remuneration, the actual or actuarial cost of the Secretary's participation should be met within the total fixed remuneration amount"*.

3.13 To implement these proposed new arrangements to superannuation for Secretaries, Egan Associates recommended that a phased approach should be considered, in line with their recommended timing to transition Secretaries to the new pay structure, such that the superannuable component of salaries is 70 per cent from 1 July 2013, reducing progressively from the current 80 per cent to 75 per cent in December 2011 and 72.5 per cent from 1 July 2012.

Termination and separation

3.14 On the issue of termination of office, Egan Associates examined the relevant provisions within the *Public Service Act 1999* and private sector comparators, and thereby formed a view that these provisions should be reviewed. Specifically:

"my research indicates that pay levels do not in any way reflect excess, and that termination provisions by market standards appear frugal, particularly given the expectation that Secretaries will firmly embrace the APS values and always offer their Ministers fearless and independent advice, albeit that such advice will not always be well received. This employment context appears fundamental in retaining an independent public service and fundamental in ensuring a Secretary's integrity in fulfilling their obligations having regard to the Acts of Parliament to which they are subject in employment."

3.15 Based on this research, Egan Associates recommended that the termination entitlements for Secretaries be increased such that:

"contracts provide for a requirement for six months notice of termination to be either served in office or to be paid for without such service (at the unfettered discretion of the Minister of that Department) with a further payment equivalent to six months' TFR to be made on actual termination. These six months periods would be sequential not tangential."

3.16 The report summarised its main recommendations on remuneration levels as follows:

Having regard to the diversity of market inputs, though primarily using total fixed remuneration applying in the private sector, a construct of reward is capable of being established. I believe that certain principles should be adopted in the management of a transition to a new TFR structure, including:

- An agreed benchmark of comparators should be adopted and recommended by the Remuneration Tribunal.*
- The Government should endeavour by the end of calendar year 2012 to have positioned Secretaries' TFR reference rate at a level equivalent to an agreed benchmark, for example the 25th percentile of an agreed market.*
- TFR arrangements agreed to should incorporate the total remuneration cost of a Secretary's employment, though exclude certain agreed conditions associated with their employment.*
- Secretaries should not be entitled to performance pay.*
- Termination provisions should be reasonable by market standards in order to provide Government, on the recommendation of the Secretary of the Department of the Prime Minister and Cabinet, with the facility to terminate Secretaries for convenience on behalf of the Government of the day.*
- The minimum termination benefit, including period of notice, should be set at six months' TFR.*
- For Secretaries terminated under 55 years of age with five or more years' service as a Secretary the minimum termination benefit should be established at twelve months' TFR.*
- For Secretaries who are members of the CSS and PSS superannuation plans and are terminated after 55 years of age their termination and notice period should be capped at six months.*
- For Secretaries who are not members of the CSS or PSS retirement plans they should receive a minimum notice period of six months and a termination payment of six months' TFR.*

Differences in termination payments on the basis of age may have to be progressively adjusted in line with changes in recognised retirement ages and market practice while also conforming with the law and APS policy and practices.

Other entitlements

3.17 On the matter of vehicles and parking, Egan Associates had regard to other senior private and public sector practices, hours worked by a Secretary and the commitment they are required to make to the Government, and recommended that: *"other than in circumstances where the Secretary elects to provide their own vehicle that there be a fixed allocation irrespective of location for the provision of on-site parking for a Secretary and a fixed cost of the provision of a fully maintained Government vehicle."*

3.18 The Egan Associates report specifically made no comment on the business support facilities made available to Secretaries, entitlement to domestic or international airline memberships, leave provisions in any form, nor provisions associated with relocation or reunion.

Executive Summary from Egan Associates' Review of Remuneration for the Office of Secretary

Having determined the relative work value of the positions of Secretary of Australian Government Departments and published a report addressing those issues, the current report deals with pay and conditions of Department Secretaries.

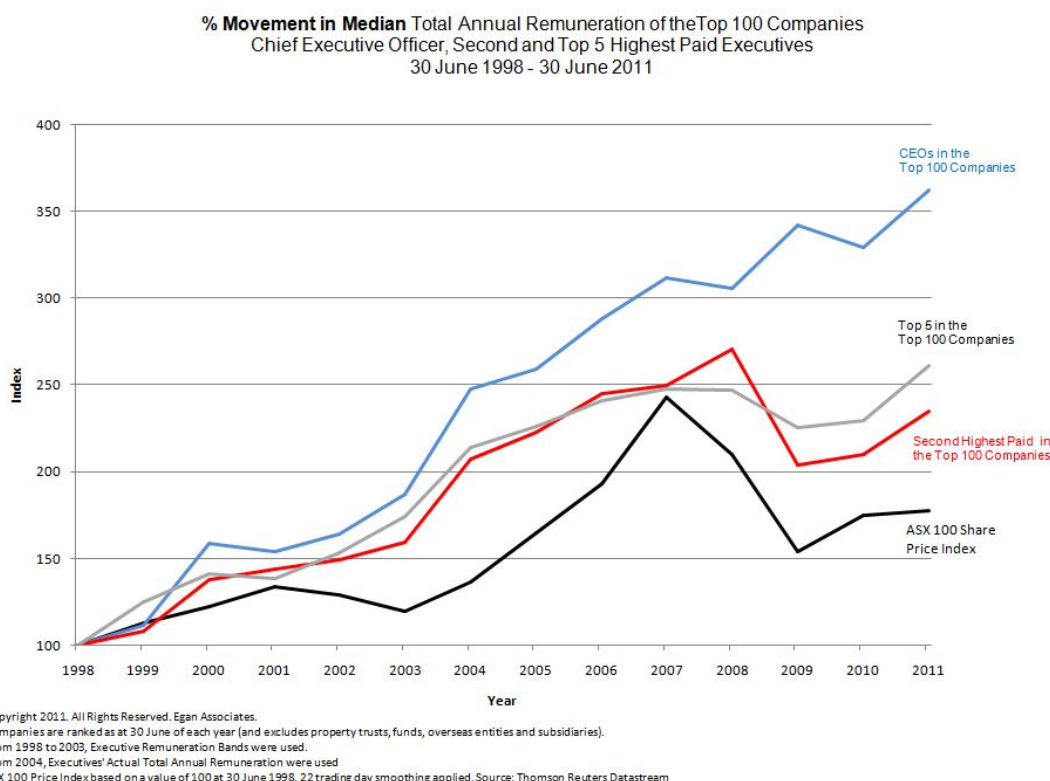
In order to form a view of competitive reward, across Government nationally and the private sector to the extent that it has a relevance having regard to positions of comparable work value and complexity, I compiled information on total fixed remuneration of Chief Executives and the second highest paid executives in companies in the ASX 200 and additionally obtained information on remuneration levels of senior executives in corporatised Government organisations, Vice-Chancellors of universities, partners of leading professional firms where there is an active shared engagement in the work of Government and the programs under the stewardship of Department Secretaries. I have also had regard to the relative scale of expenditure under the direction of Secretaries, including appropriations for agencies for which the Minister and/or the Cabinet hold the Secretary accountable. I formed the view that there was a degree of alignment between CEOs in a subsection of the ASX 200 and 2ICs or the second highest paid executive in the top corporations.

Equally, in addressing this data, due to the different nature of the role of a Secretary compared to that of an executive in the private sector, I have ignored performance aligned reward in the latter as a base of comparison and retained a focus in relation to positioning the TFR of Secretaries in the second quartile of the private sector market. In undertaking this research I observed, as have others in the past, in reviewing Senior Executive Service positions in the public sector that at the level of Secretary, among many comparators current remuneration arrangements are set in the first quartile of the executive market.

In reviewing the history of adjustments of Secretaries' pay since 1999, I note that the most significant change to their reward came about in 2008 on the recommendation of the Remuneration Tribunal to incorporate the indicative incentive then paid to Secretaries into their fixed remuneration. This led to a market or economic adjustment plus an additional 14 per cent.

Other than that amendment the primary adjustment to Secretaries' pay over the last twelve or more years has been an economic adjustment and not one reflecting growth in the scale of Department operations and portfolio agencies under the stewardship of Secretaries or the change in the Australian Government's budget dimensions, revenue collections or the nation's GDP.

My research reveals that since the March 1999 determination of a Secretary's remuneration through to August 2011, Secretaries' total fixed remuneration has increased by marginally less than 100 per cent, reflecting a doubling of their fixed pay. Their private sector counterparts in the top 100 companies have over that period benefited from a pay adjustment closely approximating a 360 per cent uplift. The gap in 1999 was reflected by an ASX 100 TFR of around \$500,000 compared to an indicative Secretary's fixed remuneration of around \$270,000, representing a gap of around \$230,000. Today the gap is closer to \$1,250,000. It is this gap which represents a primary disconnect with the reward of the nation's 'executive class' when compared to the most senior executives in the Australian Government upon whom Ministers and the Cabinet rely.



My research also revealed that the relationship between Secretaries and their direct reports was much closer in terms of pay relativity than that which applies in the private sector and that as a result of an extended period of modest adjustments the reasonableness of reward levels of Secretaries is now out of step with both Principal Executive Officers in portfolio agencies at both State and Federal level and executives in corporatised entities, where in a number of respects executive accountabilities, while different, are less substantive.

Having regard to the fact that for a variety of reasons recommendations which were initially prepared in early 2009 have been deferred, I developed a proposal which would endeavour to bring Secretaries' total fixed remuneration levels in close approximation to a market TFR 25th percentile by the beginning of the 2013 calendar year. In this context a proposal has been established to facilitate an immediate adjustment to a Secretary's TFR, a further adjustment in July 2012 and a final adjustment before the normalised review of Secretaries' pay in January 2013.

Comment has also been made on aspects of the contractual conditions of Secretaries, with specific recommendations in relation to the unequal participation of Secretaries in the Australian Government's retirement plans and, in my judgement, the inadequate provisions for termination, which can often arise for convenience as distinct from non-performance.

A reward structure has also been developed where there is a conjunction with the maximum pay for a position classified in Level 2 and the minimum rate for a Level 1 Secretary. The classifications of positions follow detailed research in 2009, that report having been published by the Tribunal in March 2010.

For both classification levels of the position of Secretary a range is proposed with a reference rate which represents the minimum rate payable to a Secretary, a higher rate at a premium of 7.5 per cent for a Secretary being appointed to a second term or where on the recommendation of the Secretary of the Department of the Prime Minister and Cabinet and a committee consisting of the President of the Remuneration Tribunal and the Public Service

Commissioner a Secretary's pay is seen to be misaligned having regard to their length of service and the distinction with which they have served the Government over a period of time. Proposals are also made in relation to transitioning Secretaries from a Level 2 to a Level 1 position or the reverse, which may arise as a result of substantial changes to the structure and portfolio allocation of Departments. Illustrative of the latter circumstance is the significant expansion of the accountability of the Secretary of the Department of Human Services following the absorption of both Medicare and Centrelink within the Department since my initial research in 2008.

The initial recommended reference rate for a Level 1 Secretary position is \$672,750 and for a Level 2 position \$585,000. The reference rate for these positions in 2013 is \$747,500 and \$650,000 respectively.

My recommendation varies in relativity terms from the long established relationship between Level 1 and Level 2 Secretary positions which have embraced a single rate of pay strategy, with the relationship between a Level 1 and a Level 2 position being set at 93 per cent.

Given that nine positions (rather than three) are now classified as at Level 1 having regard to the factors set out in the Work Value Report, I have formed the view that the gap in work value between the two levels is more substantial than was previously the case, although acknowledge that Secretaries remain engaged in 'Whole of Government' initiatives and have proposed that the gap between the reference rates of Level 1 and Level 2 be set at 85 per cent.

I have also proposed that for the positions of Secretary of the Department of Prime Minister and Cabinet and the Secretary of Treasury that the Tribunal have flexibility to determine the total fixed remuneration of the incumbents of those two key positions within a range set at a maximum of 20 per cent above the reference rate for a Level 1 Secretary's position.

Reward and Employment of Secretaries

In addressing the context of employment of a Secretary it was important to understand the history of pay adjustments over recent years at the level of Secretary as well as that of the other most senior staff in the Government's executive service, including Deputy Secretaries and more recently Associate Secretaries, their terms and conditions and the relativities established between those roles and other senior roles in a Department and that of the Secretary.

What did arise from those observations and required special consideration was the impact of progressive adjustments to employment conditions, including pay, at varying levels in the Australian Public Service (APS). These adjustments narrowed the gap between the reward of Secretaries and their direct reports and modified the positioning of Secretaries having regard to fixed remuneration in the broader leadership market of Australia. The most recent adjustments in August 2011 continued to show a Secretary's remuneration positioning in the lowest quartile. At the time of preparing this report in November 2011 the relative position of Secretary in the Australian marketplace has continued to deteriorate, albeit that the rate of growth in fixed remuneration of senior executives in the private sector has been modified, initially as a result of the global financial crisis and more recently volatile securities markets, particularly in Europe and North America, and a slowing in the rate of growth in the leading Asian economies.

The above comparative observation is based on a Secretary's total reward, that is their total fixed remuneration which, following the June 2008 determination and subsequent determinations, incorporates a bonus component (14 per cent), whereas private sector executive remuneration, particularly in listed companies, consists of fixed remuneration and

bonus payments, both in cash and in the form of equity, the aggregate of each of those elements constituting a senior executive's total reward.

Arising from the different descriptors of remuneration in both the private and public sectors and the change in the foundation of Secretaries' remuneration with effect from July 2008, for the purpose of this report I will refer to a Secretary's total remuneration as presently structured as 'Total Fixed Remuneration' in order not to be confused with the universal nomenclature of 'Total Remuneration' which includes an element of at risk performance pay. In this context, in other areas of the Tribunal's jurisdiction I would propose that they nominate the elements of remuneration exclusive of at risk performance pay moving forward as 'Total Fixed Remuneration' (TFR) representing the total value of salary together with superannuation and non-cash benefits, with 'Total Remuneration' (TR) incorporating TFR and at risk performance pay.

In the broader market many companies benchmark their Chief Executive Officer (CEO) and their most senior executives having regard to an agreed competitive positioning and establish a range within which the executive's fixed remuneration is determined, enabling them to accommodate factors which might include the recency of the executive's appointment to the position, their performance and effectiveness, their potential and promotability or any specific market influences which a company determines to be critical in assigning a specific pay level.

I noted during the conduct of the review, particularly at the time of formulating the approach to the primary questions (that of work value and remuneration), that in establishing a clear nomenclature and framework for the study without conflicting with other work of the Tribunal or the Public Service Commissioner it was relevant to establish some common language and common terms. Accordingly, and noting that there are structures for Principal Executive Officers (PEOs) and for members of the Senior Executive Service (SES), I determined that while there were differences in the accountability of Secretaries they represented a single cohort in Government leadership. Traditionally the position of Secretary has been rewarded across a number of pay levels varying from four to two (the present arrangement). Attached to each classification level there has traditionally been a level of fixed remuneration, together with an opportunity for a performance related bonus payment, this practice having been discontinued in June 2008.

The recommendations which are set out below are based on the construct of a pay band similar to that adopted by the Tribunal in respect of PEOs.

The question which the Tribunal needs to determine in this context is the appropriateness of pay bands versus the traditional practice of a single payment by classification level and secondly, whether there should be a separation in pay between classification levels, as there is at present, ie should pay bands be discrete or overlapping?

At the time of finalising this report both the Tribunal and the Australian Government have the benefit of enquiries into executive remuneration in the private sector, one conducted by Australian Prudential Regulation Authority (APRA) with its primary focus on the financial services sector; in another the Government has asked the Productivity Commission (PC) to examine the remuneration framework adopted for the payment of directors and executives. The latter enquiry was a broad ranging examination which considered the existing regulatory arrangements that apply to director and executive remuneration for companies that are disclosing entities under the Corporations Act 2001, including shareholder voting, as well as disclosure and reporting practices. The Productivity Commission also considered international research and responses to the problems of executive risk taking and corporate greed which were particularly highlighted following the global financial crisis. The latter review represented the most comprehensive single study of executive remuneration

undertaken in Australia and led to a series of recommendations, some of which have sponsored proposed changes to legislation which will impact directly on the role of Boards and independent directors. I note that the Tribunal made a submission to the Productivity Commission.

What I did observe in working with the President and members of the Remuneration Tribunal is that it has, in my judgement, one of the most onerous roles in the nation in regard to remuneration assessment when compared to Remuneration Committees of Australia's largest corporations. In addition to addressing the positions of Secretary across twenty Government Departments (my earlier research covered nineteen Departments – the new structure establishing from the original Department of Infrastructure, Transport, Regional Development and Local Government the Departments of Infrastructure and Transport and Regional Australia, Regional Development and Local Government), the Tribunal also addresses the reward arrangements of a substantial proportion of the Chief Executives of the 150 plus portfolio agencies within the Government, members of Parliament, members of Advisory Boards and formal Boards of a number of statutory bodies, the judiciary and other specialist roles within Government. This represented a range of enterprises and sectors which was breathtaking. It was equally evident in preparing this report that the Tribunal had a responsibility not only to research material provided to the Tribunal by the Secretariat but also to independently inform itself on aspects of its wider responsibility and to equip itself with information and opinions on a significant diversity of issues being brought to its attention and requiring deliberation.

Since commencing my work in reviewing both the work value and remuneration of the position of Secretary in 2008, there have been two adjustments to the total fixed remuneration of a Secretary broadly in accordance with general movements in executive pay in the Australian Public Service and further, there has been a legislative change in August 2011 which amended the Remuneration Tribunal Act 1973 (Act No. 215 of 1973 as amended), giving the Tribunal power to determine the remuneration of Secretaries – Part 11 Division 4.

4. Classification Structure - the Tribunal's Conclusions

Classification Structure - General

4.1 In Chapter 7 of its Part I Report, the Tribunal stated:

7.30 It has been evident to the Tribunal, since the early stages of the review, that, in terms of 'work value', the offices of Secretary are distributed across a relatively wide range.

7.31 The Tribunal adverted to this in its 2007-2008 Annual Report in noting that "the present remuneration range does not reflect adequately the range of responsibilities of these offices." The Tribunal considers that, while these jobs, as a group, can be distinguished from most other senior public offices, distinctions can be drawn between them.

7.32 On the basis of the breadth of the 'work value' range, the Tribunal considered, but discarded, the possibility of establishing a classification structure with more than two levels.

7.33 In the Tribunal's judgement - reinforced by the views of Egan Associates - the use of two levels:

- *is consistent with the relatively small number of offices concerned;*
- *provides a balance between ease of administration and the continuing, and necessary, possibility of administrative change in departments; and*
- *with an appropriate remuneration structure and range within each classification level, provides scope for justifiable distinctions to be made on the basis of matters other than the attributes of any given department (including, for example, acknowledgement of the relevance of increasing and diverse experience on the part of any Secretary).*

4.2 The Tribunal has not since been persuaded to depart from that view.

4.3 The *Remuneration Tribunal Act 1973* (the Act), as amended, specifies the arrangements by which an office of Secretary is to be classified and by which an individual office is to be assigned to an amount of remuneration:

- the Tribunal determines the classification to which each office of Departmental Secretary is assigned [s13(3) of the Act];
- the Tribunal determines the amount of remuneration that is to be paid to the Secretary of the Department of the Prime Minister and Cabinet and the Secretary of the Department of the Treasury [s14(1) of the Act]; and
- the Secretary of the Department of the Prime Minister and Cabinet, in consultation with the President of the Tribunal and the Public Service Commissioner, assigns each Departmental Secretary (other than those referred to above) to an amount of remuneration, consistent with the classification structure determined by the Tribunal [s14(3) of the Act].

4.4 Consistent with the foregoing, the classification structure proposed to be determined by the Tribunal has the following features:

- two levels (Level 1 being the upper, and Level 2 being the lower, level);
- Level 1 structured so as to have two discrete points above the ceiling of the standard Level 1 classification band, establishing remuneration for the offices of Secretary of the Department of the Prime Minister and Cabinet and Secretary of the Department of the Treasury;

- each Level has three pay points;
- the highest pay point of the lower level is coincident with the lowest pay point of the higher level.

Classification Structure - Pay Points

4.5 The Tribunal's conclusions about the levels of remuneration to be associated with the classification structure have been informed by a range of considerations.

4.6 Its long-standing view has been that the remuneration of Secretaries has been inadequate.

4.7 In its Part I Report, the Tribunal foreshadowed recommendations on remuneration that could be expected to include the following:

- an initial reasonable adjustment of remuneration for existing office-holders;
- a longer term remuneration structure entailing levels of remuneration which may be expected to be substantially above the current levels; and
- a transition path to the proposed remuneration structure contingent upon certain criteria being met, designed to ensure that there are no windfall gains (including in respect of superannuation) for current office-holders .

4.8 In contrast to the circumstances of Secretaries, the Tribunal had adjusted the remuneration of federal public offices that are clearly peers of those offices of Secretary responsible for the more significant departments.

4.9 In 2006, for example, the Tribunal had reviewed the public offices of the economic regulatory agencies (APRA, ASIC and ACCC) and increased their remuneration as follows:

Chair Total Remⁿ	Determination 2005/06 with effect 1.07.2005	Determination 2006/13 with effect 1.07.2006
APRA	\$531,470	\$554,950
ASIC	\$370,890	\$487,500
ACCC	\$370,890	\$487,500

4.10 To that point, the remuneration of Secretaries had been as follows:

	Base Salary per annum with effect 4.08.2006	Total Remuneration per annum with effect 4.08.2006
Upper Level	\$315,460	\$394,320
Lower Level	\$295,140	\$368,920

4.11 The remuneration of federal public offices outside the Tribunal's jurisdiction also suggested that careful consideration of Secretaries' circumstances was warranted.

4.12 In arriving at this view, the Tribunal had been conscious that the economic regulatory agencies and, to a lesser extent, the Reserve Bank of Australia, were primarily responsible

for implementing policy rather than developing it. The latter role - and, arguably, that of most significance - was the responsibility, primarily, of Secretaries and their Departments.

4.13 In this regard, the following observation from the Tribunal's Part I Report continues to be relevant:

The Tribunal considers it evident that the responsibilities of the most significant of the offices of Secretary (the Secretary of the Department of the Prime Minister and Cabinet and the Secretary of the Department of the Treasury) extend beyond those of the principal offices of the economic regulatory agencies for which the Tribunal determines remuneration. The office of Governor of the Reserve Bank of Australia is a highly relevant comparator. The Tribunal considers that the responsibilities of the Governor are not greater than those of either the Secretary of the Department of the Prime Minister and Cabinet or the Secretary of the Department of the Treasury. In the Tribunal's judgement, each of these offices is more singular and demanding than any of the full-time public offices in the Tribunal's jurisdiction, and other senior federal public offices.

4.14 The remuneration history of the public offices of Governor and Deputy Governor since 2005 (these offices then being outside the Tribunal's jurisdiction) is as follows:

Financial Year	Governor	Deputy Governor
2005	\$570,000 - \$579,999	\$430,000 - \$439,999
2006	not separately published	
2007	not separately published	
2008	not separately published	
2009	not separately published	

4.15 It is notable that the Bank's Annual Reports from 2006 to 2009 did not provide particulars of the remuneration of the offices of the Governor and the Deputy Governor. Despite each being a public office in a federal statutory body, the Bank evidently decided (consistent, to be sure, with its interpretation of its publication obligations) for reporting purposes to consolidate the remuneration of these offices with that of other (statutory office and employee) remuneration data.

4.16 However, since the Bank's 2010 Annual Report, the total remuneration amounts for each individual office have again been published. The amounts were as follows:

Financial Year	Governor	Deputy Governor
2010	\$1,049,297	\$802,202
2011	\$1,083,017	\$822,221

4.17 The Tribunal notes that, with effect from 25 July 2011, each of these offices was declared into the Tribunal's Principal Executive Office jurisdiction. The Tribunal, while

accepting that the current remuneration of the current appointees will be maintained while each holds office, has advised the following indicative total remuneration reference rates for each office for any new appointees, subject to its finalising reference rates after receiving and considering submissions from the Reserve Bank Board:

Governor	Deputy Governor
\$850,000	\$675,000

4.18 The Tribunal conducted a further review of the public offices of the economic regulatory agencies in 2011. It decided that, in the light the continuing development of their roles and responsibilities, further adjustments in remuneration, additional to the annual adjustment, were warranted. With effect from 10 August 2011, the Tribunal determined remuneration for these offices as follows:

Chair Total Remⁿ	Determination 2011/08 (with effect 1.07.2011)	Determination 2011/17 (on and from 10.08.2011)
APRA	\$666,120	\$800,000
ASIC	\$585,160	\$700,000
ACCC	\$585,160	\$700,000

4.19 The Tribunal continues to be of the view that total remuneration for the most senior public offices in its jurisdiction provides clear guidance as to appropriate remuneration for the office of Secretary.

Remuneration Range

4.20 In designing the classification structure, the Tribunal has been concerned to ensure that the remuneration range encompassed by it is sufficient to accommodate the differences between the various offices of Secretary to which it referred in its Part I Report.

4.21 The previous relativity between then the then two levels was tightly constrained; only some \$35,000 separated the remuneration of the most demanding office from the least. The situation was further compounded by having only three offices of Secretary paid at the higher of the two levels; the remuneration of the then 17 other current Secretaries was fixed at the lower level.

4.22 The Tribunal referred to this in its 2007-2008 Annual Report, observing that “*the present remuneration range does not reflect adequately the range of responsibilities of these offices*”.

4.23 In its Part I Report, Tribunal also noted that:

“while these jobs, as a group, can be distinguished from all other senior public offices, distinctions can be drawn between them;”

“these distinctions should be reflected more clearly in remuneration than the current remuneration structure allows.”

4.24 The proposed classification structure has been designed to to address these concerns:

- first, the structure distinguishes the offices of Secretary of the Department of the Prime Minister and Cabinet and of the Department of the Treasury from every other office and from each other (consistent with the Tribunal's assessment, that, given its whole-of-government perspective extending beyond the economic issues that are the Treasury's primary concern, the office of Secretary of the Department of the Prime Minister and Cabinet is the more demanding);
- second, the structure enables distinctions to be drawn between one office and another on the basis of relative 'job weight' (that is, the scope and scale of its roles and responsibilities);
- third, the distinctions, in terms of remuneration, are greater than the previous (and largely nominal) gap of \$35,000 between the upper and lower remuneration levels; and
- fourth, it allows individual Secretaries to be recognised by enabling an individual to be assigned to a higher pay point in the level to which the office has been classified.

4.25 The Tribunal notes that, although there is no formal 'bandwidth' for the individual SES levels (that is, Bands 1, 2 and 3), the range between the first and third quartiles set out in the Mercer APS SES survey data as at 31 December 2010 suggests that the following 'working bandwidths' apply:

	Minimum	Q1	Q3	Maximum	Q3 - Q1
SES Band 1	147,807	199,272	220,973	367,205	21,701
SES Band 2	193,242	247,872	276,280	509,268	28,408
SES Band 3	270,704	307,399	358,351	669,936	50,952

4.26 The remuneration ranges of each of the levels of the proposed classification structure, are as follows:

Level 1 (upper level)	Level 2 (lower level)
\$80,000	\$50,000

4.27 Noting the significant differences (statutory and otherwise) between an office of Secretary and the position of any APS SES employee, the Tribunal considers that the remuneration ranges encompassed by each Level are modest and appropriate. Further, once fixed and specified by determination (in contrast to the SES Band remuneration arrangements), they will strengthen public accountability in respect of the structure's operation.

Relative Positioning of the Classification Structure

4.28 In Chapter 8 of its Part I Report, the Tribunal explained the place of relativities between public offices in its jurisdiction, in arriving at conclusions on appropriate remuneration for Secretaries.

8.09 In its work, the Tribunal makes judgements about the relative 'weight' of roles and responsibilities between public offices and determines remuneration on the basis of their respective attributes. The Tribunal described this in its 2005-2006 Annual Report:

"Relativities within the public sector are also an important consideration. The Tribunal aims to ensure that relativities between public offices in its own jurisdiction are appropriate. Over time, developments in public administration can bring about significant changes in the roles and responsibilities of public offices. The Tribunal needs to assess the implications of such changes for the remuneration of the offices concerned. In general, the Tribunal takes the view that offices of comparable responsibility should be remunerated at like levels."

8.10 The Tribunal considers that, subject to the observations below, the relativities established between public offices in its determinative jurisdiction provide a sound foundation for conclusions about appropriate remuneration for these offices. These conclusions, together with the 'work value' relativities between the two levels of Secretary outlined previously, will, in turn, lead to the overall remuneration structure for Secretaries that the Tribunal will propose.

8.11 The Tribunal has considered some data about the remuneration of senior public offices in a limited number of state jurisdictions. However, the Tribunal perceives risks in relying on such data. First, the Tribunal lacks the specific insights into the positions concerned necessary to draw reliable conclusions about equivalence between state and federal public offices; and second, the Tribunal is unable to establish an appropriate discount to take account of inter-jurisdictional 'leapfrogging' (noting that, in respect of judicial and parliamentary offices, it is not uncommon for other jurisdictions to follow the Tribunal's decisions, notwithstanding the differences in responsibility between federal and state offices).

8.12 The Tribunal also notes the following observation by Egan Associates about differentials between federal and state offices:

"I believe that the highest classification level identified as appropriate for Secretaries of Commonwealth Departments reflects accountabilities greater than those likely to be observed at State level given their breadth, scale and to a considerable extent their oversight of State Government program requirements, embracing the provision of Commonwealth funds to assist in the delivery of regional services."

8.13 The Tribunal considers that its knowledge of the federal public sector provides the best foundation upon which to draw conclusions.

4.29 It went on to focus on the office of Secretary of the Department of the Treasury:

8.14 There are few reference points for the office of Secretary of the Department of the Prime Minister and Cabinet. By contrast, the range of offices in the Treasury portfolio provides well-defined points of reference for the office of Secretary of the Treasury. The Tribunal considers the following offices to be particularly relevant:

- the principal offices of the Australian Prudential Regulation Authority (APRA); the Australian Competition and Consumer Commission (ACCC); and the Australian Securities and Investments Commission (ASIC); and*
- the Governor and Deputy Governor of the Reserve Bank of Australia.*

8.15 *The remuneration history of these offices is therefore highly relevant to the present enquiry into remuneration of Secretaries.*

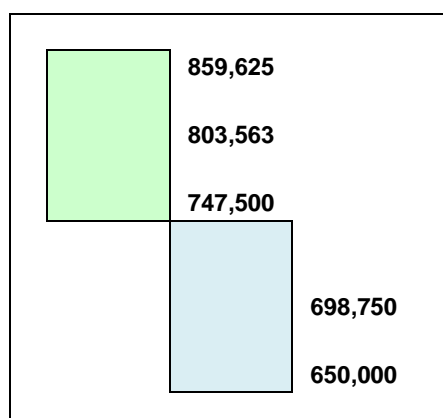
4.30 Recent developments in the remuneration of the public offices of the economic regulatory agencies and of the Reserve Bank were presented above. In the Tribunal's assessment, they confirm that annual total remuneration for the office of Secretary of the Department of the Treasury should be determined at a point above \$800,000. Given the Tribunal's assessment of the standing of the office of Secretary of the Department of the Prime Minister and Cabinet relative to that of the office of Secretary of the Department of the Treasury, the Tribunal has concluded that total remuneration for the former office should be determined slightly above that of the latter.

Egan Associates Review

4.31 Egan Associates also addressed the matter of the placement of the remuneration of Secretaries relative to the 'identified market' (as defined by Egan Associates) more generally. In its Review, it stated:

"My research revealed that the relative competitive positioning of Secretaries' remuneration had declined over the last generation from at or around the market 25th percentile (even with the inclusion of performance pay) to the first decile (the lowest ten per cent) in respect of the most complex and onerous roles. Such a strategy, in my judgement, would not ensure that the Government of today or future Governments would have access to individuals of the highest calibre. I note that over the past fifteen years only three Secretaries have been appointed from outside the Australian public sector's employment."

4.32 On this basis, Egan Associates proposed the following two-level structure and associated remuneration rates as the 'mature' structure for Secretaries:



4.33 In arriving at this conclusion, Egan Associates reported that it had taken account of what it had identified as the differences between the role of a Secretary of that of an executive in the private sector by ignoring *"performance aligned reward of the latter"*.

Future Adjustment of Remuneration

4.34 The Tribunal acknowledges the approach taken by Egan Associates and notes the broad similarity of the conclusions on remuneration derived from its own assessment of appropriate relativities and indications drawn from elements of the private sector market considered relevant by Egan Associates.

4.35 However, the Tribunal is not inclined to accept the reference points used by Egan Associates as the basis for ongoing determination of appropriate remuneration either for Secretaries or for public offices more generally.

4.36 In this regard, the Tribunal notes the outline of its approach to setting the remuneration of public offices included in its 2005-2006 Annual Report (and repeated, in part, in its July 2009 submission to the Productivity Commission inquiry into executive remuneration in Australia):

In determining annual adjustments, the Tribunal takes account of a range of factors. Statistical indicators, such as movements in the labour price index; increases incorporated in Australian Public Service and public sector certified agreements; and increases in agreements generally, provide some guidance.

Movements in senior management remuneration are also relevant, given the nature of many of the offices in the Tribunal's jurisdiction. The Tribunal is not, however, overly influenced by executive remuneration surveys. Although justifiable comparisons can be drawn between senior private and federal public sector jobs, the Tribunal, while mindful of movements indicated by such surveys, regards private sector remuneration practice as being only one of the factors to be taken into account in setting the remuneration of public offices. The prestige associated with appointment to a high public office entails acceptance, on the part of appointees, of less remuneration than might apply to a comparable job in the private sector.

That said, 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. Over time, developments in public administration can bring about significant changes in the roles and responsibilities of public offices. The Tribunal needs to assess the implications of such changes for the remuneration of the offices concerned. In general, the Tribunal takes the view that offices of comparable responsibility should be remunerated at like levels.

4.37 The Tribunal continues to regard these considerations as being relevant to the determination of appropriate remuneration for public offices in its jurisdiction.

4.38 In the longer term, the Tribunal would expect to adjust the remuneration of Secretaries by the application of the same annual adjustments that apply to public offices generally.

4.39 The Tribunal is, however, mindful of the fact that the remuneration of Australian Public Service Senior Executive Service (SES) employees has, in the past, increased independently of the adjustments determined by the Tribunal for public offices. As a consequence, there have been material adverse shifts in remuneration relativities between Secretaries, on the one hand, and their direct reports (SES Band 3 employees, including Associate Secretaries) on the other. The Tribunal has set out elsewhere in this report its

views on the remuneration of Secretaries' direct reports and the need for the introduction of a more consistent and APS-wide approach to setting the remuneration of these employees.

4.40 The Tribunal will continue to have regard for movements in SES remuneration as one of the factors relevant to its conclusions about an appropriate annual adjustment. It will also take into account the remuneration of other federal public offices outside its jurisdiction and movements in relativities between other APS classifications.

Remuneration of the Secretaries of the Departments of the Prime Minister and Cabinet and of the Treasury

4.41 In settling the overall classification structure for the office of Secretary, the Tribunal has also been conscious of the need to ensure that its remuneration range has sufficient scope to accommodate these offices of Secretary.

4.42 The Tribunal has concluded that an extension of the range (above the upper level, Level 1) of \$45,000 is adequate for this purpose. On this basis, the Tribunal has in mind fixing the remuneration of the office of the Secretary of the Department of the Treasury at \$25,000 above the top of the Level 1 range, and that of the Secretary of the Department of the Prime Minister and Cabinet a further \$20,000 above that. The Tribunal, in arriving at these conclusions, is conscious that they do not fully reflect our assessment of the standing of these offices relative to that of the Governor of the Reserve Bank of Australia. However, in terms of the overall classification structure proposed the rates for these most senior offices of Secretary are, for present purposes, appropriate.

4.43 The Tribunal notes that Egan Associates proposed rates for these offices of Secretary within a range of 20% above the base of the lower level (Level 2). The Tribunal's conclusions in respect of these offices of Secretary are consistent with this, while being less, in dollar terms, than the post-transition Egan Associates' proposal.

Transition and Translation Arrangements

4.44 In its Part I Report, the Tribunal foreshadowed the phased introduction of new remuneration arrangements for Secretaries, including an initial reasonable adjustment of remuneration for existing office holders.

4.45 Consistent with this, the Tribunal proposes that the transition to the mature remuneration structure for Secretaries will be phased-in over six steps. The date of effect of the initial step will be settled by the Tribunal in the context of its making its initial determination (which will occur before the end of March 2012); the transition to the final classification structure and rates is expected to have been completed by 1 July 2014. However, the Tribunal will give further consideration to the phasing-in of these adjustments on the basis of progress in addressing its concerns about the remuneration of Secretaries' direct reports.

4.46 The Tribunal announced in the context of its review of the economic regulatory agencies (APRA, ASIC and ACCC) that it will not be making further adjustments to the remuneration of those offices prior to 1 July 2013. The same will apply to Secretaries.

4.47 The Tribunal intends that the initial increase will be of the order of 14%, noting that the remuneration of those offices of Secretary classified at a level above their present level will also reflect that effective reclassification.

4.48 Setting aside the Secretaries of the Departments of the Prime Minister and Cabinet and of the Treasury, responsibility for the assignment of existing individual Secretaries to an amount of remuneration is vested in the Secretary of the Department of the Prime Minister and Cabinet, in consultation with the President of this Tribunal and the Public Service Commissioner.

4.49 In the Tribunal's view, in making the assignments of existing Secretaries, greater weight should be given to the fact that each has already been appointed to the office of Secretary and less to their relative experience as a Secretary.

4.50 With respect to the offices of Secretary to be classified at a level above their present level, the Tribunal considers that the following translation arrangements would be appropriate:

	Dates of Effect of 'steps'					
	1 Jan 2012	1 Jul 2012	1 Jan 2013	1 Jul 2013	1 Jan 2014	1 Jul 2014
	Transition of current lower level offices to mid-point of Level 1 (upper level)					
(Current Lower Level TR) 504810	580,000	630,000	665,500	693,000	720,500	740,000

4.51 In the case of the appointee to the office of Secretary of the Department of Defence, the Tribunal considers that particular weight should be ascribed to the 'diarchy' arrangement in the Defence portfolio between the Secretary and the Chief of the Defence Force. On this basis, it would be appropriate, in the Tribunal's judgement, to ensure that, during the transition phase and subsequently, the remuneration of the Secretary and the Chief of the Defence Force is aligned.

4.52 The Tribunal expects that, during the transition phase, new appointments will be made to the office of Secretary. In the Tribunal's view, it would be appropriate for new appointees to be assigned to an amount of remuneration consistent with the lowest pay point of the Level to which their office has been classified.

4.53 The proposed classification structure - including the associated pay points and the transition arrangements proposed by the Tribunal - is set out in **Attachment A** to this section of the Report.

Classification of Offices of Secretary

4.54 In its Part I Report, the Tribunal set out its views of the appropriate classification of the offices of Secretary then extant. The Tribunal's intentions, then, are reflected in the following table :

Level	Departments
Level 1A	Prime Minister and Cabinet
Level 1B	Treasury
Level 1	Defence; Education, Employment and Workplace Relations; Families, Housing, Community Services and Indigenous Affairs; Finance and Deregulation; Foreign Affairs and Trade; Health and Ageing
Level 2	Agriculture, Fisheries and Forestry; Attorney-General; Broadband, Communications and the Digital Economy; Climate Change; Environment, Water, Heritage and the Arts; Human Services; Immigration and Citizenship; Infrastructure, Transport, Regional Development and Local Government; Innovation, Industry, Science and Research; Resources, Energy and Tourism; Veterans' Affairs

4.55 The Tribunal is conscious that, since the publication of its Part I Report, there have been variations in the nomenclature, structure, and responsibilities of departments sufficient to warrant further consideration of the appropriate classification of the relevant Secretary.

4.56 Such variations are, understandably, a continuing and essential feature of public administration. In this regard, the Tribunal is mindful that, on 12 December 2011, the Prime Minister announced changes to the Administrative Arrangements Order which are likely to bear upon the responsibilities of individual Secretaries. The Tribunal will need to take these variations in the Administrative Arrangements Order – as well as any other significant changes that have been made since the publication of its Part I Report - into account in settling its assignment of Secretaries to the classification structure.

4.57 Accordingly, the Tribunal has not, at this juncture, determined the classification to which each of the present offices of Secretary is assigned. As indicated in the Statement issued in conjunction with this Report, the Tribunal has decided to refrain from determining any aspect of its conclusions at this stage.

Remuneration of Direct Reports

4.58 Chapter 8 of this Report is concerned with the direct reports of Secretaries. The Tribunal refers there to the PricewaterhouseCoopers/Australian Public Service Commission "Review of the SES" published in February 2011.

4.59 In the context of the remuneration of Secretaries, the Tribunal considers it appropriate to draw attention, at this juncture, to the following observation at page 9 of the Review:

"Most private sector points factor job evaluation systems tend not to draw heavily on professional services and financial sector data. These sectors are most closely comparable to much of the Commonwealth policy environment, and are most directly competitive with the Commonwealth for senior staff."

4.60 It would be regrettable were there to be, implicit in this observation, any inference that the remuneration of posts in professional services and in the financial sector should drive conclusions about appropriate remuneration for APS SES employees.

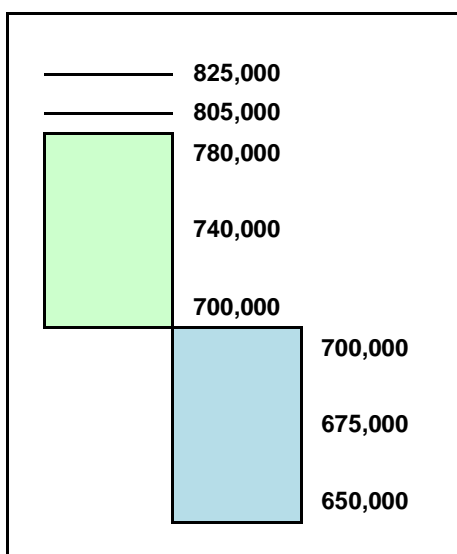
4.61 While the Tribunal is prepared to accept that there may be some posts in the federal public sector with other than incidental exposure to the financial sector, the Tribunal is not persuaded that the Australian Public Service (that is, the core of the federal public sector) is involved in commercial, risk-taking, profit-seeking, entrepreneurial activities subject to the vicissitudes of the market in a manner akin to financial services companies in the private sector.

4.62 Departments - the province of APS SES Band 3 employees - have their functions clearly set out in, and constrained by, legislation and administrative guidance. In the Tribunal's assessment, while any market survey/points factor assessment work might be an input to remuneration considerations, it would be only one such input.

4.63 The Tribunal's firm view is that the sole relevant reference point for the remuneration of SES employees is the bottom pay point of the lower level of the classification structure for Secretaries to be determined by the Tribunal.

Intended Dates of Effect of 'steps'						
Initial Adjustment	1 Jul 2012	1 Jan 2013	1 Jul 2013	1 Jan 2014	1 Jul 2014	
Introduction of \$825000 point by 1 Jul 2014						
Level 1A (PM&C) Current Upper Level TR 539,580	620,000	661,000	702,000	743,000	784,000	825,000
Introduction of \$805000 point by 1 Jul 2014						
Level 1B (Treasury) Current Upper Level TR 539,580	615,000	653,000	691,000	729,000	767,000	805,000
Introduction of Upper Level (Level 1) Transition Points						
Level 1 (Current Higher Level TR) 539,580	612,500	646,000	679,500	713,000	746,500	780,000
	612,500	638,000	665,500	693,000	720,500	740,000
	612,500	630,000	647,500	665,000	682,500	700,000
Introduction of Lower Level (Level 2) Transition Points						
Level 2 (Current Lower Level TR) 504,810	575,000	600,000	625,000	650,000	675,000	700,000
	572,500	593,000	613,500	634,000	654,500	675,000
	570,000	586,000	602,000	618,000	634,000	650,000

Classification Structure for Secretaries (post-transition)



5. Superannuation

Tribunal's Conclusions on Superannuation

Defined Benefit Schemes

Secretaries' base salary (salary for superannuation purposes) will be set at 70% of total remuneration for members of defined benefit schemes. This will be done in stages early in the transition to the new classification structure.

The Tribunal will maintain the concept of a fixed percentage attributed value of employer contributions to the Commonwealth defined benefits schemes.

Accumulation Schemes

In relation to the accumulation schemes, it is the Tribunal's view that the revised superannuation contribution rules contain all the guidance necessary for individual officers to make their own arrangements as regards contributions. The Tribunal's disposition, in the longer term, is simply to specify Total Remuneration; it would then be up to individual Secretaries who are members of an accumulation scheme to decide what they contribute by way of superannuation.

For the accumulation schemes, the employer superannuation contributions should reflect the actual cost to the employer of the Secretary's membership of that scheme.

Background

5.1 Appendix 5 to the Tribunal's Part I Report provided a detailed analysis of the Australian Government superannuation schemes and their associated costs. It noted that a Secretary may belong to one of a number of different schemes including:

- the Commonwealth Superannuation Scheme (CSS) - closed to new members;
- the Public Sector Superannuation Scheme (PSSDB) - closed to new members;
- the Public Sector Superannuation Scheme Accumulation Plan (PSSAP) - the default fund under the *Public Service Act* 1999; or
- an external 'choice of fund' – for example, the Australian Government Employees Superannuation Trust (AGEST).

5.2 The schemes all have differences in their design, composition, administration and rules, including those applying to membership, contributions from both the employer and employee, and the calculation, distribution and cost to the employer of the final benefit; particularly between the defined benefit schemes (the CSS and PSSDB) and accumulation schemes (the PSSAP or external choice funds).

5.3 Under the total remuneration framework, a Secretary's salary for superannuation purposes is specified in the Determination for Secretaries' remuneration. An ascribed value of the employer superannuation contribution is calculated as a percentage of the superannuation salary and forms a component of total remuneration that cannot be taken as cash.

5.4 The total remuneration framework also encompasses all benefits of a personal nature, allowing a Secretary to 'cash-out' a benefit, such as a motor vehicle or parking. Total remuneration does not include facilities provided as business support, official travelling allowances, learning and development, or other conditions associated with appointment to the office.

Superannuation Arrangements

Salary for Superannuation Purposes

5.5 In 2006, on the advice of the Tribunal, the then Prime Minister increased the salary for superannuation purposes for Secretaries to 80% of total remuneration. This departure from the standard Tribunal practice of setting salary for superannuation purposes at 73% of total remuneration was a means of addressing, at least in part, the shift in remuneration relativities between Secretaries and the SES.

5.6 In practice, it meant, effectively, the deferral of an otherwise justified increase in remuneration until some future, post-employment point dictated by the relevant superannuation arrangements.

5.7 Limiting salary for superannuation purposes as a percentage of total remuneration is an established approach to ensure that superannuation does not form a disproportionate component of the remuneration of an office.

5.8 The Tribunal is of the view that office holders should be remunerated appropriately today for undertaking the responsibilities of their respective offices, rather than tomorrow, through their retirement benefit.

5.9 The closure of the Commonwealth defined benefit funds and the consequent increasing use of accumulation funds, together with changes to the rules governing superannuation contributions and the taxation consequences of exceeding specified levels of contribution, have led to the Tribunal's decision to modify the superannuation salary arrangements for members of those funds. The intention is to provide flexibility for Secretaries to make contributions to suit their personal circumstances.

Employer Superannuation Contribution

5.10 In relation to the employer superannuation contribution, the Prime Minister's Determination of Secretaries' remuneration and other conditions of 30 June 2011 states that:

"2.6 Regardless of anything else in this Determination, a Secretary's annual rate of salary for the purposes of the Superannuation (CSS) Salary Regulations shall be Base Salary as specified under clause 2.1. (Note: It will therefore be the Secretary's superannuation salary for the purposes of the Superannuation Act 1976 and the Superannuation Act 1990.)

2.7 The Total Remuneration of a Secretary shall be taken to include the value of the employer's superannuation contributions made in respect of the Secretary. For this purpose:

(a) in the case of a Secretary participating in the Commonwealth Superannuation Scheme or the Public Sector Superannuation Scheme, the value of the employer's superannuation contributions made in respect of the Secretary shall be taken to be:

(i) 13% of Base Salary until 30 June 2005; and

(ii) 15.4% of Base Salary on and from 1 July 2005

(b) in the case of a Secretary participating in any other superannuation scheme, the value of the employer's superannuation contributions made in respect of the Secretary to the superannuation scheme shall reflect the amounts actually made or liable to be made."

Defined Benefit Schemes

5.11 In a defined benefit scheme, a member's benefits do not depend solely on contributions and earnings. They depend on other factors, such as years of service and final or final average salary. The design of the CSS places great weight on the final salary of the

member in the calculation of the superannuation benefit. Therefore, changes to superannuation salary late in a career can have a significant and immediate impact on the pension or lump sum payable to the member and the associated cost to the employer.

5.12 Section 5 of the *Superannuation Act* 1976 establishing the CSS and Rules 1.2.3 and 1.2.4 of the PSS Rules, allow for the salary for superannuation purposes (or 'annual rate of salary' or 'basic salary') under those schemes to be specified by a Determination. Under the Prime Minister's Determination for Secretaries, this specified figure is the 'Base Salary'.

5.13 The determined employer superannuation contribution for the CSS and PSSDB of 15.4% of 'Base Salary' does not reflect the actual cost to the employer of the superannuation benefit of each Secretary, rather it is simply a value ascribed to represent the employer superannuation liability.

5.14 Every three years, the Department of Finance and Deregulation updates its Long Term Cost Report (LTCR) to assist in determining the costs of the CSS and PSSDB, including

- projected actual Australian Government employer costs;
- the size of the Australian Government's unfunded superannuation liability; and
- the level of the notional employer contribution rates (NECR) required to cover the costs of the schemes.

5.15 In the 2008 LTCR, the NECR for the PSSDB is 16.3% and for the CSS 21.4% of superannuation salaries, including employer productivity contributions¹. These rates are based on a number of assumptions about the 'average' member and do not reflect the actual cost to the Commonwealth of an individual's superannuation benefit, which relies on the individual's personal circumstances and cannot be calculated until the final benefit and any subsequent death benefits are paid in full.

5.16 It is pertinent to note that for the PSSDB, the NECR has been increasing and for the CSS, it has been falling - due in part to a revised calculation methodology, but also as a result of the design of the scheme, where under the CSS, the rate of benefit accrual declines the longer the member stays in the scheme. The Department of Finance and Deregulation expects that this trend will continue and that it is likely that the cost to the Commonwealth of those Secretaries that are members of the CSS, noting that they are more inclined to be long standing public servants, would more probably be lower than the NECR in the LTCR.

Accumulation Schemes

5.17 The costs to the employer associated with the accumulation schemes are much clearer. For the PSSAP, the employer contributions are at least 15.4% of superannuation salary, where, under PSSAP Rule 2.2.2, superannuation salary is either the 'ordinary time earnings' (OTE) of the member, or the amount that would have been their 'fortnightly contribution salary' if they were a PSSDB member. To date the latter has applied to Secretaries in the PSSAP, as their superannuation salary has been specified in a Determination, not based on OTE.

5.18 Therefore, for those Secretaries that are members of accumulation funds, the concept of determining a salary for superannuation purposes takes on a different complexion, in that it does not directly dictate the final superannuation benefit; rather, it is the contributions to and the earnings of the fund over time that are the determining factors. Indeed, the total remuneration framework allows officers the flexibility to adjust the components of their remuneration package to select superannuation contributions over and above the statutory minimum in order to maximise their final benefit. As mentioned earlier,

¹ PSS and CSS Long Term Cost Report 2008 - <http://www.finance.gov.au/superannuation/pss-and-css-scheme-costs.html>

this has changed recently with the revised rules relating to superannuation fund contributions and the additional tax that applies to contributions over and above certain set age-related maxima.

5.19 As the accumulation schemes become predominant among the cohort of Secretaries, and since there are rules governing taxation consequences of excessive contributions, determining a salary for superannuation purposes will become less relevant.

Tribunal's Conclusions on Superannuation

5.20 Under the proposed remuneration framework for Secretaries, the associated increases in total remuneration may advantage those Secretaries that are members of the defined benefit schemes over those of the accumulation schemes. In this regard, the Tribunal sought the advice of the Department of Finance and Deregulation to ascertain its options to moderate any perceived 'windfall' gains attained by Secretaries that are members of the defined benefit schemes.

5.21 The Tribunal accepts that it is not possible to create an entirely 'level playing field' as the impact on a superannuation benefit of any increase in remuneration will be associated with the personal circumstances of each Secretary.

Defined Benefit Schemes

5.22 However, it is the Tribunal's view that the long term cost to Government in relation to the defined benefit schemes should be considered in the application of the proposed remuneration framework for Secretaries and that it would be reasonable, therefore, to set Secretaries' base salary (salary for superannuation purposes) at 70% of total remuneration for members of those schemes. This will be done in stages early in the transition to the new classification structure.

5.23 In the light of the current rules for contributions, which are more complex in the case of defined benefit schemes, it may well be that even at a level of 70% of total remuneration, the salary for superannuation purposes is excessive. The Tribunal is consulting further with the Department of Finance and Deregulation on this matter.

Accumulation Schemes

5.24 In relation to the accumulation schemes, it is the Tribunal's view that the revised superannuation contribution rules contain all the guidance necessary for individual officers to make their own arrangements as regards contributions. The Tribunal's disposition, in the longer term, is simply to specify Total Remuneration; it would then be up to individual Secretaries who are members of an accumulation scheme to decide what they contribute by way of superannuation.

5.25 The arrangements for PSSAP must, due to the scheme's rules, be more clearly specified. The Tribunal's proposed determination addresses this.

Ascribed Value of Employer Contributions

5.26 It is the Tribunal's view that the ascribed value of employer superannuation contributions for those Secretaries that are members of the defined benefit schemes should remain at 15.4% of superannuation salary, pending further consideration of whether, or not, a rate (or rates) better reflecting actual cost of the membership of the CSS and PSSDB might be specified. In this regard, the Tribunal does not intend to replicate clause 2.7(a)(i) of the Prime Minister's Determination, referring to the calculation of 'Base Salary' prior to 1 July 2005.

5.27 For the accumulation schemes, the ascribed value of employer superannuation contributions should reflect the actual cost to the employer of the Secretary's membership of that scheme.

Draft Determination

5.28 In the light of its observations arising from the differences between the Commonwealth defined benefit superannuation schemes, and other schemes relevant to Secretaries, the Tribunal proposes to include the following provision in its determination:

Superannuation

- 2.14** For a Secretary who is a member of the Commonwealth Superannuation Scheme:
- (a) the Secretary's annual rate of salary for the purposes of the scheme is the Secretary's Base Salary; and
 - (b) the value attributed to the Employer's Superannuation Contribution is taken to be 15.4% of the Secretary's Base Salary.
- 2.15** For a Secretary who is a member of the Public Sector Superannuation Scheme:
- (a) the Secretary's basic salary for the purposes of the scheme is the Secretary's Base Salary; and
 - (b) the amount of the Secretary's recognised allowances for the purpose of the scheme is zero; and
 - (c) the value attributed to the Employer's Superannuation Contribution is taken to be 15.4% of the Secretary's Base Salary.
- 2.16** For a Secretary who is a member of the Public Sector Superannuation Accumulation Plan, the Secretary's superannuation salary for the purposes of the scheme is the Secretary's ordinary time earnings (OTE).
- 2.17** For a Secretary who is a member of any other superannuation fund, the Employer's Superannuation Contribution is to be made at the rate elected by the Secretary, which must not be less than a rate that would, under section 23 of the *Superannuation Guarantee (Administration) Act 1992*, reduce the charge percentage in relation to that Secretary to zero.

6. Termination and Redeployment

Summary of the Tribunal's Conclusions

Where a Secretary is terminated in accordance with the provisions of subsection 59(1) of the *Public Service Act 1999* and the Commonwealth has not made the Secretary an offer of suitable alternative employment, the Tribunal intends that the Secretary will be entitled to:

- (a) for a termination 12 months or more before the end of the Secretary's term of appointment - 12 months' 'Reference Salary' at the time of termination; or
- (b) for a termination less than 12 months before the end of the Secretary's term of appointment - 1 month's 'Reference Salary' for each full month of the balance of the term not served, subject to a minimum payment of 6 months' Reference Salary at the time of termination.

'Reference Salary' means the Secretary's Total Remuneration, less the rate of the Employer's Superannuation Contribution for the Secretary.

Where an offer of 'suitable alternative employment' involves acceptance of appointment to a position within the Tribunal's determinative jurisdiction, the Tribunal intends that income be maintained for 12 months.

Background

6.1 The Tribunal considered these aspects of the employment arrangements of Secretaries in Chapter 9 of its Part I Report. The Tribunal then included the following observations:

9.1 It is a commonly held view, in the Tribunal's experience, that a Secretary, once appointed, is entitled to remain in office permanently; in short, that a Secretary has tenure.

9.2 This is a misconception.

9.3 Setting aside dismissal for misconduct, the termination of an appointment as Secretary can be effected extremely quickly. As cause need neither be given, nor demonstrated, termination can be more expeditious, in fact, than in the private sector.

9.4 The Tribunal referred earlier in this report to the observation in its 2007-2008 Annual Report that "the attributes of the office of Secretary - particularly its fluidity, complexity and portfolio-wide responsibilities - distinguish it from many public offices in the Tribunal's jurisdiction". The Tribunal also noted its assessment that, under the present appointment and termination arrangements, too much of the risk lies with the Secretary.

6.2 The Tribunal foreshadowed, then, variations to the termination arrangements and to the income maintenance arrangements for Secretaries who are terminated or redeployed.

6.3 The Tribunal's work, since, has confirmed its views that the differences between the office of Secretary, on the one hand, and other senior public offices in its jurisdiction are so distinct as to warrant the office-specific arrangements now determined by the Tribunal.

Termination - The Tribunal's Conclusions

6.4 The Tribunal has noted that termination arrangements (the rationale for their current expression being, in the Tribunal's view, quite understandable and appropriate to the nature of the office) are a feature (amongst others) that distinguishes the office of Secretary from other senior offices in the Tribunal's full-time office jurisdiction.

6.5 In the latter case, appointments are often characterised by a fixed term specified by statute. Moreover, the provisions governing the termination of appointments to senior full-

time offices are, generally and rightly, onerous and prescriptive. The Tribunal has concluded that termination provisions along the following lines are appropriate in the circumstances in which a Secretary is terminated in accordance with the provisions of subsection 59(1) of the *Public Service Act 1999* and the Commonwealth has not made the Secretary an offer of suitable alternative employment:

- (a) for a termination 12 months or more before the end of the Secretary's term of appointment - 12 months' 'Reference Salary' at the time of termination; or
- (b) for a termination less than 12 months before the end of the Secretary's term of appointment - 1 month's 'Reference Salary' for each full month of the balance of the term not served, subject to a minimum payment of 6 months' Reference Salary at the time of termination.

6.6 Further, the Tribunal considers that the termination payment should be calculated on the basis of the maximum cash component available to a Secretary - that is, total remuneration less the dollar value of the employer superannuation contribution - as at 1 July preceding termination. The Tribunal intends to determine accordingly, 'Reference Salary' means the Secretary's Total Remuneration less the rate of the Employer's Superannuation Contribution for the Secretary.

Income Maintenance - the Tribunal's Conclusions

6.7 The Tribunal considered the matter of income maintenance in "*suitable alternative employment*" as it applied in practice to Secretaries in Part I of its Report. It observed that it had "*no in-principle difficulty with such a provision*", as it enabled the federal public sector to retain highly capable officials, where considered appropriate.

6.8 The Tribunal was, however, conscious of the consequences of such appointments of former Secretaries:

"9.39 Not infrequently, former Secretaries have accepted - as 'suitable alternative employment' - appointment to a public office in the Tribunal's jurisdiction. Almost invariably, the remuneration determined by the Tribunal for the office to which the Secretary is appointed is less than the remuneration determined for the office of Secretary. Equally invariably, the Tribunal is asked to consider determining, as a 'personal rate' for the appointee, remuneration that is the same as that to which they were entitled as a Secretary.

"9.40 The end result is that remuneration relativities amongst public offices are distorted - the more so, in the Tribunal's view, where the public office to which such an appointment is made it is not the head of the agency concerned. It has been the Tribunal's experience that, as a consequence of such a transfer, an appointee to a public office subordinate to another public office invested with "head of agency" responsibilities is, as a consequence of income maintenance arrangements, enjoying remuneration that is considerably greater than that of the agency's principal public office.

*"9.41 The Tribunal accepts that longer term income arrangements will be important to all parties involved in establishing the future of a soon-to-be former Secretary. **However, the Tribunal considers that such arrangements should be subject to constraints. After all, if a Secretary is unwilling to accept an offer of alternative employment, he or she can elect to accept the termination payment.**" [emphasis added]*

6.9 At the levels now proposed, the remuneration of Secretaries compounds the difficulties perceived by the Tribunal in the application of income maintenance arrangements.

Accordingly, the Tribunal intends that, where an offer of 'suitable alternative employment' involves acceptance of appointment to a position within the Tribunal's determinative

jurisdiction, income be maintained for 12 months from the date of acceptance of appointment.

Draft Determination

The draft determination includes the following provisions:

PART 5 - LOSS OF OFFICE

5.1 Where a Secretary is terminated in accordance with the provisions of subsection 59(1) of the *Public Service Act 1999* and the Commonwealth has not made the Secretary an offer of suitable alternative employment, the Secretary is entitled upon his or her termination to be paid:

- (c) for a termination 12 months or more before the end of the Secretary's term of appointment — 12 months' Reference Salary at the time of termination; or
- (d) for a termination less than 12 months before the end of the Secretary's term of appointment — 1 month's Reference Salary for each full month of the balance of the term not served, subject to a minimum payment of 6 months' Reference Salary at the time of termination.

5.2 In determining whether, for the purpose of clause 5.1, there has been an offer of suitable alternative employment, account is to be taken of any offer of employment with the Commonwealth, the administration of a Territory, or a public statutory corporation referred to in paragraph 3(4)(d) of the *Remuneration Tribunal Act 1973*, or an incorporated company all the stock or shares in the capital of which is or are beneficially owned by the Commonwealth or by a public statutory corporation, or an incorporated company limited by guarantee where the interests and rights of the members in or in relation to the company are beneficially owned by the Commonwealth or by a public statutory corporation.

5.3 If:

- (a) a Secretary who has been terminated (the 'former Secretary') is appointed to suitable alternative employment in an office within the jurisdiction of the Tribunal; and
- (b) the Total Remuneration that applies to that position is less than the Total Remuneration for the lowest pay point in the classification level of the office from which the former Secretary has been terminated;

then the Tribunal may determine that, for up to 12 months from the appointment:

- (c) the former Secretary is entitled to Total Remuneration at that pay point; and
- (d) the former Secretary's superannuation salary for the purposes of a Commonwealth defined benefits scheme will be 70% of that Total Remuneration.

Note: The Remuneration Tribunal will make an individual determination in each case.

7. Other Terms and Conditions

7.1 To this point, the remuneration and other conditions of Secretaries have been specified by a determination made by the Prime Minister. The current determination - dated 30 June 2011 - is included, for reference purposes, at Appendix 4 of this Report.

7.2 As noted earlier, under the *Remuneration Tribunal Act 1973*, the Remuneration Tribunal is now responsible for determining the terms and conditions (other than remuneration) that are to apply to the office of Secretary. The Tribunal's initial determination will, when made, supersede that made by the Prime Minister dated 30 June 2011.

7.3 In matters other than the determination of the classification structure and associated remuneration, the Tribunal intends to maintain a degree of consistency with the terms and conditions for Secretaries determined by the Prime Minister.

7.4 In this regard, the Tribunal, in its Part I Report, stated that:

" ... the current provisions relating to official travel, leave, removal and relocation assistance, and assistance for training and development, while capable of refinement, are generally appropriate and satisfactory. The Tribunal will, however, revisit these provisions once its role in determining remuneration and other conditions of appointment for Secretaries has been settled."

7.5 Setting aside the matters referred to in previous sections of this Report (including, for example, the classification structure and remuneration levels for the office of Secretary; the classification of offices of Secretary; superannuation; and termination and redeployment provisions), the variations to terms and conditions proposed to be included in the Tribunal's determination will be expressed so as to be consistent with the Tribunal having become the determining authority.

7.6 For example, in respect of aspects of leave of various kinds, the delegation to approve will be vested in the Secretary's Minister (being the senior portfolio Minister who administers the department of which the Secretary has been appointed to the office of Secretary), rather than the Prime Minister. However, consistent with the significance of the office of Secretary, some aspects will continue to require the approval of the Prime Minister (for example, recreation leave of greater than three months; miscellaneous leave). Similarly, the Tribunal intends that only the Prime Minister or his or her delegate may grant leave of absence with pay to a Secretary to enable him or her to pursue training or development activities.

7.7 Other variations proposed to be incorporated in the Tribunal's Determination include:

- (at Clause 2.13) the requirement that any benefit other than those listed be valued as part of Total Remuneration unless determined otherwise by the Tribunal;
- (at Clause 2.19) absorption of the previous payment associated with use of a vehicle for "business-related purposes" into total remuneration;
- (at Clause 3.1) provision for Tier 1 travel entitlements; and
- (at Clause 7.1) a definition of "family reunion" to clarify the application of the reunion travel provisions, consistent with the arrangements applying to other offices in the Tribunal's jurisdiction.

8. Secretaries' Direct Reports

Conclusions and Recommendations

The Tribunal considers that there are clear benefits in having consistent remuneration arrangements between the principal APS management level - Secretaries - and their direct reports. Arrangements along the following lines would assist in maintaining this integrity:

- the remuneration of SES Band 3 employees should be expressed in total remuneration terms, consistent with the approach taken by the Tribunal in specifying the remuneration of Secretaries and other public offices;
- there should be no movement in the remuneration of Secretaries' 'direct reports' as a consequence of changes in the remuneration of Secretaries;
- from the date of its determination, the proper 'reference point' for the establishment of relativities will be the base of the lower level of the classification structure for Secretaries;
- the total remuneration of any 'direct report' of a Secretary should be, in the longer term, no more than 65% of the reference point. In situations where an Associate Secretary is acting as the chief operating officer of the department as a proxy for the Secretary, then a total remuneration level above this indicative target may be appropriate provided that
 - it remains in total dollars below the base of the lower level of the classification structure for Secretaries;
 - the position has distinctive elements of policy;
 - it is recommended by the Secretary of the Department of the Prime Minister & Cabinet and the Public Service Commissioner; and
 - the appointment is approved by the Prime Minister.
- in a Department where there is an Associate Secretary as well as one or more Deputy Secretaries, the total remuneration of a Deputy Secretary should be 5-10% below that of the Associate Secretary;
- total remuneration for Deputy Secretaries should be no more than 60% of the reference point; and
- for 'direct reports' who are members of a Commonwealth defined benefit superannuation scheme, 'salary for superannuation purposes' should be no more than 70% of total remuneration.

The Tribunal is conscious that responsibility for the determination of SES remuneration lies with the relevant Agency Head. However, the Tribunal considers that Secretaries would be assisted in the exercise of this responsibility were APS-wide guidance to be issued reflecting the foregoing arrangements.

8.1 If the Secretary of a department is regarded as its 'chief executive', the Department's complement of Senior Executive Service (SES) employees is its senior management group.

8.2 Presently, there are three SES levels. SES Band 3 employees - the most senior SES level - are, in contemporary parlance, the Secretary's 'direct reports'.

8.3 The Tribunal has taken a keen interest in SES remuneration for some time. Its Statement of 22 June 2011, announcing the outcome of its 2011 annual review, included the following observations:

"The Tribunal has commented, previously, about 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. The Tribunal observed then that:

"... 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 drawn attention, repeatedly, to the magnitude of movements in SES remuneration. The Tribunal's August 2010 Statement noted that median SES Band 3 total remuneration (excluding performance pay) had increased by a compound rate of 6.15% in the ten years since 1998. According to the SES Remuneration Survey as at December 2009 (the latest data available), although the compound rate of increase had decreased a little, it had still been 5.88%, per annum, for the 11 years since 1998. At the 3rd quartile, the compound annual increase was 6.19%.

"Sustained increases of this magnitude cannot be overlooked in establishing proper remuneration for public offices. Indeed, the Tribunal is coming to the view that the SES Band 3 level is a useful indicator in gauging appropriate remuneration for higher-level public offices. Such offices tend to be distinguished from positions held by APS SES employees in their having a high degree of autonomy and demanding 'head of agency' responsibilities. Moreover, SES employees are often the direct reports of the holders of such public offices. Factors of these kinds need to be reflected in remuneration..."¹

8.4 In its Review of the Office of Secretary – Report Part I (the Part I Report), the Tribunal included, at page 8, a table showing movements in SES total remuneration (TR), excluding performance pay, for the 10 years to 2008. The data showed that the compound annual increase in SES Band 3 TR for each of the 10 years had been 6.15% per annum. Adjusting these results for the most recent SES remuneration survey data (to the end of 2010), the compound annual increase in SES Band 3 TR for each of the 10 years had been 5.65% per annum. In other words, SES Band 3 remuneration increased by over 93% in 12 years.

Review of the Senior Executive Service

8.5 In February 2011, the Australian Public Service Commission and PricewaterhouseCoopers presented the report, *"Review of the Senior Executive Service"*² (the Review) to the Special Minister of State for the Public Service and Integrity.

8.6 The Review includes a comprehensive history of the Senior Executive Service³. In this particular regard, the Tribunal notes the Public Service Commissioner's observation in his Foreword to the Report that:

"The flexible deployment the SES both within agencies and across the APS to meet policy and operational challenges is critical to be efficient and effective implementation of government priorities."

8.7 The Commissioner refers to the Review's recommendations as providing guidance about the management of the SES cadre consistent with *"the APS as a consolidated entity, or as 'one APS'."*

8.8 The Tribunal agrees that this is the appropriate perspective to have on this APS-wide classification.

¹ Remuneration Tribunal - Statement - 2011 Annual Review of Remuneration for Holders of Public Office - <http://www.remtribunal.gov.au/statementsreports/default.asp?menu=Sec8&switch>

² Australian Public Service Commission - <http://www.apsc.gov.au/publications11/reviewofses.htm>

³ Australian Public Service Commission - Review of the Senior Executive Service - p64-76 - Attachment C - <http://www.apsc.gov.au/publications11/reviewofses.htm>

8.9 However, the Tribunal considers that the current pay arrangements at the SES Band 3 level to be both an impediment to the achievement of "flexible deployment" and a risk to the achievement of consistent and sensible pay outcomes, across the SES levels and through the classifications below the SES.

8.10 In the Tribunal's assessment, the Review highlights some significant inconsistencies and incongruities at senior employment levels in the Australian Public Service. Although the Review appears to be cautious about the conclusions it draws, the Tribunal - informed by the private sector perspective of its Members - regards them with less caution.

8.11 The Review notes that there were 2,727 SES employees at 30 June 2010. Of this number, it seems that 140 were SES Band 3 employees.

8.12 The Tribunal has noted, with interest and a degree of concern, the following observations in the Review:

- since 2003 the SES has grown by 50%;
- the SES has grown more rapidly than total Australian government expenditure (41%), and more rapidly than the Australian population over the period (22%);
- the finding of a significant number of apparently misclassified roles suggests that some SES roles are designed with insufficient regard to job design principles or reference to appropriate work level standards;
- the audit showed a higher proportion of Band 3 SES positions as being apparently over-classified;
- more recently, Associate Secretary status has been conferred on SES Band 3 roles with significant responsibilities. However 'Associate Secretary' is not a classification level separately identified and described with a work level standard;
- (of a sample of 43 SES Band 3 jobs) 21% of SES Band 3 roles did not achieve the minimum score for the SES Band 3 range. Key factors for over-classified roles were the breadth of focus and complexity of stakeholder management, budget size and impact on agency performance expected of SES Band 3 cohort;
- (the data would suggest that) around 26 SES Band 3 are over-classified;
- over the past 20 years there has been a significant trend for SES Band 3 positions to form (sic) a line management role coordinating groups of divisions and functions, rather than the 'off-line' strategic and departmental secretary's 'alter ego' role they predominantly played before 1987;
- however, evidence from the audit of SES roles suggests that in a devolved setting, agencies may have created SES roles, or maintained existing SES roles, that operate at a level below the range of recognised work level standards for their SES classification, particularly at SES Band 3. This is perhaps not surprising in the light of the findings of the APSC surveys, and the Review that:
 - for two thirds of agencies, "*remuneration required to attract or retain occupant*" is a factor in classification decisions.

SES Band 3 Remuneration

8.13 The Tribunal notes that the Review did not examine developments in the remuneration of SES employees. It surmises that its terms of reference did not extend to remuneration.

8.14 However, the Tribunal considers that conclusions on the existence of classification creep in the SES cadre take on greater weight when combined with an assessment of developments in its remuneration.

8.15 As has been noted, above, the APS Remuneration Survey data show that, over the 12 years to the end of 2010, SES Band 3 remuneration increased by more than 5% per annum. When taken with the growth in SES Band 3 numbers and the identified over-classification of a significant proportion of these offices, the Tribunal considers that, despite the tentativeness of the conclusions of the Review, there is a serious problem and specific action should be taken to address it.

8.16 As noted in the Tribunal's Part I Report, the Tribunal had, at that time, written to all Secretaries seeking the advice about the remuneration of Associate Secretaries and Deputy Secretaries in their respective departments.

8.17 The Tribunal repeated this exercise in 2011. The responses to this request indicate that:

- the total remuneration approach used by the Tribunal is not used in specifying SES Band 3 remuneration arrangements; as a consequence, it is unnecessarily difficult to establish and maintain appropriate relativities between, for example, Secretaries and their direct reports;
- there is little, if any, consistency in the levels of remuneration for offices, classified at the same level, between departments;
- the basis of the assessment of the value ascribed to the employer contribution to superannuation (a most significant part of the remuneration package) appears to vary between departments
 - in some cases it appears that the aggregate average cost of superannuation to a department is used; in others, a notional, and lower, contribution percentage is used (and even this appears to vary); and
 - there are differing practices in relation to whether, or not, the provision for a motor vehicle is to be cashed out and included in superannuable salary;
- the proportion of 'salary for superannuation' purposes relative to the (inferred) total remuneration amounts is variable and excessive; the Tribunal presumes that, as the great majority of SES Band 3 employees will have extensive service, this particular feature of remuneration is driven by membership of the Commonwealth's defined benefit superannuation schemes which, while closed to new members, entail significant long-term, post-employment, costs.

8.18 The Tribunal's direct experience suggests that there are material inconsistencies in SES Band 3 remuneration between agencies and between the APS and the Tribunal's own determinative jurisdiction. SES remuneration practices, imported into the Tribunal's jurisdiction as a consequence of 'income maintenance' proposals arising from SES employees being appointed to public offices, reveal the excesses arising from those practices. From the Tribunal's perspective, the importation of these practices puts at risk the integrity and rigour of the remuneration range determined for public offices by the Tribunal. It also reveals the unjustifiable discrepancies that occur in SES remuneration as a consequence of their disparate and inconsistent nature. Two examples illustrate the point.

- (1) The Tribunal received a request for advice about appropriate remuneration for a public office; the Tribunal sought information about the attributes of the office and about the remuneration considered appropriate for it (the Tribunal was advised that total remuneration in the range \$250,000-\$310,000 was considered appropriate); following an assessment of the office and changes in its responsibilities, the Tribunal concluded that Total Remuneration of \$295,000 was appropriate; some months later, the Tribunal received advice that the appointment of a current SES Band 3 employee to the office was being considered and that total remuneration of \$305,000 was sought so as to match the proposed appointee's current remuneration - advice about salary for superannuation purposes had not been provided; in response to a request for

clarification of this point, the Tribunal was advised that the proposed appointee's salary for superannuation purposes was derived from current cash salary, a 'service allowance', and the nominal value of an executive motor vehicle - in sum, the salary for superannuation purposes of the proposed appointee was 86.8% of the total remuneration amount sought from the Tribunal. The Tribunal notes that:

- the percentage of total remuneration to be set as salary for superannuation purposes greatly exceeded the standard foreshadowed for Secretaries (70% of total remuneration) and exceeded that applicable to Secretaries prior to the Tribunal's new determination;
- the concept of a 'service allowance' is alien to remuneration arrangements determined by the Tribunal for public offices; and
- by setting base salary (that is, 'salary for superannuation purposes') as a fixed percentage of the total remuneration amount determined for an office, the Tribunal prevents the inclusion of the value of a motor vehicle in salary for superannuation purposes. For members of the (now closed) Commonwealth defined benefit superannuation schemes, the approach evident in this example (and the approach evidently common to the remuneration arrangements of other SES Band 3 employees) is tantamount to 'gaming' such superannuation arrangements; it entails significant additional longer-term costs to the Commonwealth.

(2) The Tribunal was asked to determine remuneration for a public office; the total remuneration range suggested for the office was \$275,000-\$280,000; this being generally consistent with the Tribunal's previous assessment of the office, Tribunal determined total remuneration of \$275,000 for the office with a base salary (salary for superannuation purposes) of \$200,750; with the application of the Tribunal's 3% adjustment with effect from 1 July 2011, total remuneration determined for the office became \$283,250; the Tribunal was subsequently advised that the total remuneration of the proposed appointee (an employee of the agency 'hosting' the public office to which the appointment was to be made) had been increased to some \$294,000 and Tribunal was asked to match this amount.

- the Tribunal notes that, in this example, as in the previous example, it was being asked to set aside its assessment of the proper place of the office concerned relative to the assessed 'job weight' of the other offices in its determinative jurisdiction so as to meet terms and conditions that had been set without reference to the Tribunal;
- in the Tribunal's assessment, it is precisely this "flexible" adjustment of SES remuneration - without any external testing or assessment - that undermines remuneration arrangements more generally in the Australian Public Service.

8.19 The actual extent of the divergence in remuneration practice as it applies to a very small group, such as the SES Band 3 group, warrants closer examination. In the Tribunal's judgement there should be little, if any, divergence.

8.20 It is difficult for the Tribunal to understand how remuneration arrangements for the most senior management cadre (the SES Band 3 group) below Secretaries can, at the one time, show such divergence, while the group itself is supposed to be, nominally at least, a uniform and readily deployable management resource, capable, as the Public Service Commissioner put it in his Foreword to the Review, of "*flexible deployment... both within agencies and across the APS*", consistent with the APS Reform Blueprint's emphasis on the APS "*as a consolidated entity or as 'one APS'*".

8.21 The existing pay differentials militate strongly against this.

8.22 The Tribunal noted, above, the observation in the Review that:

“for two thirds of agencies, “remuneration required to attract or retain occupant” is a factor in classification decisions.”⁴

8.23 Were the APS to be a highly contested market - with a constant flow of talented individuals between the public and private sectors - the Tribunal would find this observation more defensible.

8.24 However, the Tribunal considers this to be an unrealistic assessment of the APS ‘market’. As the Tribunal noted in its Part I Report:

“These increases - arrived at largely through the operation of the isolated and insulated APS “internal market” and without reference to a third party – consistently exceeded the annual adjustments determined by the Tribunal over the same period. One significant consequence has been that the remuneration of higher level SES officers (primarily Deputy Secretaries) has moved closer to that of Secretaries. As a result, the balance between reward and responsibility has become distorted. This is unsatisfactory.

It is not evident to the Tribunal that there has yet been any concerted action to reduce the scope for such erosion in future. In the absence of any Service-wide approach to managing SES expectations, the increases evident in the last 10 years may well continue. The Tribunal is concerned that, in these circumstances, new relativities arising from any adjustments in the remuneration of Secretaries that it may be disposed to recommend will, if implemented, simply be eroded. As the Tribunal noted in its 2008-2009 Annual Report:

“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.”

8.25 The Tribunal has taken up these concerns elsewhere.

8.26 In its letter to the Prime Minister conveying its Part I Report, the Tribunal referred to its concerns about developments in SES remuneration:

“The unremitting pace of increases in the remuneration of Secretaries’ direct reports - principally SES Band 3 officers - has seriously undermined appropriate relativities with Secretaries and with public offices in the Tribunal’s jurisdiction more generally. This is a matter of particular concern to the Tribunal.

“In the Tribunal’s assessment, without deliberate moderation of adjustments in SES remuneration, any adjustment in the remuneration of Secretaries will simply provide additional scope for further increases in SES remuneration.”

8.27 The Tribunal wrote to the Public Service Commissioner in January 2011. The letter said, in part:

“In the context of its work on Secretaries, the Tribunal has argued for the establishment of robust means of ensuring that the new relativities that would be established cannot be undermined as a consequence of the separate means by which SES remuneration is settled.

“Specifically, the Tribunal contends that fixed relativities should be established between the remuneration of the lowest level of Secretary and that of the highest level of SES employee. The Tribunal understands that fixed relativities are employed in the public sector in at least one state jurisdiction.”

⁴ Australian Public Service Commission - Review of the Senior Executive Service - p56
<http://www.apsc.gov.au/publications11/reviewofses.htm>

The Tribunal's Proposals

8.28 The Tribunal considers that there are clear benefits in having consistent remuneration arrangements between the principal management level - Secretaries - and their direct reports.

8.29 In particular, the Tribunal regards the adjustments foreshadowed in the remuneration of Secretaries as simply re-establishing appropriate remuneration for these singular public offices. The Tribunal further considers it quite appropriate that the remuneration of Secretaries should be a substantial step above that of their direct reports, consistent both with general market practice and with the relative span and degree of accountability associated with their respective roles.

8.30 It is not intended that these adjustments, once determined, should give rise to any changes in the remuneration of the Australian Public Service employees - whether SES or otherwise. Indeed to maintain the integrity of the proposed classification structure, the Tribunal regards it as vital that they do not.

8.31 Arrangements along the following lines would assist in maintaining this integrity:

- the remuneration of SES Band 3 employees should be expressed in total remuneration terms, consistent with the approach taken by the Tribunal in specifying the remuneration of Secretaries and other public offices;
- there should be no movement in the remuneration of Secretaries' 'direct reports' as a consequence of changes in the remuneration of Secretaries;
- from the date of its determination, the proper 'reference point' for the establishment of relativities is the base of the lower level of the classification structure for Secretaries;
- the total remuneration of any 'direct report' of a Secretary should be, in the longer term, no more than 65% of the reference point. In situations where an Associate Secretary is acting as the chief operating officer of the department as a proxy for the Secretary, then a total remuneration level above this indicative target may be appropriate provided that
 - it remains in total dollars below the base of the lower level of the classification structure for Secretaries;
 - the position has distinctive elements of policy;
 - it is recommended by the Secretary of the Department of the Prime Minister & Cabinet and the Public Service Commissioner; and
 - the appointment is approved by the Prime Minister.
- in a Department where there is an Associate Secretary as well as one or more Deputy Secretaries, the total remuneration of a Deputy Secretary should be 5-10% below that of the Associate Secretary;
- total remuneration for Deputy Secretaries should be no more than 60% of the reference point; and
- for 'direct reports' who are members of a Commonwealth defined benefit superannuation scheme, 'salary for superannuation purposes' should be no more than 70% of total remuneration.

8.32 The Tribunal is conscious that responsibility for the determination of SES remuneration lies with the relevant Agency Head. However, the Tribunal considers that Secretaries would be assisted in the exercise of this responsibility were APS-wide guidance to be issued reflecting the foregoing proposals.

9. Next Steps

9.1 An important task for the Tribunal - particularly during the transition phase to the fully-established classification structure - will be to ensure that the structure meets its purposes and that the associated arrangements (particularly consultation between the Secretary of the Department of the Prime Minister and Cabinet, the Public Service Commissioner, and the President of the Tribunal, anticipated by s14(3) of the *Remuneration Tribunal Act 1973* operate effectively.

9.2 The Tribunal also intends to ensure that the terms and conditions of Secretaries, once determined, are consistent with their needs and those of government, and that they adapt to the circumstances of this key group of offices, as the attributes of the group itself evolve.

9.3 In this report, the Tribunal has also set out its views about the need to more clearly and consistently define the interface between the remuneration arrangements applying to Secretaries and those of their direct reports. In its further consideration of the transition arrangements - particularly the timing – intended to apply to the remuneration of Secretaries, the Tribunal will be attentive to progress made in bringing about the consistency that it regards as being necessary.

Other Offices in the Tribunal's Jurisdiction

9.4 Earlier in this Report, the Tribunal has referred to its July 2009 submission to the inquiry conducted by the Productivity Commission into executive remuneration in Australia. The submission described the Tribunal's approach to the setting of remuneration for public offices as being “*conservative - even cautious*”. The Tribunal went on to observe that:

“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.”

9.5 The Tribunal did not contend then - and does not contend now - that there should be some kind of alignment between remuneration in the public and private sectors. However, if the public sector is to be able to recruit and retain people with the necessary capabilities, public sector remuneration at the most senior levels cannot lose touch, entirely, with the fixed component of private sector remuneration, at least.

9.6 However, the determination of appropriate remuneration arrangements for offices in its jurisdiction is always “work in progress”.

9.7 As well as giving effect to the intentions set out in this Report by making an appropriate determination before the end of March 2012, the Tribunal will advance its work on its previously foreshadowed reviews of the part-time and the other full-time public offices for which it determines remuneration.

Appendices

Appendix 1 – Tribunal Statement of 29 March 2010	48
Appendix 2 – Division 4 of the <i>Remuneration Tribunal Act 1973</i>	55
Appendix 3 – Remuneration and Other Legislation Amendment Bill 2011 – Bills Digest No 104	60
Appendix 4 – Determination of Secretaries' remuneration and other conditions, made by the Prime Minister on 30 June 2011	74
Appendix 5 – Draft Determination 2012/xx – Departmental Secretaries – Classification Structure and Terms and Conditions.....	90

Tribunal Statement of 29 March 2010



Remuneration Tribunal

Review of the Office of Secretary Publication of Part I of the Tribunal's Report

STATEMENT

The Tribunal has today published Part I of the Report of its review of the office of Secretary. A copy of the Tribunal's conclusions is appended to this Statement.

The Tribunal's work has confirmed the singularity of the office of Secretary. Each is at the very apex of federal public sector offices in terms of its dimensions, complexity, scope and challenge. The Tribunal considers it crucial to the continuing effectiveness of the administration that governments be able to appoint people of the highest calibre to these offices.

Part I describes the attributes of these offices and draws out the distinctions between them and between other federal public offices. Work commissioned by the Tribunal, as part of the review, also considers the responsibilities of Secretaries relative to senior positions in the private sector.

The Tribunal has given careful consideration to the present two-level classification structure. Having regard, in particular, for the advice of its external consultant, the Tribunal has concluded that, subject to one particular variation, the present classification structure best suits the circumstances of the office, particularly the need for governments to be able to change the central administrative structure rapidly. The variation concerns the offices of Secretary of the Department of the Prime Minister and Cabinet, and Secretary of the Department of the Treasury. The Tribunal has concluded that these offices are distinguished from all other Secretaries.

Part II of the Tribunal's Report will deal with remuneration. In Part I, the Tribunal has noted that its recommendations on remuneration may be expected to address:

- an initial reasonable adjustment of remuneration for existing office holders;
- a longer-term remuneration structure entailing levels of remuneration which may be expected to be substantially above the current level; and
- a transition path to the proposed remuneration structure contingent upon certain criteria being met, designed to ensure that there are no windfall gains (including in respect of superannuation) for current office holders.

The Tribunal expects to publish Part II of its Report before the end of this year.

Remuneration Tribunal

29 March 2010

Summary of the Tribunal's Conclusions

1. 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 domestic and foreign activities which define our nation, our security, our stability and our quality of life.
2. Australia has been well served over many decades by men and women of outstanding capacity as Secretaries - or Permanent Heads as they used to be. The Tribunal sees it as imperative so to structure the framework for remuneration of Secretaries that these offices continue to attract and retain outstanding people.
3. There are, presently, nineteen offices of Secretary in the Australian Public Service. They are all singular appointments.
4. No other public sector offices have the continuing, direct and intense exposure to the processes of government and the associated proximity to Ministers and their offices.
5. Each Secretary is subject to ongoing, detailed scrutiny and is more exposed to the vicissitudes of the Government of the day than any other federal public sector office.
6. A distinguishing feature of these offices is their flexibility. Governments can create and dissolve departments speedily; the jobs of Secretaries follow. The responsibilities of any one of them can be changed, rapidly and dramatically, through variation of the Administrative Arrangements Order. This feature, in our view, distinguishes the office of Secretary from every other federal public sector office.
7. An important part of the Review was the commissioning of Mr John Egan - an external adviser with extensive experience in reviewing senior executive roles in both the public and private sectors - to prepare a report on the work of Secretaries and to draw comparisons with senior private sector positions.
8. Overall, the advice from Egan Associates, reinforced by the Tribunal's own experience and judgement, leads to the conclusion that, although significant distinctions exist between public and private sector offices at senior levels, their core features - the demands, expectations, complexities and uncertainties - are of a similar order.
9. Egan Associates, having considered the various attributes of the office of Secretary, generally, and their weightings between the existing offices, settled on maintaining the existing two-level structure and set out a general statement of the "classification" for the office of Secretary.
10. Egan Associates' analysis identifies particular features of the offices of Secretary of the Department of the Prime Minister and Cabinet, and Secretary of the Department of the Treasury that, in its view, distinguish them from other offices of Secretary.
11. The Remuneration Tribunal agrees with Egan Associates' judgement that:
"....these two key Secretary roles represent the pinnacle of Government policy advice, straddling 'Whole of Government' issues in virtually every facet of their endeavour."

CLASSIFICATION for the office of SECRETARY

The position of Secretary has carriage of the significant policy and operational areas of Government. A Secretary has stewardship of a Department of Government and in that context, as its Chief Executive, has primary accountability for adapting policies and programs in accordance with the vision of the Government of the day. As the principal agent of Government in this respect the Secretary has a key leadership role, including a requirement to motivate others to change and adapt to the way in which the Government of the day seeks to develop and formulate its programs and ultimately implement those programs.

Positions of Secretary, while reflecting in part a 'Whole of Government' involvement, have been allocated to two distinct classification levels. It is acknowledged that all Secretaries undertake work requiring a high level of policy formulation reflecting a continuous global scanning of relevant issues for the Government of the day, often on a time horizon of three to seven years, though in some instances extending up to twenty years and beyond.

The position of Secretary at each classification level has a significant planning (visualisation) and stakeholder wide communication task that demands high level cognitive skills and strong emotional intelligence.

Executive positions at this level represent the most significant leadership roles in Government and the public sector generally in terms of policy diversity, level of investment, expenditure overview or revenue collection and/or operational demands embracing the most complex strategic, policy, administration and service delivery areas of the Australian Government's activities, both domestic and international.

12. Based on the assessment of individual offices of Secretary, the Tribunal proposes that the following Secretary offices be reclassified to join the incumbent offices of Secretary of the Departments of the Prime Minister and Cabinet, the Treasury and Defence, in Level 1:

- Secretary of the Department of Education, Employment and Workplace Relations
- Secretary of the Department of Families, Housing, Community Services and Indigenous Affairs
- Secretary of the Department of Finance and Deregulation
- Secretary of the Department of Foreign Affairs and Trade
- Secretary of the Department of Health and Ageing

13. The allocation of offices between the two classification levels would be as follows:

Level 1
Prime Minister and Cabinet; Treasury; Defence; Education, Employment and Workplace Relations; Families, Housing, Community Services and Indigenous Affairs; Finance and Deregulation; Foreign Affairs and Trade; Health and Ageing
Level 2
Agriculture, Fisheries and Forestry; Attorney-General; Broadband Communications and the Digital Economy; Climate Change; Environment, Water, Heritage and the Arts; Human Services; Immigration and Citizenship; Infrastructure, Transport, Regional Development and Local Government; Innovation, Industry, Science and Research; Resources, Energy and Tourism; Veterans' Affairs

14. This classification may be the subject of discussion on the basis of some Secretaries' views of the significance of their Minister's role, where their Departments are heading or of future responsibilities, but the Tribunal, fortified by the work of Egan Associates,

recommends the allocation based on the extensive analysis undertaken in this present review.

15. The Tribunal will provide further details about the classification structure in the second part of the report arising from its review. However, it can be indicated, at this stage, that the proposed two-level classification structure will have the following features:

- the Remuneration Tribunal determining the initial allocation of Secretary offices between Levels, as well as subsequent shifts between Levels arising, for example, from changes in the Administrative Arrangements Order;
- the remuneration of offices of Secretary of the Department of the Prime Minister and Cabinet and Secretary of the Department of the Treasury being determined directly by the Remuneration Tribunal;
- the Secretary of the Department of the Prime Minister and Cabinet determining the placement of individual offices within each Level, in consultation with the President of the Remuneration Tribunal;
- adequate recognition of the range of roles and responsibilities within each Level (the Tribunal envisages proposing several pay points within each Level); and
- means of recognizing, in remuneration, the attributes of individual office holders as well as the attributes of their respective Departments.

16. The Tribunal has expressed its firm view about the inadequacy of current remuneration levels for Secretaries previously.

17. Although the Tribunal's recommendations on remuneration have not yet been settled, they may be expected to address:

- an initial reasonable adjustment of remuneration for existing office-holders;
- a longer term remuneration structure entailing levels of remuneration which may be expected to be substantially above the current levels; and
- a transition path to the proposed remuneration structure contingent upon certain criteria being met, designed to ensure that there are no windfall gains (including in respect of superannuation) for current office-holders.

18. The Tribunal considers it evident that the responsibilities of the most significant of the offices of Secretary (the Secretary of the Department of the Prime Minister and Cabinet and the Secretary of the Department of the Treasury) extend beyond those of the principal offices of the economic regulatory agencies for which the Tribunal determines remuneration. The office of Governor of the Reserve Bank of Australia is a highly relevant comparator. The Tribunal considers that the responsibilities of the Governor are not greater than those of either the Secretary of the Department of the Prime Minister and Cabinet or the Secretary of the Department of the Treasury. In the Tribunal's judgement, each of these offices is more singular and demanding than any of the full-time public offices in the Tribunal's jurisdiction, and other senior federal public offices.

Other Conditions

19. The Tribunal considers that current provisions relating to official travel, leave, removal and relocation assistance, and assistance for training and development, while capable of refinement, are generally appropriate and satisfactory. The Tribunal will, however, revisit these provisions once its role in determining remuneration and other conditions of appointment for Secretaries has been settled.

Termination and Redeployment

20. Setting aside dismissal for misconduct, the termination of an appointment as Secretary can be effected extremely quickly. As cause need neither be given, nor demonstrated,

termination can be more expeditious, in fact, than in the private sector. In the Tribunal's assessment, under the present arrangements for appointment and termination, too much of the risk lies with the Secretary.

21. The Tribunal's disposition is to recommend improving the present termination benefit provisions. However, the Tribunal considers that changes in these provisions go "hand in hand" with clarification of the basis upon which alternative employment arrangements are to be offered to a Secretary subject to the 'loss of office' provisions.

Remuneration of the Principal Offices of APRA, ASIC and ACCC

22. The Tribunal has acknowledged, previously, the importance of these agencies. Their responsibilities and those of the Reserve Bank are complementary and highly significant.

23. The Tribunal has no doubt that the responsibilities of the principal public offices of APRA, ASIC and ACCC are demonstrably greater than those of the Deputy Governor of the Reserve Bank of Australia. It need only be observed that, unlike the Deputy Governor, the holder of each of these offices is an agency head. The proper point of comparison, therefore, is the Governor.

24. The Tribunal will revisit the remuneration of the Principal Offices of APRA, ASIC and the ACCC once it has presented its final report on this review.

Division 4 of the *Remuneration Tribunal Act 1973*

Division 4—Remuneration etc. for Departmental Secretaries

13 Determination of classification structure etc.

- (1) The Tribunal must determine a classification structure for offices of Departmental Secretary.
- (2) The Tribunal may also determine any matter that is, or is considered by it to be, significantly related to the classification structure determined under subsection (1).
- (3) The Tribunal must, from time to time, determine the classification to which each office of Departmental Secretary is assigned.
- (4) The Tribunal may hold inquiries for the purpose of performing its functions under subsections (1), (2) and (3).
- (5) The Secretary of the Department that is administered by the Prime Minister may, from time to time after the Tribunal has made its first determination under subsection (3), make recommendations to the Tribunal about matters relating to the assignment of a particular office of Departmental Secretary to a particular classification.

14 Amount of remuneration

Remuneration for certain Secretaries

- (1) The Tribunal must, from time to time, determine the amount of remuneration that is to be paid to:
 - (a) the Secretary of the Department that is administered by the Prime Minister; and
 - (b) the Secretary of the Department that is administered by the Treasurer.
- (2) The amount of remuneration determined under subsection (1) must be consistent with the classification structure determined by the Tribunal under section 13.

Note: Determinations made by the Tribunal under subsection (1) must be published in accordance with section 16.

Section 15

Remuneration for other Secretaries

- (3) The Secretary of the Department that is administered by the Prime Minister, in consultation with the President of the Tribunal and the Public Service Commissioner, must, from time to time, assign each Departmental Secretary (other than a Departmental Secretary referred to in subsection (1)) to an amount of remuneration.
- (4) The amount of remuneration to which a Departmental Secretary is assigned under subsection (3) must be consistent with the classification structure determined by the Tribunal under section 13.
- (5) An assignment made under subsection (3):
 - (a) must be in writing; and
 - (b) comes into operation on the date specified in the instrument of assignment.
- (6) The Secretary of the Department that is administered by the Prime Minister must give the Minister a copy of each instrument of assignment made under subsection (3).
- (7) For the purposes of subsection 5(3AB) of the *Superannuation Act 1976*, an assignment under subsection (3) of this section of a Departmental Secretary to an amount of remuneration is taken to be a determination made under the *Remuneration Tribunal Act 1973* in respect of the remuneration of the Departmental Secretary.

15 Determination of other terms and conditions

The Tribunal must, from time to time, inquire into, and determine, the terms and conditions (other than remuneration) that are to apply to the offices of Departmental Secretary.

16 Publication of determinations made by the Tribunal under this Division

The Tribunal must ensure that a determination made by the Tribunal under this Division is published in the *Gazette*, and on the Tribunal's website, within 14 days after it is made.

Note 1: A determination made by the Tribunal under this Division must be in writing and comes into operation on the date specified in the determination: see subsection 7(5).

Note 2: The Tribunal must give the Minister a copy of each determination made by the Tribunal under this Division: see subsection 7(6).

**Remuneration and Other Legislation Amendment Bill 2011
Bills Digest No 104**



Remuneration and Other Legislation Amendment Bill 2011

Cathy Madden and Nicholas Horne
Politics and Public Administration Section

Contents

Purpose	3
Background	3
Remuneration Tribunal	3
Legal basis for remuneration of parliamentarians	4
Australian National Audit Office review and response	5
Remuneration of departmental secretaries	6
Basis of policy commitment	7
Policy position of non-government parties/independents	7
Position of major interest groups	8
Financial implications	8
Main issues	9
Departmental secretaries	9
Key provisions	10
Schedule 1	10
Part 1—Remuneration Tribunal Act	10
Part 2—Public Service Act	11
Schedule 2—Members of Parliament	11
Concluding comments	12

Remuneration and Other Legislation Amendment Bill 2011

Date introduced: 24 March 2011

House: House of Representatives

Portfolio: Prime Minister

Commencement: Sections 1–3 commence on the day the Act receives Royal Assent. Schedule 1 and 2 commence on a day to be fixed by Proclamation, or on the day after six months from Royal Assent, whichever occurs first.

Links: The links to the [Bill, its Explanatory Memorandum and second reading speech](#) can be found on the Bill's home page, or through <http://www.aph.gov.au/bills/>. When Bills have been passed and have received Royal Assent, they become Acts, which can be found at the ComLaw website at <http://www.comlaw.gov.au/>.

Purpose

The primary purpose of the Remuneration and Other Legislation Amendment Bill 2011 (the Bill) is to amend the *Remuneration Tribunal Act 1973* (Remuneration Tribunal Act) to give the Remuneration Tribunal responsibility for determining:

- the base salary for parliamentarians, and
- remuneration amounts for Departmental Secretaries and other offices established under the *Public Service Act 1999* (the Public Service Act).

Background

Remuneration Tribunal

The Remuneration Tribunal (the Tribunal), an independent statutory authority, was established in 1973 to determine the allowances (including salaries) of parliamentarians and ministers and to determine the remuneration of departmental secretaries and statutory office holders.

Since 1999, in particular with the introduction of the Public Service Act and the *Parliamentary Service Act 1999* (Cth), the Tribunal has had only an **advisory** role in determining the salary of members of parliament and departmental secretaries and heads of executive agencies.

All of the Tribunal's determinations and reports relating to Commonwealth offices are matters of public record, and must be given to the Minister and tabled in the Parliament. Currently either

Warning: All viewers of this digest are advised to visit the disclaimer appearing at the end of this document. The disclaimer sets out the status and purpose of the digest.

House of the Parliament has 15 sitting days, from the date of tabling to move a motion for disallowance of those determinations.¹

Legal basis for remuneration of parliamentarians

Members of Parliament receive an annual allowance, an electorate allowance and other entitlements including travel, retirement travel and superannuation.² Relevant to this Bill, the amount of the annual allowance (also known as base salary) is set out in regulations made by the Governor-General in accordance with the *Remuneration and Allowances Act 1990* (Remuneration and Allowances Act) which requires the Governor-General to ‘consider advice from the Remuneration Tribunal about the proposed regulation’.³ Clearly then, it is not the Tribunal which sets the actual base salary for parliamentarians.

The Remuneration and Allowances Act provides that the annual salary for members of parliament is equal to the minimum annual rate of salary payable to an SES employee with a classification of SES Band 2, or if the regulations prescribe a percentage (not more than 100%) of a reference salary—that percentage of the **reference salary**.⁴ In accordance with that provision, the Tribunal determines a classification for the Principal Executive Offices, under which it sets a number of reference salaries, including Reference Salary A.⁵ Parliamentary salary is set as a percentage of Reference Salary A.⁶

For some years until 1 July 2008, the regulations specified 100 per cent of Reference Salary A as the amount of the annual salary for Members of Parliament.⁷ However, by Remuneration and Allowances Amendment Regulations 2008 (No. 1) parliamentary base salary in 2008/09 and future years will be set at an amount equal to the Reference Salary A determined by the Tribunal, less the whole dollar increase to the reference salary determined by the Tribunal for the 2008/09 year. From 1 July 2008, parliamentary salary has been equal to Reference Salary A, as determined by the Tribunal, less \$5470.⁸

1. Section 42, *Legislative Instruments Act 2003*.

2. The legislative basis for the payment of annual allowance to members and senators lies in section 48 of the Constitution.

3. Subclause 1(3) Schedule 3 to the Remuneration and Allowances Act.

4. Subclause 1(2) Schedule 3 to the Remuneration and Allowances Act.

5. Remuneration Tribunal, Determination 2005/19- Principal Executive Office— Classification Structure and Terms and Conditions, F2010C00645, <http://www.comlaw.gov.au/Details/F2010C00645>

6. For further information see L Manthorpe, C Madden and D McKeown, ‘Parliamentary allowances, salaries and entitlements’, Background note, Parliamentary Library, Canberra, February 2011, viewed 9 May 2011, <http://www.aph.gov.au/Library/pubs/BN/pol/parlrem.pdf>

7. *ibid.*

8. Remuneration Tribunal, ‘Parliamentarian’ allowances and entitlements, <http://www.remtribunal.gov.au/federalParliamentarians/>

Australian National Audit Office review and response

On 8 September 2009, the Australian National Audit Office (ANAO) published a report of its review of parliamentary entitlements.⁹ As part of its response, the Government set up an independent panel to review the parliamentary entitlements scheme.¹⁰ The review, chaired by former senior public servant, Barbara Belcher, was to provide advice and recommendations to Government on issues such as:

- developing a single principles-based legislative basis that authorises the provision of specified entitlements, identifies who is eligible to access these entitlements and in what circumstances, and the purposes for which these entitlements may be used and
- recommending framework changes that remove instances of overlap, duplication, inconsistency and gaps in the provision of entitlements.¹¹

The Belcher Review report was given to the Special Minister of State on 9 April 2010 and released publicly by the government on 24 March 2011.¹²

Special Minister of State, Gary Gray on introducing the Bill said that:

... in restoring the Tribunal's power to determine the base salary of parliamentarians the bill will implement the cornerstone recommendation in the report of the Committee of review of Parliamentary Entitlements... [This] will provide more transparency and—importantly— independence in the determination of parliamentary base salaries.¹³

The Belcher Review drew a distinction between remuneration—that is, salary and ‘tools of trade’—that is, entitlements, such as office facilities and transport, and recommended that each be dealt with separately. The former will be determined by the Remuneration Tribunal and the latter to be covered by a single piece of legislation to be administered by the Minister.

-
9. Australian National Audit Office, *Administration of parliamentarians' entitlements by the Department of Finance and Deregulation*, Audit report no. 3, 2009–10, viewed 6 May 2011, [http://www.anao.gov.au/uploads/documents/2009-10 ANAO Audit Report 3 .pdf](http://www.anao.gov.au/uploads/documents/2009-10%20ANAO%20Audit%20Report%203.pdf)
 10. Senator J Ludwig (Cabinet Secretary, Special Minister of State), *Reform of Parliamentary entitlements*, media release, 8 September 2009, viewed 6 May 2011, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2FAKOU6%22>
 11. Committee for the Review of Parliamentary Entitlements, *Committee Report*, Commonwealth of Australia, Canberra, 9 April 2010, p. 22, viewed 6 May 2011, <http://www.finance.gov.au/publications/review-of-parliamentary-entitlements-committee-report/docs/review-of-parliamentary-entitlements-committee-report.pdf>
 12. Ibid.
 13. G Gray (Special Minister of State and Special Minister of State for the Public Service and Integrity), ‘Second reading speech: Remuneration and Other Legislation Amendment Bill 2011’, House of Representatives, *Debates*, 24 March 2011, viewed 6 May 2011, http://parlinfo.parlInfo/genpdf/chamber/hansardr/2011-03-24/0082/hansard_frag.pdf;fileType=application%2Fpdf

Warning: All viewers of this digest are advised to visit the disclaimer appearing at the end of this document. The disclaimer sets out the status and purpose of the digest.

Remuneration of departmental secretaries

The remuneration of departmental secretaries, along with other terms and conditions, is currently determined by the Prime Minister under section 61 of the Public Service Act. The Prime Minister makes the determination for secretaries' remuneration and other conditions following advice from the Remuneration Tribunal.

The current system for remuneration of departmental secretaries is two-tiered, with the secretaries of the Departments of the Prime Minister and Cabinet, Defence, and the Treasury receiving a higher level of remuneration than the secretaries of other departments.

The Remuneration Tribunal undertook a review of the Office of Secretary in 2010. The first part of the Tribunal's report, dealing with the classification structure, was released in March 2010; the second part, yet to be released, will deal with remuneration.¹⁴ The Tribunal also commissioned work on the work value of the Office of Secretary.¹⁵

In the first part of its report the Tribunal has proposed maintaining a two-tier classification structure for departmental secretaries. The Tribunal would allocate initial Secretary offices between the levels, along with the remuneration of the secretaries of the Departments of the Prime Minister and Cabinet and Treasury. The Tribunal also proposed that the Secretary of the Department of Prime Minister and Cabinet should determine the placement of individual offices within each tier in consultation with the President of the Tribunal.¹⁶

In addition, the Tribunal recommended that, along with the secretaries of the Departments of the Prime Minister and Cabinet, Defence, and Treasury, the secretaries of the departments of Education, Employment and Workplace Relations; Families, Housing, Community Services and Indigenous Affairs; Finance and Deregulation; Foreign Affairs and Trade; and Health and Ageing should be re-classified to the first level. The secretaries of the other departments would be classified to the second level.¹⁷

The Tribunal also expressed the view that current remuneration for secretaries is inadequate, and signalled 'an initial reasonable adjustment of remuneration for existing office-holders' in the second

14. Remuneration Tribunal, *Review of the Office of Secretary, Report—part 1*, Commonwealth of Australia, Canberra, February 2010, viewed 6 May 2011, <http://www.remtribunal.gov.au/statementsreports/Review%20of%20the%20Office%20Of%20Secretary%20-%20Report%20-%20Part%201.pdf>

15. J Egan, *Review of work value for the Office of Secretary: Australian Government Departments of State*, Report for the Commonwealth Remuneration Tribunal, Sydney, August 2009, viewed 6 May 2011, <http://www.remtribunal.gov.au/statementsreports/Egan%20Associates'%20Report%20-%20Secretaries%20-%20Review%20of%20Work%20Value.pdf>

16. Remuneration Tribunal, *Review of the Office of Secretary, Report—part 1*, op. cit., pp. ii–iii.

17. Ibid.

part of the report together with ‘a longer term remuneration structure entailing levels of remuneration which may be expected to be substantially above the current levels’.¹⁸

Basis of policy commitment

The Government has indicated a strong commitment to reform of the parliamentary entitlements framework. The Special Minister of State, Senator Joe Ludwig, welcomed the ANAO report on the administration of parliamentary entitlements and stated:

The Rudd Government has accepted all of the Auditor-General’s recommendations. I am announcing a raft of reform measures that will reduce cost and increase transparency of the parliamentary entitlements system...

We are committed to reform, openness and transparency to ensure that we maintain the trust and confidence of the Australian people.¹⁹

The reform to departmental secretaries’ remuneration and conditions was announced by the then Opposition in their 2007 policy ‘*Labor’s approach to the Australian public service*’. The policy provided that:

... Labor will move away from a performance pay arrangement for agency heads and departmental secretaries, and restore the jurisdiction of the Remuneration Tribunal to fix pay and conditions of agency heads and secretaries.²⁰

Policy position of non-government parties/independents

The Opposition supports the Bill. The Shadow Special Minister of State, Bronwyn Bishop MP, stated that:

I think the idea that we have a tribunal that is free of political process to make these determinations is a fair way to go, and an improvement on the current system.²¹

Independent Member Tony Windsor supports the intent of the Bill for the Remuneration Tribunal, independent of parliament, having the capacity to determine base parliamentary salary. Windsor sees the Bill as a means of ‘increasing transparency and independence’.²²

18. Ibid.

19. Senator J Ludwig, op. cit.

20. Senator P Wong, *Labor’s approach to the Australian Public Service*, speech to the Institute of Public Administration, 20 September 2007, viewed 6 May 2011, http://parlinfo.parlinfo/download/media/pressrel/OP8W6/upload_binary/op8w60.pdf;fileType=application/pdf#search=%22labor's%20approach%20to%20the%20public%20service%22

21. B Bishop, ‘Second reading speech: Remuneration and Other Legislation Amendment Bill 2011’, House of Representatives, *Debates*, 24 March 2011, viewed 6 May 2011, http://parlinfo.parlinfo/genpdf/chamber/hansardr/2011-03-24/0083/hansard_frag.pdf;fileType=application%2Fpdf

The Greens do not support removing the role of parliament in relation to Tribunal determinations on the grounds that ... 'transparency and accountability demand that the parliament maintain oversight of such matters'.²³

Senator Bob Brown has previously moved a disallowance motion when a Remuneration Tribunal determination relating to remuneration and travel allowances for members of parliament have been tabled.²⁴

Independent Senator Nick Xenophon and Family First Senator Fielding have not indicated a position on the legislation.

Position of major interest groups

The Tribunal made submissions to the Belcher Review calling for the 'remuneration of parliamentarians to be determined independently and by an examination of the roles and responsibilities of a parliamentarian, rather than by the Parliament itself'.²⁵ The Tribunal has indicated that it welcomes the Government's intention to enable the Tribunal to determine the base salary of parliamentarians and the remuneration and other conditions of secretaries of departments.²⁶

Financial implications

According to the Explanatory Memorandum, 'the measures proposed in this Bill have no impact on the budget'.²⁷

-
22. T Windsor, 'Second reading speech: Remuneration and Other Legislation Amendment Bill 2011', House of Representatives, *Debates*, 24 March 2011, viewed 6 May 2011, http://parlinfo.parlinfo/genpdf/chamber/hansardr/2011-03-24/0084/hansard_frag.pdf;fileType=application%2Fpdf
 23. A Bandt, 'Second reading speech: Remuneration and Other Legislation Amendment Bill 2011', House of Representatives, *Debates*, 24 March 2011, viewed 6 May 2011, http://parlinfo.parlinfo/genpdf/chamber/hansardr/2011-03-24/0085/hansard_frag.pdf;fileType=application%2Fpdf
 24. B Brown, *Greens say 'wait' on MP's pay rise*, media release, 24 September 2009, viewed 6 May 2011, http://parlinfo.parlinfo/download/media/pressrel/LXRU6/upload_binary/lxru60.pdf;fileType=application/pdf#search=%22brown%20remuneration%22; Remuneration Tribunal determination –proposed disapproval, Australia, Senate, *Journals*, no. 84, 20 August 2009, p. 2363, viewed 6 May 2011, http://parlinfo.parlinfo/download/chamber/journals/20090820_SJ084/toc_pdf/jnlf_084.pdf;fileType=application%2Fpdf#search=%22brown%20remuneration%22;
 25. Remuneration Tribunal, *Submission to the Review of Parliamentary Entitlements*, 17 December 2009, viewed 6 May 2011, http://www.finance.gov.au/parliamentary-services/docs/The_Remuneration_Tribunal.pdf
 26. Remuneration Tribunal, *Amendment of the Remuneration Tribunal Act 1973*, statement, 24 March 2011, viewed 6 May 2011, <http://www.remtribunal.gov.au/statementsreports/Statement%20RTS%2024%20March%202011.pdf>
 27. Explanatory Memorandum, Remuneration and Other Legislation Amendment Bill 2011, p. 1.

Warning: All viewers of this digest are advised to visit the disclaimer appearing at the end of this document. The disclaimer sets out the status and purpose of the digest.

Main issues

Departmental secretaries

Under the proposed measures the Tribunal would be required to do the following:

- determine the remuneration of two offices of secretary: those of the Departments of Prime Minister and Cabinet and the Treasury, along with the remuneration and leave entitlements of the Public Service Commissioner, Merit Protection Commissioner, and heads of executive agencies
- determine a classification structure for departmental secretaries and would be empowered to determine matters 'significantly related' to that structure
- assign secretaries within the classification structure and
- determine the terms and conditions, other than remuneration, applying to the offices of secretaries.

As noted above, currently the remuneration of departmental secretaries is two-tiered with the Secretaries of the Departments of Prime Minister and Cabinet, Treasury, and Defence being remunerated at one level and other secretaries being remunerated at a lower level. The review of the Office of Secretary conducted by the Tribunal recommended retaining a two-tier classification structure with additions to the top tier. The Tribunal also envisages increasing remuneration for departmental secretaries.

If the Bill is enacted, the Tribunal may implement its proposed two-tier structure in determining a classification structure for secretaries and in assigning secretaries within that structure. As noted above also, the Tribunal has envisaged pay points within the two levels (noted by the Special Minister of State in his second reading speech).²⁸ The pay points system could also become a part of the classification structure determined by the Tribunal.

Under the provisions in the Bill the Secretary of the Department of Prime Minister and Cabinet would, in consultation with the President of the Tribunal and the Public Service Commissioner, be required to assign remuneration amounts to secretaries other than him/herself and the Secretary of the Treasury in accordance with the classification structure set by the Remuneration Tribunal. This would constitute a significant departure from current practice.

The Bill contains transitional provisions which would provide that current determinations for the remuneration of the Public Service Commissioner, the Merit Protection Commissioner, departmental secretaries, and heads of executive agencies would continue to operate until determinations made under the Bill's amendments came into effect. As noted above, the Tribunal has expressed a view that remuneration for secretaries is inadequate and has signalled future increases in secretaries'

28. See footnote 12.

remuneration. Any such increases, while not resulting directly from the Bill itself, would potentially constitute an additional cost on the budget.

Key provisions

Schedule 1

Part 1—Remuneration Tribunal Act

Item 6 of part 1 of Schedule 1 to the Bill inserts **proposed Division 4** into the Remuneration Act. Within Division 4, **new section 13** requires the Tribunal to determine a classification structure for offices of departmental secretaries, and to determine the classification to which each Departmental Secretary is assigned, from time to time. In addition, the Tribunal **may** determine, any matter that is 'significantly related' to the classification structure. **New subsection 13(4)** authorises the Tribunal to hold inquiries for the purpose of carrying out any of these functions. After the initial determination by the Tribunal, the Secretary of the Department of Prime Minister and Cabinet may make recommendations to the Tribunal about the level to which a secretary may be assigned.

Under **new subsections 14(1)–(2)** the Tribunal must determine the remuneration of two of the offices of secretaries: the Secretaries of Department of Prime Minister and Cabinet and the Department of Treasury, consistent with the classification structure. **New subsections 14(3)–(7)** relate to the remuneration of the other secretaries. The Secretary of the Department of Prime Minister and Cabinet would be required to assign each of the other departmental secretaries to an amount of remuneration, from time to time, in consultation with the Public Service Commissioner and the President of the Tribunal. The remuneration must be consistent with the classification structure. The assignment has to be made in writing and comes into operation on a specified date.

New section 15 requires the Tribunal to inquire into and determine terms and conditions, other than remuneration, for departmental secretaries from time to time. **New section 16** would require the Tribunal to publish determinations made under Division 4 in the gazette and on its website within 14 day of it been made.

New subsection 5(2B), at **item 4** of Part 1 of Schedule 1 to the Bill is a consequential amendment which would enable the Tribunal to inquire into and determine the remuneration for departmental secretaries and other matters which are included in proposed Division 4.

Similarly, **new subsection 7(7)** at **item 5** of Part 1 of Schedule 1 to the Bill would remove the requirement for the determinations made under the new Division 4 to be tabled in the Parliament and therefore the ability of the Parliament to disallow such determinations.

Warning: All viewers of this digest are advised to visit the disclaimer appearing at the end of this document. The disclaimer sets out the status and purpose of the digest.

Part 2—Public Service Act

Item 7 of Part 2 of Schedule 1 to the Bill repeals and replaces section 46 of the Public Service Act which relates to the remuneration of the Public Service Commissioner. The **new section 46** provides for the Public Service Commissioner’s remuneration and recreation leave entitlements are to be determined by the Tribunal.²⁹ Notably, **new subsection 46(5)** provides that the Agency Minister may grant the Public Service Commissioner leave of absence. This is consistent with the terms of existing section 48 which allows the Agency Minister to appoint an acting Public Service Commissioner during any period, or during all periods, when the Commissioner is absent from duty.

Item 8 of Part 2 of Schedule 1 to the Bill repeals and replaces section 53 of the Public Service Act which relates to the remuneration of the Merit Protection Commissioner. The **new section 53** is in the same terms as new section 46—that is, it provides that the Merit Protection Commissioner’s remuneration and recreation leave entitlements are to be determined by the Tribunal and it makes formal provision for the Merit Protection Commissioner to take leave of absence.³⁰

Item 10 of Part 2 of Schedule 1 to the Bill repeals and replaces section 68 of the Public Service Act which relates to the remuneration of the heads of executive agencies. It is in similar terms to new sections 46 and 53 as outlined above.³¹

Item 9 of Part 2 of Schedule 1 to the Bill repeals and replaces section 61 of the Public Service Act. **New Section 61** provides that remuneration and terms and conditions of secretaries are as provided by Division 4 of the Remuneration Tribunal Act.

Schedule 2—Members of Parliament

As already stated, the Remuneration and Allowances Act provides that the annual salary for Members of Parliament is paid as a percentage of Reference Salary A. The purpose of the amendments in Schedule 2 to the Bill is to give effect to the recommendations in the Belcher Review report.

Specifically, **item 17** repeals subsection 5(2C) of the Remuneration Tribunal Act to remove the Tribunal’s power to provide advice about setting the annual allowance for members of parliament.

29. **Item 12** of Part 3 to Schedule 1 to the Bill contains transitional provisions to save the operation of an existing remuneration determination under the Public Service Act in relation to the Public Service Commissioner, until such time as the Tribunal’s first determination in respect of that office comes into effect.

30. **Item 13** of Part 3 to Schedule 1 to the Bill contains transitional provisions to save the operation of an existing remuneration determination under the Public Service Act in relation to the Merit Protection Commissioner, until such time as the Tribunal’s first determination in respect of that office comes into effect.

31. **Item 14** of Part 3 to Schedule 1 to the Bill contains transitional provisions to save the operation of an existing remuneration determination under the Public Service Act in relation to the Departmental Secretaries, until such time as the Tribunal’s first determination in respect of that office comes into effect.

Further, **item 19** inserts **new subsection 7(8AA)** of the Remuneration Tribunal Act to remove the requirement that determinations under subsections 7(1), 7(2) and 7(4) of the Remuneration Tribunal Act, which deal with allowances for members of parliament, ministers of state and related matters, be subject to disallowance under the *Legislative Instruments Act 2003*.

Item 20 of Schedule 2 to the Bill inserts **new section 7A** to require the Tribunal to publish reasons for the determinations under subsections 7(1), 7(2) and 7(4) of the Remuneration Tribunal Act on its website.

The amendments to the *Parliamentary Contributory Superannuation Scheme Act 1948* and the *Parliamentary Superannuation Act 2004* are consequential amendments to ensure that references to the term '**parliamentary allowance**' are consistent with the Remuneration and Allowances Act.

Concluding comments

The focus of attention for this legislation has been on the proposal to provide the Remuneration Tribunal with the authority to set the base salary (annual allowance) for members of parliament. The Tribunal will act as the independent umpire. However, determinations will no longer be subject to parliamentary scrutiny. It is envisaged that by requiring the Tribunal to publish its reasons for a determination, it will reinforce the integrity of the scheme and remove the public disquiet when members of parliament receive a pay rise. Very little interest has focused on the proposed significant changes to how departmental secretaries and heads of executive agencies are remunerated and how their terms and conditions are set. It is in this area that there may be further developments.

© Commonwealth of Australia 2011

This work is copyright. Except to the extent of uses permitted by the Copyright Act 1968, no person may reproduce or transmit any part of this work by any process without the prior written consent of the Parliamentary Librarian. This requirement does not apply to members of the Parliament of Australia acting in the course of their official duties.

Disclaimer: Bills Digests are prepared to support the work of the Australian Parliament. They are produced under time and resource constraints and aim to be available in time for debate in the Chambers. The views expressed in Bills Digests do not reflect an official position of the Australian Parliamentary Library, nor do they constitute professional legal opinion. Bills

Warning: All viewers of this digest are advised to visit the disclaimer appearing at the end of this document. The disclaimer sets out the status and purpose of the digest.

Digests reflect the relevant legislation as introduced and do not canvass subsequent amendments or developments. Other sources should be consulted to determine the official status of the Bill.

Feedback is welcome and may be provided to: web.library@aph.gov.au. Any concerns or complaints should be directed to the Parliamentary Librarian. Parliamentary Library staff are available to discuss the contents of publications with Senators and Members and their staff. To access this service, clients may contact the author or the Library's Central Enquiry Point for referral.

Members, Senators and Parliamentary staff can obtain further information from the Parliamentary Library on (02) 6277 2627.

**Determination of Secretaries' remuneration and other conditions, made by the
Prime Minister on 30.6.2011**

COMMONWEALTH OF AUSTRALIA

Public Service Act 1999

Determination under Section 61: Secretaries' remuneration and other conditions

I, JULIA EILEEN GILLARD, Prime Minister, under section 61 of the *Public Service Act 1999*, having taken advice from the Remuneration Tribunal, determine that, from whichever is the latter of 1 July 2011 or the date of this determination, in relation to a person appointed as a Secretary under section 58 of the *Public Service Act 1999*, the remuneration and other conditions of appointment of that person shall be as set out below.

This Determination overrides all previous determinations made under section 61 of the *Public Service Act 1999*, and a Secretary's remuneration and other conditions of appointment are to be exclusively as set out in this Determination unless otherwise indicated.

Dated 30 June 2011



Prime Minister

CONTENTS

PART 1 - INTERPRETATION.....	1
PART 2 - REMUNERATION	2
<i>Remuneration amounts.....</i>	<i>2</i>
<i>Total Remuneration.....</i>	<i>2</i>
<i>Remuneration packaging.....</i>	<i>3</i>
<i>Superannuation.....</i>	<i>3</i>
<i>Vehicle and parking</i>	<i>4</i>
<i>Business support</i>	<i>4</i>
PART 3 - OFFICIAL TRAVEL	5
<i>Entitlement to official travel.....</i>	<i>5</i>
PART 4 - LEAVE.....	5
<i>Normal duty</i>	<i>5</i>
<i>Recreation leave.....</i>	<i>5</i>
<i>Personal leave.....</i>	<i>6</i>
<i>Miscellaneous leave</i>	<i>6</i>
<i>Statutory leave provisions</i>	<i>6</i>
PART 5 - LOSS OF OFFICE	7
PART 6 - NOTICE OF A DECISION NO TO RE-APPOINT	7
PART 7 - REMOVAL AND RELOCATION ASSISTANCE	8
<i>Interpretation.....</i>	<i>8</i>
<i>Relocation costs and allowances</i>	<i>8</i>
<i>Disturbance allowance.....</i>	<i>8</i>
<i>Settling out allowance</i>	<i>8</i>
<i>Settling in allowance</i>	<i>9</i>
<i>Costs of sale and purchase of residential housing</i>	<i>9</i>
<i>Accommodation support.....</i>	<i>10</i>
<i>Reunion travel.....</i>	<i>10</i>
<i>Dependants education allowance</i>	<i>10</i>
PART 8 - ASSISTANCE FOR TRAINING AND DEVELOPMENT	11
<i>Leave for training and development</i>	<i>11</i>
<i>Costs of training and development</i>	<i>11</i>
PART 9 - DELEGATION	11
SCHEDULE.....	12

PART 1 - INTERPRETATION

1.1 In this determination:

“Base Salary” means the amounts specified under clause 2.1 of this Determination.

“Benefits” means non-monetary benefits provided at the Commonwealth's expense.

“business class” means a standard of service equivalent to that offered by Qantas Airways Ltd in its Business Class.

“Commonwealth authority” means

- (a) a body corporate established for a public purpose by or under a law of the Commonwealth or the Australian Capital Territory; or
- (b) a body corporate:
 - (i) incorporated under a law of the Commonwealth or a State or Territory; and
 - (ii) in which the Commonwealth has a controlling interest; or
- (c) an authority or body, not being a body corporate, established for a public purpose by or under a law of the Commonwealth or the Australian Capital Territory.

“APSC Allowance Subscription Scheme” means the Australian Public Service Commission (APSC) Allowance Subscription Scheme and any scheme of a similar nature which modifies, replaces or supersedes the APSC Allowance Subscription Scheme.

“employer's superannuation contribution” in respect of a Secretary means payments made by the Commonwealth to or in respect of the Commonwealth Superannuation Scheme or the Public Sector Superannuation Scheme in order to support the provision of benefits under any of those schemes.

“Executive Vehicle Scheme Guidelines” means guidelines published from time to time by the APSC in respect of the Executive Vehicle Scheme or such other Department or agency as then has policy responsibility for the scheme, or any guidelines of a similar nature which modify, replace or supersede those guidelines or guidelines to any scheme of a similar nature which modifies, replaces or supersedes the Executive Vehicle Scheme.

“locality of the Australian Capital Territory” means the Australian Capital Territory and those parts of New South Wales which fall within a 100 kilometre radius of Canberra.

“other Total Remuneration elements” include superannuation contributions made by the Commonwealth and the costs associated with a Commonwealth provided vehicle.

“**Secretary**” means the holder of an office referred to in the definition of “Secretary” in section 7 of the *Public Service Act 1999*.

“**Secretary’s Minister**” in respect of a Secretary means the senior portfolio Minister who administers the Department of which the Secretary has been appointed to the office of Secretary.

- 1.2 The provisions of this determination are additional and subject to any applicable statutory entitlements or conditions, including those deriving from the following Acts and from regulations and instruments made under those Acts:
- (a) *Financial Management and Accountability Act 1997*;
 - (b) *Long Service Leave (Commonwealth Employees) Act 1976*;
 - (c) *Occupational Health and Safety Act 1991*;
 - (d) *Maternity Leave (Commonwealth Employees) Act 1973*;
 - (e) *Public Service Act 1999*;
 - (f) *Safety, Rehabilitation and Compensation Act 1988*;
 - (g) *Superannuation Act 1976*;
 - (h) *Superannuation Act 1990*;
 - (i) *Superannuation Act 2005*;
 - (j) *Superannuation Benefits (Supervisory Mechanisms) Act 1990*;
 - (k) *Superannuation (Productivity Benefit) Act 1988*; and
 - (l) *Fair Work Act 2009*.

PART 2 - REMUNERATION

Remuneration amounts

- 2.1 The holder of an office specified in the first column of the Schedule attached to this Determination is eligible for Base Salary and Total Remuneration in the amounts specified in the Schedule.

Total Remuneration

- 2.2 Total Remuneration is the value attributed to the remuneration to be paid to a Secretary and includes:
- (a) salary, subject to the packaging provisions of clauses 2.3, 2.4 and 2.5;
 - (b) the value, calculated in accordance with this Part, of a fully maintained Commonwealth provided vehicle plus parking and applicable fringe benefits taxation; and
 - (c) the value, calculated in accordance with this Part, of the employer’s superannuation contribution specified in clause 2.7 of this Part;

but does not include;

- (d) facilities provided as business support under clauses 2.11 to 2.14;
- (e) travelling allowances and expenditure specified in Part 3;
- (f) compensation for early loss of office specified in Part 5; or
- (g) removal costs, accommodation allowances and reunion airfares specified in Part 7.

Remuneration packaging

- 2.3 Subject to this Part, a Secretary may elect to receive the benefit of the Total Remuneration as salary or a combination of salary and other Benefits.
- 2.4 Any election made in accordance with clause 2.3 shall be consistent with relevant taxation laws and rulings or guidelines issued by the Australian Taxation Office applicable to salary packaging schemes.
- 2.5 Any election made in accordance with clause 2.3 must not result in cost to the Commonwealth (including in relation to any fringe benefits taxation) additional to the cost which would be incurred if other Total Remuneration elements able to be taken as salary were taken as salary.

Superannuation

- 2.6 Regardless of anything else in this Determination, a Secretary's annual rate of salary for the purposes of the Superannuation (CSS) Salary Regulations shall be Base Salary as specified under clause 2.1. (Note: It will therefore be the Secretary's superannuation salary for the purposes of the *Superannuation Act 1976* and the *Superannuation Act 1990*.)
- 2.7 The Total Remuneration of a Secretary shall be taken to include the value of the employer's superannuation contributions made in respect of the Secretary. For this purpose:
 - (a) in the case of a Secretary participating in the Commonwealth Superannuation Scheme or the Public Sector Superannuation Scheme, the value of the employer's superannuation contributions made in respect of the Secretary shall be taken to be:
 - (i) 13% of Base Salary until 30 June 2005; and
 - (ii) 15.4% of Base Salary on and from 1 July 2005
 - (b) in the case of a Secretary participating in any other superannuation scheme, the value of the employer's superannuation contributions made in respect of the Secretary to the superannuation scheme shall reflect the amounts actually made or liable to be made.
- 2.8 The value attributable by virtue of clause 2.7 to the employer's superannuation contribution is referable to a non-salary component of Total Remuneration and may not be the subject of an election to take an equivalent amount of salary instead.

Vehicle and parking

- 2.9.1 Where a Secretary elects to receive a Commonwealth provided vehicle, the Secretary shall have deducted from his or her Total Remuneration, an amount equal to the actual cost (including fringe benefits tax) of the vehicle to the Commonwealth, plus the value of parking, less \$3,750 a year or, where the vehicle is provided for less than a full year, \$3,750 calculated on a *pro rata* basis.
- 2.9.2 The Executive Vehicle Scheme Guidelines issued by the APSC apply to the selection of a vehicle referred to in subclause 2.9.1.
- 2.10.1 Where a Secretary elects not to receive a Commonwealth provided vehicle but instead enters into a salary sacrifice arrangement for the provision of another vehicle or uses his own or her own vehicle, and that vehicle is used for business-related purposes, the Secretary is entitled to an amount of \$3,750 a year, less tax at the applicable rate, or, where the vehicle is provided for less than a full year, that amount calculated on a *pro rata* basis.
- 2.10.2 An amount payable under subclause 2.10.1 shall not be taken as remuneration for any purpose.

Business support

- 2.11 A Secretary is entitled to the provision by his or her Department of communications, information technology and other office facilities necessary for the efficient conduct of the Commonwealth's business, and such provision includes incidental private use of those facilities. Where required, separate telecommunications lines to a Secretary's residence in support of these facilities may be provided at no cost to the Secretary.
- 2.12 A Secretary is entitled to be reimbursed by the Commonwealth for all costs of installation and rental of a telephone line and telephone at his or her residence and for all call charges on that telephone.
- 2.13 If a Secretary maintains two residences, he or she is entitled to be reimbursed by the Commonwealth in the terms of clause 2.12 in relation to a telephone line and telephone at one of his or her residences and, in relation to the other residence, is entitled to be reimbursed only for 50% of the call charges and no other costs.
- 2.14 A Secretary is entitled to two domestic airline lounge memberships at Commonwealth expense.

PART 3 - OFFICIAL TRAVEL

Entitlement to official travel

- 3.1 Secretaries are entitled to the travelling allowances for travel on official business within Australia and internationally in accordance with the conditions, and at the Tier 1 rate, as determined from time to time by the Remuneration Tribunal in relation to full-time public office holders.

PART 4 - LEAVE

Normal duty

- 4.1 A Secretary is to be available for duty when required by his or her Minister and on all days his or her department is open for and conducts normal business.

Recreation leave

- 4.2 A Secretary is entitled to recreation leave at a rate of 20 working days for each completed 12 months of service, or pro rata for lesser periods, to be credited in the same way as recreation leave entitlements are credited to employees generally in the Secretary's department.
- 4.3 A Secretary's recreation leave credit includes any existing recreation leave accrued either through prior service in the Australian Public Service or the ACT Government Service, or through employment in a Commonwealth authority, that in either case ceased not more than two months prior to being appointed as a Secretary.
- 4.4 Application to take recreation leave must be made to the Secretary's Minister and may be for a period up to the Secretary's existing recreation leave credit.
- 4.5 Where a Secretary ceases to be a Secretary, other than by death, and does not carry forward a recreation leave credit to other Commonwealth employment, he or she is entitled to be paid the salary equivalent of:
- (a) any recreation leave credit unused at the time he or she ceased to be a Secretary; and
 - (b) recreation leave accrued since the last 1 January at the rate of one twelfth of a full year's recreation leave accrual for each completed month of service;
- but if a Secretary has died, the Prime Minister or his or her delegate may authorise payment of this amount to a dependant of the Secretary or the Secretary's legal personal representative.

- 4.6 A Secretary is entitled to cash out up to half of his or her annual recreation leave entitlement in any year if the Secretary's department has a policy that allows employees generally in that department to cash out up to half of their annual recreation leave entitlements in accordance with the workplace agreements under which they are engaged.

Personal leave

- 4.7 A Secretary is entitled to personal leave which may be accessed at full or half pay to accommodate personal illness or injury, to care for a family member or to meet family responsibilities of an emergency and unscheduled nature.
- 4.8 A Secretary's entitlement to personal leave accrues at the rate of 15 days on the date of appointment plus a further 15 days at the end of each 12 months' service.
- 4.9 A Secretary's absence of three days or more using personal leave must be authorised by the Prime Minister or his or her delegate.
- 4.10 In addition to the personal leave entitlement specified in clause 4.8, a Secretary's sick leave entitlements accrued either through prior service in the Australian Public Service or in the service of an Australian State or Territory Government, or through employment in a Commonwealth authority, that in either case ceased not more than two months prior to being appointed a Secretary will be recognised as if accrued while as a Secretary and will be paid at full pay or half pay as originally accrued.
- 4.11 Neither unused personal leave nor unused sick leave accrued through prior service referred to in clause 4.10 will be paid out where a Secretary ceases for whatever reason to be a Secretary.
- 4.12 The Prime Minister may grant additional personal leave to a Secretary at the Prime Minister's discretion.

Miscellaneous leave

- 4.13 The Prime Minister or his or her delegate may grant leave of absence to a Secretary for a purpose that the Prime Minister or his or her delegate considers to be in the interests of the Commonwealth. Such leave of absence may be with or without pay and subject to conditions at the discretion of the Prime Minister or his or her delegate.

Statutory leave provisions

- 4.14 A Secretary is entitled to long service leave in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976* and maternity leave in accordance with the *Maternity Leave (Commonwealth Employees) Act 1973*.

- 4.15 Application to take long service leave or maternity leave must be made to the Secretary's Minister.

PART 5 - LOSS OF OFFICE

- 5.1 Where a Secretary is terminated in accordance with the provisions of sub-section 59(1) of the *Public Service Act 1999* and the Commonwealth has not made the Secretary an offer of suitable alternative employment, the Secretary shall be entitled upon his or her termination to be paid:

- (a) three months' Base Salary; or
- (b) one-third of one month's Base Salary for each full month of the balance of the term not served, subject to a maximum payment of 12 months' Base Salary calculated at the date of his or her termination

whichever is the greater.

- 5.2 In determining whether, for the purpose of clause 5.1, there has been an offer of suitable alternative employment, account is to be taken of any offer of employment with the Commonwealth, the administration of a Territory, or a public statutory corporation referred to in paragraph 3(4)(d) of the *Remuneration Tribunal Act 1973*, or an incorporated company all the stock or shares in the capital of which is or are beneficially owned by the Commonwealth or by a public statutory corporation, or an incorporated company limited by guarantee where the interests and rights of the members in or in relation to the company are beneficially owned by the Commonwealth or by a public statutory corporation.

PART 6 – NOTICE OF A DECISION NOT TO RE-APPOINT

- 6.1 A Secretary who is not given three months' notice that he or she will not be re-appointed to the position at the expiration of his or her term shall be paid three months' Base Salary unless the Commonwealth has made the Secretary an offer of suitable alternative employment.
- 6.2 In determining whether, for the purpose of clause 6.1, an offer of suitable alternative employment has been made, regard is to be had to any offer of employment of the kind described in clause 5.2.

PART 7 - REMOVAL AND RELOCATION ASSISTANCE

Interpretation

7.1 In this Part:

“home locality” means the locality where the Secretary ordinarily lives immediately before the commencement of the term of appointment as Secretary takes place.

“new locality” means the locality of the Australian Capital Territory.

Relocation costs and allowances

7.2 A Secretary is entitled to payment at Commonwealth expense of his or her relocation costs from his or her home locality to the new locality in order to take up his or her appointment as a Secretary.

7.3 For the purposes of clause 7.2, relocation costs include, as applicable:

- (a) transportation of the Secretary and his or her partner and dependants, if any, from the home locality to the new locality, and their return to the home locality when the Secretary ceases to hold office as Secretary for whatever reason;
- (b) the insured removal of the furniture, household effects and domestic animals of the Secretary and his or her partner and dependants from the home locality to the new locality, and their return to the home locality when the Secretary ceases to hold office as Secretary for whatever reason;
- (c) costs of sale and purchase of residential housing under clause 7.10 below; and
- (d) if the Secretary rents accommodation in the new locality, bond money and utility connection deposits, to be repaid to the Commonwealth at the end of the tenancy.

Disturbance allowance

7.4 In addition to removal costs under subclause 7.3(b), a Secretary is entitled to a disturbance allowance of an amount applicable to a member of the Senior Executive Service as advised from time to time under the APSC Allowance Subscription Scheme.

Settling out allowance

7.5 The “settling out period” is the period of 7 days beginning on the day when the furniture and other household effects of the Secretary and his or her dependants, if any, are removed from the residence of the Secretary at the home locality.

- 7.6 During the settling out period, a Secretary is entitled to settling out allowance of:
- (a) in relation to the costs of accommodation – \$1,727 per week; and
 - (b) in relation to meals and incidentals – up to the rate per week applicable to a member of the Senior Executive Service as advised from time to time under the APSC Allowance Subscription Scheme for Temporary Accommodation Allowances.

Settling in allowance

- 7.7 The "settling in period" is the period beginning on the day 7 days before the day when the Secretary begins duty at the new locality and ending on the earlier of:
- (a) the day when suitable accommodation or suitable temporary accommodation becomes available at that locality; or
 - (b) the day 13 weeks after the day when the Secretary begins duty at the locality.
- 7.8 During the settling in period, a Secretary is entitled to settling in allowance of:
- (a) in relation to the costs of accommodation – \$1,727 per week; and
 - (b) in relation to meals and incidentals – up to the rate per week applicable to a member of the Senior Executive Service as advised from time to time under the APSC Allowance Subscription Scheme for Temporary Accommodation Allowances.

Costs of sale and purchase of residential housing

- 7.9 A Secretary is entitled to reimbursement, at Commonwealth expense, of all reasonable costs of:
- (a) sale of a residence which is owned by him or her in the home locality if sold for the purposes of relocating to the new locality in order to take up the office of Secretary;
 - (b) purchase of a residence in the new locality in order to take up the office of Secretary other than the actual purchase price; and
 - (c) sale of a residence which is owned by him or her in the new locality if sold for the purposes of relocating to the home locality when the Secretary ceases to hold office as Secretary for whatever reason.
- 7.10 For the purposes of clauses 7.3 and 7.9, costs of sale and purchase which may be reimbursed comprise, as applicable:
- (a) agent's commission;
 - (b) advertising fees;
 - (c) solicitor's fees;

- (d) stamp duty; and
- (e) auction costs.

Accommodation support

- 7.11 A Secretary who did not live in the locality of the Australian Capital Territory immediately before the commencement of his or her term of appointment as Secretary is entitled to accommodation support of an amount per week equal to \$29,645 per annum for the duration of his or her term and any subsequent term as Secretary if he or she:
- (a) continues to maintain a residence in his or her home locality; and
 - (b) does not buy a property in the locality of the Australian Capital Territory.

Reunion travel

- 7.12 A Secretary who, immediately before the commencement of his or her initial term of appointment as a Secretary, did not ordinarily live in the locality of the Australian Capital Territory and who continues to maintain a residence in his or her home locality during the initial term of appointment as a Secretary and during any successive term of appointment as a Secretary, is entitled in each 12 months of service, at his or her election at the time of appointment or reappointment to:
- (a) 12 business class return airfares between Canberra and the capital city nearest the home locality each year; or
 - (b) travel for the purposes of reunion up to the value of 12 business class return fares between Canberra and the capital city nearest the home locality for each 12 month period.
- 7.13 The travel entitlement provided to a Secretary under clause 7.12 may be used by a Secretary and his or her immediate family members.
- 7.14 Travel provided to a Secretary under clause 7.12 may be exercised only while he or she occupies the office of a Secretary. Any travel not taken by the day a Secretary ceases to occupy the office of a Secretary ceases to be available.
- 7.15 The value of the travel provided to a Secretary under clause 7.12 may not be taken as a cash equivalent or converted to any other use.

Dependants' education allowance

- 7.16 A Secretary who, immediately before the commencement of his or her initial term of appointment as a Secretary, did not ordinarily live in the locality of the Australian Capital Territory, is entitled to reimbursement for boarding and tuition fees for his or her dependent children under 20 years of age undertaking the second last or final year of secondary education on the terms and conditions set out in Part 5 of Chapter 7 of Public Service Determination 1998/5, irrespective of whether or not that

Determination continues in force generally, as if he or she were a prescribed officer under those terms and conditions, and at the rates of allowance and contribution as advised from time to time under the APSC Allowance Subscription Scheme for Education Costs Allowances.

PART 8 - ASSISTANCE FOR TRAINING AND DEVELOPMENT

Leave for training and development

- 8.1 The Prime Minister or his or her delegate may grant leave of absence with pay to a Secretary to enable him or her to pursue training or development activities that the Prime Minister or his or her delegate considers to be in the interests of the Commonwealth. Such leave of absence may be subject to conditions at the discretion of the Prime Minister or his or her delegate.

Costs of training and development

- 8.2 The Prime Minister or his or her delegate may approve reimbursement of costs incurred by a Secretary in connection with training or development activities. Such reimbursement is at the discretion of the Prime Minister or his or her delegate and may be in full or in part and may be subject to conditions.

PART 9 - DELEGATION

- 9.1 The Prime Minister may delegate any of his or her powers under this determination to another Minister under such conditions he or she thinks appropriate.

SCHEDULE

SECRETARY	Base Salary per annum	Total Remuneration per annum
Department of Defence	\$431,670	\$539,580
Department of the Prime Minister and Cabinet	"	"
Department of the Treasury	"	"
Department of Agriculture, Fisheries and Forestry	\$403,850	\$504,810
Attorney-General's Department	"	"
Department of Broadband, Communications and the Digital Economy	"	"
Department of Climate Change and Energy Efficiency	"	"
Department of Education, Employment and Workplace Relations	"	"
Department of Families, Housing, Community Services and Indigenous Affairs	"	"
Department of Finance and Deregulation	"	"
Department of Foreign Affairs and Trade	"	"
Department of Health and Ageing	"	"
Department of Human Services	"	"
Department of Immigration and Citizenship	"	"
Department of Infrastructure and Transport	"	"
Department of Innovation, Industry, Science and Research	"	"
Department of Regional Australia, Regional Development and Local Government	"	"
Department of Resources, Energy and Tourism	"	"
Department of Sustainability, Environment, Water, Population and Communities	"	"
Department of Veterans' Affairs	"	"

**Determination 2012/xx – Departmental Secretaries
Classification Structure and Terms and Conditions**



REMUNERATION TRIBUNAL

Determination 20xx/xx:

Departmental Secretaries - Classification Structure and Terms and Conditions

Made under Division 4 of the *Remuneration Tribunal Act 1973*

This Determination, amongst other matters:

- establishes a classification structure for offices of Secretary;
- specifies pay points for the classification structure;
- assigns each office of Secretary to a classification;
- establishes terms and conditions for Secretaries; and
- fixes the amount of remuneration that is to be paid to the Secretary of the Department of the Prime Minister and Cabinet and the Secretary of the Department of the Treasury.

Secretaries other than the Secretary of the Department of the Prime Minister and Cabinet and the Secretary of the Department of the Treasury are assigned to pay points by a separate instrument made by the Secretary of the Department of the Prime Minister and Cabinet under subsection 14(3) of the *Remuneration Tribunal Act 1973*.

The Determination comprises:

- **Part 1** – General;
- **Part 2** – Classification, remuneration and related matters;
- **Part 3** – Official travel;
- **Part 4** – Leave;
- **Part 5** – Loss of office;
- **Part 6** – Notice of a decision not to reappoint;
- **Part 7** - Removal and relocation assistance;
- **Part 8** - Assistance for training and development;
- **Part 9** - Delegation.

PART 1 – GENERAL

Authority

- 1.1** This Determination is issued pursuant to Division 4 of the *Remuneration Tribunal Act 1973*.

Effective Date

- 1.2** This Determination takes effect on and from xx xxx xxxx.

Definitions

1.3 For the purposes of this Determination, the following definitions apply:

'APSC Allowance Subscription Scheme' means the Australian Public Service Commission (APSC) Allowance Subscription Scheme and any scheme of a similar nature that modifies, replaces or supersedes the APSC Allowance Subscription Scheme.

'Base Salary' for a Secretary means:

- (a) From date of initial step to 30 June 2012 — 72% of the Secretary's Total Remuneration; and
- (b) 1 July 2012 to 31 December 2012 — 71% of the Secretary's Total Remuneration; and
- (c) on and from 1 January 2013 — 70% of the Secretary's Total Remuneration.

'Benefits' means benefits other than cash and the Employer's Superannuation Contribution provided to a Secretary at the Commonwealth's expense, and includes any Commonwealth provided vehicle that the Secretary elects to receive under clause 2.18. (See also clause 2.10.)

'Business Class' means a standard of service equivalent to that offered by Qantas Airways Ltd in its Business Class.

'Commonwealth Authority' means:

- (a) a body corporate established for a public purpose by or under a law of the Commonwealth or the Australian Capital Territory; or
- (b) a body corporate:
 - (i) incorporated under a law of the Commonwealth or a State or Territory; and
 - (ii) in which the Commonwealth has a controlling interest; or
- (c) an authority or body, not being a body corporate, established for a public purpose by or under a law of the Commonwealth or the Australian Capital Territory.

'Employer's Superannuation Contribution' in respect of a Secretary means payments made by the Commonwealth in respect of the Secretary to:

- (a) a Commonwealth defined benefit scheme (including the Commonwealth Superannuation Scheme or the Public Sector Superannuation Scheme); or
- (b) another superannuation fund.

'Executive Vehicle Scheme Guidelines' means guidelines published from time to time by the APSC in respect of the Executive Vehicle Scheme or by such other Department or agency as then has policy responsibility for the scheme, or any guidelines of a similar nature which modify, replace or supersede those guidelines or guidelines to any scheme of a similar nature which modifies, replaces or supersedes the Executive Vehicle Scheme.

'Pay Point Assignment' means an instrument made by the Secretary of the Department of the Prime Minister and Cabinet under subsection 14(3) of the *Remuneration Tribunal Act 1973*.

'Reference Salary' means the Secretary's Total Remuneration, less the rate of the Employer's Superannuation Contribution for the Secretary.

'Secretary' has the same meaning as in the *Public Service Act 1999*.

‘Secretary’s Minister’ in respect of a Secretary means the senior portfolio Minister who administers the Department of which the Secretary has been appointed to the office of Secretary.

‘Total Remuneration’ for a Secretary means the aggregate value of cash, Benefits and the Employer’s Superannuation Contribution, provided to or on behalf of the Secretary by the Commonwealth, expressed as an annual rate.

1.4 The provisions of this Determination are additional to and subject to any applicable statutory entitlements or conditions, including those deriving from the following Acts and from regulations and instruments made under those Acts:

- (a) *Financial Management and Accountability Act 1997*;
- (b) *Long Service Leave (Commonwealth Employees) Act 1976*;
- (c) *Occupational Health and Safety Act 1991*;
- (d) *Maternity Leave (Commonwealth Employees) Act 1973*;
- (e) *Public Service Act 1999*;
- (f) *Safety, Rehabilitation and Compensation Act 1988*;
- (g) *Superannuation Act 1976*;
- (h) *Superannuation Act 1990*;
- (i) *Superannuation Act 2005*;
- (j) *Superannuation Benefits (Supervisory Mechanisms) Act 1990*;
- (k) *Superannuation (Productivity Benefit) Act 1988*; and
- (l) *Fair Work Act 2009*.

PART 2 –CLASSIFICATION, REMUNERATION AND RELATED MATTERS

Classification structure and remuneration levels

2.1 The classification structure for offices of Departmental Secretary and the pay points for each level in the classification structure are shown in the table below, with amounts of Total Remuneration having effect on and from the dates shown:

Table 2.1 – Classification Structure and Total Remuneration for Specified Pay Points

Level	Pay point	Date Init. Step	1 July 2012	1 Jan 2013	1 July 2013	1 Jan 2014	1 July 2014
Level 1A (PM&C)		\$620,000	\$661,000	\$702,000	\$743,000	\$784,000	\$825,000
Level 1B (Treasury)		\$615,000	\$653,000	\$691,000	\$729,000	\$767,000	\$805,000
Level 1	1	\$612,500	\$646,000	\$679,500	\$713,000	\$746,500	\$780,000
	2	\$612,500	\$638,000	\$665,500	\$693,000	\$720,500	\$740,000
	3	\$612,500	\$630,000	\$647,500	\$665,000	\$682,500	\$700,000
Level 2	1	\$575,000	\$600,000	\$625,000	\$650,000	\$675,000	\$700,000
	2	\$572,500	\$593,000	\$613,500	\$634,000	\$654,500	\$675,000
	3	\$570,000	\$586,000	\$602,000	\$618,000	\$634,000	\$650,000

- 2.2** Offices of Secretary are classified by reference to the Department to which each office relates as shown in the table below:

Table 2.2 – Classification of Offices of Secretary

Level	Departments
Level 1A	Prime Minister and Cabinet
Level 1B	Treasury
Level 1	TO BE SETTLED
Level 2	TO BE SETTLED

- 2.3** A Secretary at classification Level 1A or Level 1B is entitled to the Total Remuneration specified for that level in Table 2.1.
- 2.4** A Secretary at classification Level 1 or Level 2 is entitled to the Total Remuneration specified for the pay point to which he or she is assigned by a Pay Point Assignment made by the Secretary of the Department of the Prime Minister and Cabinet.
- 2.5** If a person is appointed to more than one office of Secretary at the same time, the person is entitled to the Total Remuneration specified for the highest of the pay points that would apply in relation to any of the appointments on its own.
- 2.6** If a person is appointed to an office of Secretary that appears in the classification in Table 2.2, but no assignment is current for the Secretary, the Secretary is entitled to:
- (a) if the Secretary has been transferred from another office of Secretary — the Total Remuneration specified for the pay point that applied to his or her former office; or
 - (b) in any other case — the Total Remuneration specified for the lowest pay point for the classification level of the office.
- 2.7** If a person is appointed to an office of Secretary that does not appear in the classification in Table 2.2, the Secretary is entitled to:
- (a) if the Secretary has been transferred from another office of Secretary — the Total Remuneration specified for the pay point that applied to his or her former office; or
 - (b) in any other case — the Total Remuneration specified for the lowest pay point for Level 2.

Pay Point Assignments

- 2.8** Unless clause 2.9 applies, a Pay Point Assignment must assign a Secretary to a pay point within the classification level of his or her office.
- 2.9** If a person who is a Secretary at classification Level 1, 1B or 1A is appointed to another office of Secretary at classification Level 2, a Pay Point Assignment may assign the person to any pay point for Level 1 or Level 2 that is not higher than the pay point to which the person was previously assigned.

Content of Total Remuneration and remuneration packaging

- 2.10** Subject to this Part, a Secretary may elect to receive the benefit of the Total Remuneration, other than the value of the Employer's Superannuation Contribution, in cash as salary or as a combination of salary and other Benefits.
- 2.11** Any election made in accordance with clause 2.10 must be consistent with relevant taxation laws and rulings or guidelines issued by the Australian Taxation Office applicable to salary packaging schemes.
- 2.12** Any election made in accordance with clause 2.10 must not result in cost to the Commonwealth (including in relation to any fringe benefits taxation) additional to the cost which would be incurred if all of the Total Remuneration elements able to be taken as salary were taken as salary.
- 2.13** The value attributable to the following is not taken to be part of the Total Remuneration:
- (a) facilities provided as business support under clauses 2.21 to 2.24; or
 - (b) travelling allowances and expenditure specified in Part 3; or
 - (c) compensation for early loss of office specified in Part 5; or
 - (d) removal costs, accommodation allowances and reunion airfares specified in Part 7; or
 - (e) any other Benefits provided by the Commonwealth that the Tribunal determines should not be taken to be part of the Total Remuneration.

Superannuation

- 2.14** For a Secretary who is a member of the Commonwealth Superannuation Scheme:
- (a) the Secretary's annual rate of salary for the purposes of the scheme is the Secretary's Base Salary; and
 - (b) the value attributed to the Employer's Superannuation Contribution is taken to be 15.4% of the Secretary's Base Salary.
- 2.15** For a Secretary who is a member of the Public Sector Superannuation Scheme:
- (a) the Secretary's basic salary for the purposes of the scheme is the Secretary's Base Salary; and
 - (b) the amount of the Secretary's recognised allowances for the purpose of the scheme is zero; and
 - (c) the value attributed to the Employer's Superannuation Contribution is taken to be 15.4% of the Secretary's Base Salary.
- 2.16** For a Secretary who is a member of the Public Sector Superannuation Accumulation Plan, the Secretary's superannuation salary for the purposes of the scheme is the Secretary's ordinary time earnings (OTE).
- 2.17** For a Secretary who is a member of any other superannuation fund, the Employer's Superannuation Contribution is to be made at the rate elected by the Secretary, which must not be less than a rate that would, under section 23 of the *Superannuation Guarantee (Administration) Act 1992*, reduce the charge percentage in relation to that Secretary to zero.

Vehicle and parking

- 2.18** A Secretary may elect to receive a Commonwealth provided vehicle as a Benefit. The value attributed to this Benefit is to be the actual cost (including fringe benefits tax) of the vehicle to the Commonwealth, plus the value of parking.
- 2.19** The Executive Vehicle Scheme Guidelines issued by the APSC apply to the selection of a vehicle referred to in clause 2.18.
- 2.20** A Secretary's Total Remuneration amount includes provision for any use of a vehicle by the Secretary for business-related purposes.

Business support

- 2.21** A Secretary is entitled to the provision by his or her Department of communications, information technology and other office facilities necessary for the efficient conduct of the Commonwealth's business, and such provision includes incidental private use of those facilities. Where required, separate telecommunications lines to a Secretary's residence in support of these facilities may be provided at no cost to the Secretary.
- 2.22** A Secretary is entitled to be reimbursed by the Commonwealth for all costs of installation and rental of a telephone line and telephone at his or her residence and for all call charges on that telephone.
- 2.23** If a Secretary maintains 2 residences, he or she is entitled to be reimbursed by the Commonwealth in the terms of clause 2.22 in relation to a telephone line and telephone at one of his or her residences and, in relation to the other residence, is entitled to be reimbursed only for 50% of the call charges and no other costs.
- 2.24** A Secretary is entitled to 2 domestic airline lounge memberships at Commonwealth expense.

PART 3 – OFFICIAL TRAVEL

Entitlement to official travel

- 3.1** A Secretary is entitled to Tier 1 travel entitlements as determined by the Remuneration Tribunal in Determination 2004/03 (as amended) – *Official Travel by Office Holders*.

PART 4 - LEAVE

Normal duty

- 4.1** A Secretary is to be available for duty when required by the Secretary's Minister and on all days his or her Department is open for and conducts normal business.

Recreation (Annual) leave

- 4.2** A Secretary is entitled to recreation leave at a rate of 20 working days for each completed 12 months of service, or pro rata for lesser periods, to be credited in the same way as recreation leave entitlements are credited to employees generally in the Secretary's Department.
- 4.3** A Secretary's recreation leave credit includes any existing recreation leave accrued either through prior service in the Australian Public Service or the ACT Government Service, or through employment in a Commonwealth Authority, that in either case ceased not more than 2 months prior to being appointed as a Secretary.
- 4.4** A Secretary may apply to take recreation leave for a period up to the Secretary's existing recreation leave credit, as follows:

- (a) for a period of 3 months or less - application must be made to the Secretary's Minister; and
- (b) for a period over 3 months - application must be made to the Prime Minister or his or her delegate.

4.5 Where a Secretary ceases to be a Secretary, other than by death, and does not carry forward a recreation leave credit to other Commonwealth employment, he or she is entitled to be paid, at the Reference Salary rate at that time, for any recreation leave credit accrued and unused at the date he or she ceased to be a Secretary, but if a Secretary has died, the Secretary's Minister may authorise payment of this amount to a dependant of the Secretary or the Secretary's legal personal representative.

4.6 A Secretary is entitled to cash out up to half of his or her annual recreation leave entitlement in any year, at the Reference Salary rate at the time of election, if the Secretary's Department has a policy that allows employees generally in that Department to cash out up to half of their annual recreation leave entitlements in accordance with the workplace agreements under which they are engaged.

Personal leave

4.7 A Secretary is entitled to personal leave which may be accessed at full or half pay to accommodate personal illness or injury, to care for a family member or to meet family responsibilities of an emergency and unscheduled nature.

4.8 A Secretary's entitlement to personal leave accrues at the rate of 15 days on the date of initial appointment plus a further 15 days at the end of each 12 months' service.

4.9 A Secretary's absence of 3 days or more using personal leave must be authorised by the Secretary's Minister.

4.10 In addition to the personal leave entitlement specified in clause 4.8, a Secretary's sick leave entitlements accrued either through prior service in the Australian Public Service or in the service of an Australian State or Territory Government, or through employment in a Commonwealth Authority, that in either case ceased not more than 2 months prior to being appointed a Secretary, will be recognised as if accrued while as a Secretary and will be paid at full pay or half pay as recognised on appointment.

4.11 Neither unused personal leave nor unused sick leave accrued through prior service referred to in clause 4.10 will be paid out where a Secretary ceases for whatever reason to be a Secretary.

4.12 The Secretary's Minister may grant additional personal leave to a Secretary at the Secretary's Minister's discretion.

Miscellaneous leave

4.13 The Prime Minister or his or her delegate may grant leave of absence to a Secretary for a purpose that the Prime Minister or his or her delegate considers to be in the interests of the Commonwealth. Such leave of absence may be with or without pay and subject to conditions at the discretion of the Prime Minister or his or her delegate.

Statutory leave provisions

4.14 A Secretary is entitled to long service leave in accordance with the *Long Service Leave (Commonwealth Employees) Act 1976* and maternity leave in accordance with the *Maternity Leave (Commonwealth Employees) Act 1973*.

4.15 Application to take long service leave or maternity leave must be made to the Secretary's Minister.

PART 5 - LOSS OF OFFICE

- 5.1** Where a Secretary is terminated in accordance with the provisions of subsection 59(1) of the *Public Service Act 1999* and the Commonwealth has not made the Secretary an offer of suitable alternative employment, the Secretary is entitled upon his or her termination to be paid:
- (a) for a termination 12 months or more before the end of the Secretary's term of appointment — 12 months' Reference Salary at the time of termination; or
 - (b) for a termination less than 12 months before the end of the Secretary's term of appointment — 1 month's Reference Salary for each full month of the balance of the term not served, subject to a minimum payment of 6 months' Reference Salary at the time of termination.
- 5.2** In determining whether, for the purpose of clause 5.1, there has been an offer of suitable alternative employment, account is to be taken of any offer of employment with the Commonwealth, the administration of a Territory, or a public statutory corporation referred to in paragraph 3(4)(d) of the *Remuneration Tribunal Act 1973*, or an incorporated company all the stock or shares in the capital of which is or are beneficially owned by the Commonwealth or by a public statutory corporation, or an incorporated company limited by guarantee where the interests and rights of the members in or in relation to the company are beneficially owned by the Commonwealth or by a public statutory corporation.
- 5.3** If:
- (a) a Secretary who has been terminated (the '**former Secretary**') is appointed to suitable alternative employment in an office within the jurisdiction of the Tribunal; and
 - (b) the Total Remuneration that applies to that position is less than the Total Remuneration for the lowest pay point in the classification level of the office from which the former Secretary has been terminated;
- then the Tribunal may determine that, for up to 12 months from the appointment:
- (c) the former Secretary is entitled to Total Remuneration at that pay point; and
 - (d) the former Secretary's superannuation salary for the purposes of a Commonwealth defined benefits scheme will be 70% of that Total Remuneration.

Note: The Remuneration Tribunal will make an individual determination in each case.

PART 6 – NOTICE OF A DECISION NOT TO REAPPOINT

- 6.1** A Secretary who is not given 3 months' notice that he or she will not be reappointed to the position at the expiration of his or her term is entitled to 3 months' Reference Salary unless the Commonwealth has made the Secretary an offer of suitable alternative employment.
- 6.2** In determining whether, for the purpose of clause 6.1, an offer of suitable alternative employment has been made, regard is to be had to any offer of employment of the kind described in clause 5.2.

PART 7 - REMOVAL AND RELOCATION ASSISTANCE

Interpretation

7.1 In this Part:

'home locality' means the locality where the Secretary ordinarily lives immediately before the commencement of the term of appointment as Secretary takes place.

'locality of the Australian Capital Territory' means the Australian Capital Territory and those parts of New South Wales which fall within a 100 kilometre radius of Canberra.

'new locality' means the locality of the Australian Capital Territory.

'family reunion' means reunion between the Secretary and members of his or her immediate family who have elected to reside in the residence maintained by the Secretary in his or her home locality.

Relocation costs and allowances

7.2 A Secretary is entitled to payment at Commonwealth expense of his or her relocation costs from his or her home locality to the new locality in order to take up his or her appointment as a Secretary.

7.3 For the purposes of clause 7.2, relocation costs include, as applicable:

- (a) transportation of the Secretary and his or her partner and dependants, if any, from the home locality to the new locality, and their return to the home locality when the Secretary ceases to hold office as Secretary for whatever reason; and
- (b) the insured removal of the furniture, household effects and domestic animals of the Secretary and his or her partner and dependants from the home locality to the new locality, and their return to the home locality when the Secretary ceases to hold office as Secretary for whatever reason; and
- (c) costs of sale and purchase of residential housing under clause 7.10 below; and
- (d) if the Secretary rents accommodation in the new locality, bond money and utility connection deposits, to be repaid to the Commonwealth at the end of the tenancy.

Disturbance allowance

7.4 In addition to removal costs under subclause 7.3(b), a Secretary is entitled to a disturbance allowance of an amount applicable to a member of the Senior Executive Service as advised from time to time under the APSC Allowance Subscription Scheme.

Settling out allowance

7.5 The **'settling out period'** is the period of up to 7 days beginning on the day when the furniture and other household effects of the Secretary and his or her dependants, if any, are removed from the residence of the Secretary at the home locality.

7.6 During the settling out period, a Secretary is entitled to settling out allowance of:

- (a) in relation to the costs of accommodation – \$1,727 per week; and
- (b) in relation to meals and incidentals – up to the rate per week applicable to a member of the Senior Executive Service as advised from time to time under the APSC Allowance Subscription Scheme for Temporary Accommodation Allowances.

Settling in allowance

7.7 The 'settling in period' is the period beginning up to 7 days before the day when the Secretary begins duty at the new locality and ending on the earlier of:

- (a) the day when suitable accommodation or suitable temporary accommodation becomes available at that locality; or
- (b) the day 13 weeks after the day when the Secretary begins duty at the locality.

7.8 During the settling in period, a Secretary is entitled to settling in allowance of:

- (a) in relation to the costs of accommodation – \$1,727 per week; and
- (b) in relation to meals and incidentals – up to the rate per week applicable to a member of the Senior Executive Service as advised from time to time under the APSC Allowance Subscription Scheme for Temporary Accommodation Allowances.

Costs of sale and purchase of residential housing

7.9 A Secretary is entitled to reimbursement, at Commonwealth expense, of all reasonable costs of:

- (a) sale of a residence which is owned by him or her in the home locality if sold for the purposes of relocating to the new locality in order to take up the office of Secretary; and
- (b) purchase of a residence in the new locality in order to take up the office of Secretary other than the actual purchase price; and
- (c) sale of a residence which is owned by him or her in the new locality if sold for the purposes of relocating to the home locality when the Secretary ceases to hold office as Secretary for whatever reason.

7.10 For the purposes of clauses 7.3 and 7.9, costs of sale and purchase which may be reimbursed comprise, as applicable:

- (a) agent's commission; and
- (b) advertising fees; and
- (c) solicitor's fees; and
- (d) stamp duty; and
- (e) auction costs.

Accommodation support

7.11 A Secretary who did not live in the locality of the Australian Capital Territory immediately before the commencement of his or her term of appointment as Secretary is entitled to accommodation support of an amount per week equal to \$29,645 per annum for the duration of his or her term and any subsequent term as Secretary if he or she:

- (a) continues to maintain a residence in his or her home locality; and
- (b) does not buy a property in the locality of the Australian Capital Territory.

Reunion travel

7.12 A Secretary who, immediately before the commencement of his or her initial term of appointment as a Secretary, did not ordinarily live in the locality of the Australian Capital Territory and who continues to maintain a residence in his or her home locality during the initial term of appointment as a Secretary and during any successive term of appointment as a Secretary, is entitled, for the purposes of family reunion, in each 12

months of service, at his or her election at the time of appointment or reappointment to:

- (a) 12 Business Class return airfares between Canberra and the capital city nearest the home locality each year; or
- (b) travel for the purposes of reunion up to the value of 12 Business Class return fares between Canberra and the capital city nearest the home locality for each 12 month period.

7.13 The travel entitlement provided to a Secretary under clause 7.12 may be used by a Secretary and his or her immediate family members.

7.14 Travel provided to a Secretary under clause 7.12 may be exercised only while he or she occupies the office of a Secretary. Any travel not taken by the day a Secretary ceases to occupy the office of a Secretary ceases to be available.

7.15 The value of the travel provided to a Secretary under clause 7.12 may not be taken as a cash equivalent or converted to any other use.

Dependants' education allowance

7.16 A Secretary who, immediately before the commencement of his or her initial term of appointment as a Secretary, did not ordinarily live in the locality of the Australian Capital Territory, is entitled to reimbursement for boarding and tuition fees for his or her dependent children under 20 years of age undertaking the second last or final year of secondary education on the terms and conditions set out in Part 5 of Chapter 7 of Public Service Determination 1998/5, irrespective of whether or not that Determination continues in force generally, as if he or she were a prescribed officer under those terms and conditions, and at the rates of allowance and contribution as advised from time to time under the APSC Allowance Subscription Scheme for Education Costs Allowances.

PART 8 - ASSISTANCE FOR TRAINING AND DEVELOPMENT

Leave for training and development

8.1 The Prime Minister or his or her delegate may grant leave of absence with pay to a Secretary to enable him or her to pursue training or development activities that the Prime Minister or his or her delegate considers to be in the interests of the Commonwealth. Such leave of absence may be subject to conditions at the discretion of the Prime Minister or his or her delegate.

Costs of training and development

8.2 The Secretary's Minister may approve reimbursement of costs incurred by a Secretary in connection with training or development activities. Such reimbursement is at the discretion of the Secretary's Minister and may be in full or in part and may be subject to conditions.

PART 9 - DELEGATION

Secretary's Minister may delegate functions

9.1 The Secretary's Minister may delegate any of his or her functions under this Determination to another Minister.