

**REMUNERATION TRIBUNAL
ANNUAL REPORT
2007-2008**

© Commonwealth of Australia 2008

ISSN 0728-7216

This work is copyright. You may download, display, print and reproduce this material in unaltered form only (retaining this notice) for your personal, non-commercial use or use within your organisation. Apart from any use as permitted under the *Copyright Act 1968*, all other rights are reserved. Requests and inquiries concerning reproduction and rights should be addressed to Commonwealth Copyright Administration, Attorney General's Department, Robert Garran Offices, National Circuit, Barton ACT 2600 or posted at <http://www.ag.gov.au/cca>



REMUNERATION TRIBUNAL

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

Dear Minister

We have pleasure in presenting to you the Remuneration Tribunal's Annual Report for 2007-2008. The report covers the activities of the Tribunal during the year ended 30 June 2008.

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

Yours sincerely

Handwritten signature of John C Conde in black ink.

John C Conde AO
PRESIDENT

Handwritten signature of Janet E Grieve in black ink.

Janet E Grieve
MEMBER

Handwritten signature of John D C Allen in black ink.

John D C Allen
MEMBER

25 SEP 2008

TABLE OF CONTENTS

Overview	1
1. Introduction to the Tribunal.....	7
2. Membership of the Tribunal.....	7
3. The Work of the Tribunal.....	8
3.1 Full-Time Public Office Holders	8
3.2 Part-Time Public Office Holders	10
3.3 Principal Executive Offices.....	12
3.4 Judicial and Related Offices	14
3.5 Ministerial and Parliamentary	16
3.6 Official Travel.....	19
3.7 Advisory Functions.....	19
4. Financial Matters	20
5. Consultancies.....	20
6. Legislative Requirements	20
6.1 Occupational Health and Safety Act 1991.....	20
6.2 Advertising and Market Research (Commonwealth Electoral Act 1918).....	20
6.3 Environment Protection and Biodiversity Conservation Act 1999	20
6.4 Freedom of Information Act 1982	21
6.5 Legislative Instruments Act 2003.....	21
Appendix 1 – List of Determinations and Reports for 2007-2008	22
Appendix 2 – Variation to Bodies/Offices in 2007-2008	23
Appendix 3 – Secretariat.....	25
Appendix 4 - Freedom of Information Act 1982.....	26
Appendix 5 - Corrections to 2006-2007 Annual Report.....	28

Overview

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

Annual Adjustment

The Tribunal's practice is to determine an annual adjustment applicable to all offices in its jurisdiction. On 15 June 2008, the Tribunal determined a general increase of 4.3%, with effect from 1 July 2008. Australian Bureau of Statistics data for the March Quarter 2008 indicated an annual CPI increase of 4.2%; data released since the end of the reporting year indicates an annual CPI increase, to June 2008, of 4.5%.

The Tribunal issued a Statement in conjunction with its decision¹.

The Statement mentioned that the Tribunal had been conscious of movements in the remuneration of the Senior Executive Service (SES) of the Australian Public Service (APS) for several years. Survey data showed that these movements - between 5% and 6% annually over an extended period - consistently exceeded adjustments determined by the Tribunal over the same period. As a consequence, remuneration relativities of offices in the Tribunal's jurisdiction have declined significantly compared to the SES. Previous Tribunal reports have mentioned this. The Statement noted that the Tribunal regarded such shifts as being inconsistent with the respective responsibilities of the offices concerned and foreshadowed that the Tribunal would revisit these issues towards the end of 2008.

Reviews

Apart from undertaking general reviews of the remuneration of public offices, the Tribunal undertakes reviews of individual offices and groups of offices. The Overview in the 2006-2007 Annual Report also mentioned this.

The Tribunal has noted previously 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. The Prime Minister, the Hon Kevin Rudd MP, touched on this theme in a significant address to Heads of Agencies and Members of the SES on 30 April 2008².

A review may be necessary if there are indications that recruitment action is not attracting candidates of suitable quality. In saying this, it has been the Tribunal's long-standing view that people of high quality have been willing to bring their energies and skills to the public sector for remuneration that is less than that available in the private sector. However, such commitment cannot be taken for granted, particularly as the demands and risks associated with high public office increase.

In the 2005-2006 Annual Report, I noted that over time *"...developments in public administration can bring about significant changes in the roles and responsibilities of public offices."* In respect of an individual office, legislative and other developments may have had an effect such as to justify some adjustment in remuneration.

¹ <http://www.remtribunal.gov.au/determinationsReports/byYear/2008/2008%20Review%20of%20Remuneration%20for%20Holders%20of%20Public%20Office.pdf>

² http://www.pm.gov.au/media/Speech/2008/speech_0226.cfm

Reviews of groups of offices may be prompted by similar considerations, although broader factors may also be relevant. For example, since its establishment the Federal Magistrates Court has experienced considerable expansion in its jurisdiction, accompanied by consistent increases in the numbers of Federal Magistrates. In the Tribunal's view, this Court has met, and continues to meet, the objectives set initially for it - namely that it should handle less complex federal matters more efficiently and effectively, thereby providing a quicker and cheaper option for litigants. Such developments have been the basis for adjustments in the remuneration of Federal Magistrates, over and above the Tribunal's annual adjustments, in recent years.

The Tribunal initiated several reviews in 2007-2008, and continued its work on others.

Relativities between the Federal Courts

The Tribunal's 2006-2007 Annual Report referred to the consideration to be given to developments in the work of the federal courts, and mentioned that clarification had been sought from the courts about a range of issues. The Tribunal received substantial submissions from each of the courts concerned (the Federal Court of Australia; the Family Court of Australia; and the Federal Magistrates Court) and has informed the Chief Justices and the Chief Federal Magistrate of its preliminary views. In response, the Tribunal has received additional substantial submissions from these three courts.

Secretaries of Departments

The Tribunal has commenced a review of Secretaries of Commonwealth Departments. These offices have not been reviewed since 1999.

The office of Secretary is the most senior in the APS. There are, presently, 19 such offices. Each is responsible for managing a Department, each Department being a primary source of policy advice to government and a key instrument in the implementation of government policies.

The Tribunal does not determine remuneration for these offices; under the *Public Service Act 1999*, that responsibility is vested in the Prime Minister, having taken the Tribunal's advice into account.

I referred earlier to the decline in remuneration relativities of senior public offices compared to movements, over an extended period, in SES remuneration. This decline in remuneration relativities is of particular relevance to Secretaries, as SES officers are invariably their direct reports. It is axiomatic that the responsibilities of a chief executive are considerably greater than those of any of his, or her, subordinates.

As a first step in our review, the Tribunal commissioned a paper on the roles and responsibilities of Secretaries. This established the foundation for the next phase of the review, discussions between Tribunal Members and individual Secretaries. These discussions were conducted with the assistance of an external adviser with extensive experience in reviewing senior executive roles in both the public and private sectors.

I expect that the Tribunal will have developed preliminary views about the nature and scope of the roles and responsibilities of Secretaries, and the relativities between them, before the end of calendar 2008. The Tribunal is gathering relevant data about the demands of these jobs, relative to others in the public and private sectors. In arriving at conclusions, we will have regard for remuneration levels and trends in the public sector across all Australian jurisdictions, as well as information derived from public bodies outside the APS.

The Tribunal has not yet reached any conclusions. However, the work to date suggests 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 present remuneration range does not reflect adequately the range of responsibilities of these offices; and
- conditions of engagement should reflect better the term of appointment and any early termination of it.

I anticipate that the Tribunal will be in a position to provide a report of its review to the Prime Minister in the first quarter of 2009.

In May 2008, the Prime Minister sought the Tribunal's advice about the abolition of performance pay for Secretaries. The Tribunal advised that the performance cycle for 2007-2008 should be concluded by the payment of a lump sum of 14% of total remuneration (this being of the order of the average bonus paid to Secretaries in 2006-2007) and that, for 2008-2009, total remuneration for these offices should be increased by the same percentage. Consequently, on 30 June 2008, by Determination under section 61 of the *Public Service Act 1999*³, the Prime Minister determined remuneration for Secretaries absorbing the previous performance pay arrangements, and incorporating an increase of 4.3%, consistent with the annual adjustment determined by the Tribunal for offices in its jurisdiction.

Parliamentary Offices

The Overview to the 2006-2007 Annual Report explained the regulatory link between Reference Salary A in the Tribunal's PEO classification structure and the base salary of parliamentarians, and provided background about that linkage. The Overview also mentioned the additional salaries of ministers and of the holders of parliamentary offices (each being expressed as a percentage of the base parliamentary salary) and noted that the Tribunal reports upon the former and determines the latter.

The Tribunal's determination of the additional salaries of the holders of parliamentary offices⁴ has, over time, come to incorporate provisions for several offices that are expressed directly or indirectly in party-specific terms. In June 2008, the Tribunal wrote to the leaders of parties represented in the Parliament, and relevant office holders, to invite submissions about expressing the nomenclature of parliamentary offices in generic terms. The Tribunal expects to determine revised arrangements during 2008 once it has considered responses received.

As noted above, additional salaries are expressed as percentages of parliamentary base salary. As a result, factors that affect the base salary also bear upon the additional salaries of ministers and the holders of parliamentary offices.

³ published in Special Gazette No. S136 of 4 July 2008;
[http://www.ag.gov.au/portal/govgazonline.nsf/8FA74A474B940718CA25747C00166BDF/\\$file/S136.pdf](http://www.ag.gov.au/portal/govgazonline.nsf/8FA74A474B940718CA25747C00166BDF/$file/S136.pdf)

⁴ Determination 2007/17: Parliamentary Office Holders - Additional Salary
<http://www.remtribunal.gov.au/determinationsReports/byYear/2007/2007-17%20Determination.pdf>

The Government's announcement, in February 2008, that parliamentary base salary would not be adjusted in 2008-2009 is mentioned in the body of this Report. The Tribunal notes that the Government made clear, publicly, its policy intention towards parliamentarians' pay well in advance of the Tribunal's determination of an adjustment to Reference Salary A and gave the policy effect by specific regulation without affecting any other office in the Tribunal's jurisdiction.

Governments have decided, from time to time, to adjust or vary the remuneration of parliamentarians in a manner consistent with policy objectives then current. The closure of the Parliamentary Contributory Superannuation Scheme to new members in 2004 is one such example.

There is plenty of evidence to suggest that parliamentarians, especially Ministers, are not paid appropriately for the work and responsibilities of office. The continuing difficulty for parliamentarians is that the public, reinforced by the media, tends to be sceptical about any proposals for improvement. Additionally, governments have more pressing priorities than reviewing the remuneration of parliamentarians.

The history of parliamentary remuneration is marked by actions which have either deferred or disallowed increases proposed by third parties, or which have actually reduced the remuneration. Therefore, over the decades, the remuneration of parliamentarians relative to public offices in particular, and remuneration in general, has declined.

The Tribunal's concern is that there has been no thorough review of the remuneration of parliamentarians for nearly twenty years. In these circumstances, base salary is not only less now than it might otherwise have been, it is also significantly below the level at which it would have been at 30 June 2008, had there been a consistent, sustained, basis for its fixation. I referred to the apparent adverse shifts in relativities between parliamentarians and the SES in last year's Overview.

The Tribunal reports on, but does not determine, the additional salaries payable to Ministers of State. The Tribunal's most recent report - Report Number 1 of 2007⁵ - lists each office concerned and the additional salary, expressed as a percentage of parliamentary base salary, that the Tribunal considers appropriate for the office. For "Other Ministers in Cabinet" (for these purposes, a 'Cabinet Minister'), the additional salary is 72.5% of the parliamentary base salary.

The Tribunal notes its understanding that, in the late 1960s (prior to the Tribunal's establishment), the aggregate remuneration of a "Senior Minister" (a Cabinet Minister in contemporary terms) was of the order of that of a Departmental Secretary. As at 1 July 2007, a 'Cabinet Minister' received - in base salary and additional salary - \$219,179. At that date, the salary for superannuation purposes of a lower level Secretary was \$307,540; the actual available cash salary was somewhat greater (but less than the total remuneration amount of \$384,420). As at 1 July 2008, the salary of a 'Cabinet Minister' remained at \$219,179, while the salary for superannuation purposes of a lower level Secretary is now \$365,670.

⁵ Remuneration Tribunal Report Number 1 of 2007 - Report on Ministers of State - Salaries Additional to the Basic Parliamentary Salary

<http://www.remtribunal.gov.au/determinationsReports/byYear/2007/2007%20Report%20No%201..pdf>

The Department of Education, Employment and Workplace Relations commissions, annually, a survey of APS SES remuneration. The 2007 Survey⁶ shows that the average base salary for SES Band 3 officers was, at 31 December 2007, \$222,741. SES Band 3 officers are typically direct reports of a Departmental Secretary. In other words, the average salary of an SES Band 3 officer was greater than that of the 'Cabinet Minister' to whom the Department provides advice.

The Tribunal notes that, on the basis of Report Number 1, at the date of this report the base salary and additional salary of the Prime Minister amount to \$330,356.

In drawing the foregoing comparisons, the Tribunal is not advocating that the remuneration of ministers and Secretaries should be in some fixed relationship. Nor is the Tribunal suggesting that there be a linkage between the remuneration of parliamentarians and that of the SES.

The Tribunal noted in its 2006-2007 Annual Report that, in relative terms, it appeared that ministerial remuneration had fallen behind. The 2007 APS Survey tends to reinforce this observation. At the time of writing, developments in the global economy would suggest that, in the period ahead, there will be some moderation in remuneration trends that have been observed for some years. Nonetheless, the Tribunal reiterates its interest in the continuing appropriateness of the existing relativities.

The effects of continued discounting of parliamentary base salary are diffuse. It is unlikely, for example, that a parliamentarian will resign as a consequence of the level of remuneration prevailing at any particular time. However, it may be the case that, over time, fewer citizens will seek to serve in elected office, or that diversity in representation will diminish. Individual circumstances may cause some elected representatives to seek means to augment their present incomes, or their incomes in retirement, with consequential distraction from their principal elected responsibilities. Such possibilities are akin to the circumstances of the 'boiling frog' - subtle and uncertain effects at any given point in time, but substantial, and potentially irreversible, consequences in the longer term.

In summary with respect to parliamentary remuneration, it is evident clearly that, notwithstanding modest annual salary adjustments, the long-term trend has seen a reduction in overall benefits. At the same time, the responsibilities and expectations of government and of individual members and ministers have undoubtedly increased.

The Tribunal remains concerned that the remuneration of Ministers of State is not commensurate with their responsibilities. Some will argue that, since there are always parliamentarians ready to take on ministerial responsibility, additional remuneration is neither necessary nor justified. Apart from being at odds with the views of those who framed the Constitution, such a position is inconsistent with the establishment of fair and reasonable remuneration for any job. In the Tribunal's view, the many and varied jobs of parliamentarians should be assessed and rewarded on a similar basis.

No matter which party forms government, Australia deserves to have a federal ministry made up of the most able, committed and diligent members of that parliamentary party and those appointed to ministerial office should be remunerated appropriately.

⁶ 2007 APS SES Remuneration Survey -

<http://www.workplace.gov.au/workplace/Organisation/Government/Federal/Reports/2007APSRemunerationSurvey.htm>

Conclusion

As in previous years, discussions with office holders have played an important part in the Tribunal's work. The discussions with Secretaries of Departments, for example, have afforded the Tribunal very considerable insights into the dimensions of their roles and those of their respective departments which are federal institutions of continuing and wide-ranging relevance to all Australian citizens. Such discussions, and those with senior figures outside public administration, reinforce the Tribunal's understanding of developments in its jurisdiction relevant to decisions on remuneration. My colleagues and I value greatly the responsiveness and openness of those with whom we meet.

The Tribunal's Secretariat, ably led by Mr Derren Gillespie, makes a crucial contribution to the Tribunal's work. My colleagues and I acknowledge the professionalism and commitment of the officers concerned and thank them warmly.

Finally, I thank my fellow Tribunal Members - Ms Janet Grieve and Mr John Allen - for their work and support in 2007-2008.

John C Conde AO
President

1. Introduction to the Tribunal

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

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

2. Membership of the Tribunal

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

The current members of the Tribunal are:

Mr John Conde AO – President - appointed on 19 June 2008 as Member and President for five years with effect from 25 June 2008. Mr Conde was originally appointed as a member of the Remuneration Tribunal on 18 June 1998. Mr Conde is the Chairman of Energy Australia, BUPA Australia Holdings Pty Ltd, BUPA Australia Health Pty Ltd and Whitehaven Coal Limited. Mr Conde is Chairman of Sydney Symphony Limited and a member of the Grant Samuel Advisory Board. He also holds positions on the boards of the NSW Corporate Committee of the Australian Olympic Committee, Australian Major Performing Arts Group, and the Australian Elizabethan Theatre Trust.

Ms Janet Grieve – appointed from 12 April 2005 for five years. Ms Grieve was originally appointed as a member of the Tribunal on 12 April 2000. Ms Grieve is currently a Director of Flinders Partners Pty Ltd and has also sat formerly on a number of industry and government boards.

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

3. The Work of the Tribunal

During the year, the Tribunal held 14 meetings, including 8 out-of-session meetings, to consider and determine matters. It also met with a range of interested parties. The Tribunal considered approximately 98 briefings and expressed its conclusions in 17 Determinations.

3.1 Full-Time Public Office Holders

The Framework

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

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

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

As reported last year, the Tribunal provided full-time office holders (FTOHs) with a general increase in remuneration of 4.2% from 1 July 2007. This increase was implemented via Determination 2007/13.

The Tribunal issued Determination 2008/08 in June 2008, which increased remuneration for these offices by 4.3% with effect from 1 July 2008.

A number of submissions on the remuneration, conditions and/or allowances of individual FTOHs were also considered in the course of the year. As a result, adjustments were made in respect of 16 offices. These included two new offices - the Executive Director of Township Leasing; and the Chair of the Murray-Darling Basin Authority - and two offices that were moved into the FTOH structure from the Principal Executive Office structure - the Registrar of the Administrative Appeals Tribunal and the Chief Executive Officer of the Australian Pesticides and Veterinary Medicines Authority.

At the end of the reporting period, there were 86 full-time offices for which the Tribunal determines remuneration.

Specified Statutory Officers

The Tribunal is responsible for determining the remuneration of a significant group of full-time public offices whose remuneration is broadly equivalent to that of departmental Secretaries. This group of offices - referred to as the Specified Statutory Officers (SSOs) - includes the Chief of the Defence Force, the Commissioner of Taxation, the Auditor-General, the Chief Executive Officer of Customs and the Australian Statistician. As reported last year, the remuneration of these offices was increased by 4.2% with effect from 1 July 2007 by Determination 2007/12. Determination 2008/06 increased the remuneration of these offices by 4.3% with effect from 1 July 2008.

The Tribunal also increased the payment-in-lieu of performance pay received by SSOs to 14% of total remuneration, consistent with the implementation of the Australian Government's decision to abolish performance-based pay for departmental Secretaries.

The Tribunal will review the SSO group in 2008-2009. It is expected that the outcome of the review will be announced in the second half of 2008.

3.2 Part-Time Public Office Holders

The Framework

The Tribunal is responsible, under the *Remuneration Tribunal Act 1973* (the Act), for setting the remuneration and some allowances for a range of part-time public offices. These offices are diverse and include the chairs and members of boards, councils, committees and administrative tribunals whose work may be regular or intermittent.

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

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

The Tribunal issued Determination 2008/07 in June 2008, which provided for a general increase in remuneration of 4.3% for part-time office holders (PTOHs) in its jurisdiction, with effect from 1 July 2008.

The previous increase for these offices - implemented via Determination 2007/10 with effect from 1 July 2007 - was 4.2%.

The Tribunal also considered submissions on remuneration and/or conditions for a number of individual offices during the reporting period. As a result, adjustments were made in respect of seven offices. These were associated with the ASC Pty Ltd; Defence Families of Australia; National Competition Council; and Tourism Australia.

In addition, the Tribunal set remuneration for offices in nine bodies for which determinations had not been made previously. These were the Australian Families and Children Council; Australian Social Inclusion Board; Commission for International Agricultural Research; Export Wheat Commission; Gene Technology Ethics and Community Consultative Committee; Higher Education Endowment Fund Advisory Board; Infrastructure Australia; Regional Telecommunications Independent Review Committee; and Skills Australia.

There were three name changes made to bodies in the Determination. In addition, offices associated with ten obsolete or defunct organisations were deleted from the Determination. These included offices associated with the Forests and Wood Products Research and Development Corporation; Maritime Industry Finance Company Limited; and Wheat Export Authority.

At the end of the reporting period, the Determination referred to some 250 organisations. In general, each organisation had several offices within the Tribunal's jurisdiction. The Tribunal also determined the annual adjustment increase for the three categories of part-time public offices not specifically named in the Determination.

The Tribunal met with the Chairs of a number of boards to explore a wide range of issues including the remuneration, time commitment and workload of PTOHs. These meetings provided the Tribunal with valuable insights and were useful in refining the general framework used in setting fees for PTOHs.

The Tribunal plans to undertake a review of the governance of its part-time bodies, with a view to considering the ongoing appropriateness of existing remuneration structures. The Tribunal will consult with a range of office holders to discuss current arrangements.

3.3 Principal Executive Offices

The Framework

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

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

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

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

These arrangements afford employing bodies a more direct role in determining the remuneration of the PEOs, who include the CEOs of government business enterprises such as Australia Post, Medibank Private Ltd and the Export Finance and Insurance Corporation; the heads of agencies such as Comcare, the Australian War Memorial, Health Services Australia; and the managing directors of bodies such as the Australian Institute of Health and Welfare, the Australian Institute of Sport, the National Gallery of Australia, the Australian Broadcasting Corporation, and the Special Broadcasting Service. A full list of Principal Executive Offices can be found on the Tribunal web site at www.remtribunal.gov.au/principalExecutiveOffices/currentDetermination/listPEO.asp.

As reported in the Tribunal's 2006-2007 Annual Report, the band maxima and reference salaries of the Principal Executive Office (PEO) classification structure were increased by 4.2% with effect from 1 July 2007, consistent with the Tribunal's general remuneration adjustment (Determination 2007/08).

The Tribunal also in 2007 made available to employing bodies an additional 2.5% in discretion, increasing the total discretion to 5% above individual reference rates for office holders with 12 months or more experience in their roles. This was effected by Determination 2007/04, which adjusted the band maxima and reference salaries of the PEO structure by 2.5%. The measure completed the implementation of the outcomes of the Tribunal's major review of PEO remuneration arrangements.

In June 2008 the Tribunal increased the band maxima and reference salaries of the PEO structure by 4.3% from 1 July 2008, in line with the general adjustment for offices in its jurisdiction, via Determination 2008/10. The increase was reflected in each of the individual PEO total remuneration reference rates.

During the reporting period the Tribunal considered submissions for new and existing offices, generally relating to reviews of remuneration and/or conditions, or changes to

governance arrangements. At 30 June 2008, there were 98 Principal Executive Offices; two offices were removed during the period.

The Government has stated its policy intention to move away from performance pay arrangements which entail ministerial involvement in making remuneration-related decisions. In July 2008, the Tribunal provided advice to the Minister for Education, Employment and Workplace Relations on means of implementing this policy in respect of agency heads, some of whom hold Principal Executive Offices.

3.4 Judicial and Related Offices

The Framework

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

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

The Judiciary

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

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

Administrative Tribunals

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

Related Offices

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

Entitlements Outside the Tribunal's Determinative Powers

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

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

The Federal Judiciary

During the last and current reporting periods, the Tribunal has been conducting an extensive review of remuneration in the Federal, Family and Federal Magistrates' Courts. The Courts themselves have invested considerable time and effort into this process and have provided the Tribunal with extensive information about their work. Because of this and other factors, the Tribunal advised the various bodies covered by its Judicial and Related Offices' Determination that submissions addressing the question of an annual adjustment were not necessary unless the Court, or Tribunal, in question wished to provide one.

Annual Adjustment

As a result, there were no substantive submissions directed specifically to the question of an annual review received from office holders. The Tribunal received a submission from the Attorney-General which was taken into consideration in reaching its decision on the amount of an annual adjustment.

The Tribunal decided to provide a general increase of 4.3% to all office holders under the Determination, and issued Determination 2008/09 to this effect on 5 June 2008. This will take effect from 1 July 2008, although remuneration for judicial offices cannot be actioned until the Determination's disallowance period in the Parliament has passed. The Determination also increased a number of allowances and loadings that apply to specific judicial and related offices.

Review of Relativities

Although the remuneration of judges of the Federal Court of Australia and the Family Court of Australia has been aligned for a considerable period, it has not always been so. In reviewing relativities between these courts, the Tribunal's view was that the existing parity in remuneration would continue in the absence of convincing arguments to the contrary. In June 2008, the Tribunal received a further submission from the Federal Court of Australia contending that the salary of a Federal Court Judge should be increased relative to certain other judicial salaries.

The Federal Magistrates Court has argued that changes in the work of the Court, over time, justify the remuneration of its Magistrates being fixed at a level closer to that of a judge of the federal superior courts.

In the second half of the reporting year, the Attorney-General's Department commissioned a review of the 'optimal structure' for the delivery of family law services by the Family Court and the Federal Magistrates Court. In view of the likely relevance of this review to the Tribunal's consideration of relativities, in May 2008, the Tribunal advised the Courts that it would postpone its review pending Government consideration of the outcome of the departmental review.

Judicial Remuneration Coordination Group

As has occurred each year since 1990, in May 2008 the Tribunal convened a meeting of the Commonwealth/State Judicial Remuneration Coordination Group to discuss issues relevant to the remuneration of the judiciary across all jurisdictions.

3.5 Ministerial and Parliamentary

The Framework

The *Remuneration and Allowances Act 1990* provides that the Tribunal may be required to report to the Government on the annual salary to be paid to Members of the Parliament.

The Tribunal also has the power, under the *Remuneration Tribunal Act 1973*, to inquire into and to either report to the Minister on, or determine, additional salaries and allowances paid to ministers and parliamentary office holders.

Base Salary

In 1999, the Tribunal was asked by the Government to report on parliamentarians' base salary and to identify a reference salary and mechanism for adjustment. The Government, and subsequently both Houses of Parliament, accepted the Tribunal's recommendation that the reference salary be Reference Salary A in Band A of the Principal Executive Office structure. This recommendation was given effect by the *Remuneration and Allowances Regulations 1999*.

Additional Salary for Ministers and Parliamentary Office Holders

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

The Tribunal determines the additional salary for holders of 58 parliamentary offices such as the Leader and Deputy Leader of the Opposition, the Presiding Officers, Whips, and the Chairs and Deputy Chairs of various parliamentary committees.

Other Allowances and Entitlements

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

Entitlements Outside the Tribunal's Determinative Powers

The Tribunal does not determine the entire range of entitlements available for Members of Parliament. Matters relating to the provision of support for Senators and Members of Parliament that are not within the jurisdiction of the Tribunal are decided by the Government, through the Special Minister of State, or the Parliament. The following Acts are relevant in this regard:

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

Parliamentary Base Salary

While the Tribunal does not have a direct determinative role in relation to parliamentary salary, questions about the remuneration of parliamentarians are often directed to it. The Tribunal therefore considers it appropriate, for purposes of transparency, to set out its understanding of the ongoing basis for calculation of parliamentary salary.

Reference Salary A in Band A of the Principal Executive Office (PEO) classification structure was increased to \$127,060 per annum with effect from 1 July 2007 (Determination 2005/19, as amended), as reported last year.

By the operation of *Remuneration and Allowances Regulations 2005* (Select Legislative Instrument 2005 No. 308), the annual salary of a parliamentarian (both Members of the House of Representatives and Senators) for the 2007-2008 financial year was equal to Reference Salary A.

In February 2008, the Prime Minister announced that the pay of parliamentarians would remain at the same level during 2008-2009 and that there would be no catch-up of the forgone remuneration in future years. This decision was implemented through the *Remuneration and Allowances Amendment Regulations 2008 (No 1)*, which came into effect on 1 July 2008. The Regulations fix parliamentary base salary for 2008-2009 at its 2007-2008 level - \$127,060 (Reference Salary A as at 1 July 2007) - and, while maintaining a link to Reference Salary A, discount it in future by the amount by which Reference Salary A was increased on 1 July 2008. As the Tribunal increased Reference Salary A by 4.3% - \$5470 - with effect from 1 July 2008, then, unless otherwise varied, parliamentary base salary will continue to be Reference Salary A, as adjusted in future by the Tribunal, discounted by that amount.

Additional Salary for Ministers and Parliamentary Office Holders

As required by the Act, the Tribunal considered a range of parliamentary matters during 2007-2008. On 16 October 2007 the Tribunal made its annual report on Ministers' additional salary (Report No 1 of 2007). The Report expresses the additional salaries of Ministers of State as percentages of the base salary of a parliamentarian. The percentages established in 1999 were continued in Report No 1 of 2007.

On 16 October 2007, the Tribunal made Determination 2007/17 setting rates of additional salary for parliamentary office holders. This Determination also expresses the additional salary as a percentage of the base salary of a parliamentarian. There were no substantive variations in this Determination from its predecessor. The Tribunal has, in the latter part of the reporting period, been considering whether each individual office listed as a 'parliamentary office' remains relevant to the Parliament as it is currently constituted. Submissions have been sought from each of the parties represented in Parliament, as well as from the presiding officers.

As the additional salary of both Ministers and parliamentary office holders is expressed as a percentage of the base salary, the Regulation maintaining base salary at its current level for the 2008-2009 year also has the effect of freezing additional salary at its 2007-2008 level.

Allowances and Entitlements for Senators and Members

A number of issues, particularly in relation to travel allowance and provision of communication equipment, were considered in the course of the year following representations from various parties, without any changes being made to substantive provisions.

Following consideration of the workload and responsibilities of the Chief Whips of the Government and Opposition in the House of Representatives, the Tribunal determined access to a trial period of additional travelling allowance for those offices, in order to enable them to travel away from their home base and from Canberra in pursuance of their duties. This trial, which ended on 30 June 2008, provided the Chief Whips with a maximum of 10 nights travel in the first half of 2008.

Shortly after the conclusion of the reporting period, the Tribunal decided to extend the term of the operation of this provision, and to afford the principal Senate Whips a like entitlement.

3.6 Official Travel

The Framework

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

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

The Tribunal adjusted the travelling allowance rates applicable to full and part-time office holders; Principal Executive Offices; and judicial and related office holders with effect from 3 September 2007. The changes were made through Determination 2007/16 - Official Travel by Office Holders, which amended the principal Determination 2004/03.

The travel allowance rates and general travel provisions for parliamentary offices are contained in Determination 2007/15 - Members of Parliament - Travelling Allowance; and Determination 2006/18 - Members of Parliament Entitlements.

In considering the travel allowance rates provided in the determinations, the Tribunal had regard for the rates in the Australian Taxation Office's *'Income tax: what are the reasonable travel and meal allowance expense amounts for 2007-2008?'*.

3.7 Advisory Functions

The Framework

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

The Tribunal provided advice to the current and former Prime Ministers about the remuneration of departmental Secretaries in accordance with the requirements of the *Public Service Act 1999*. Advice was also provided to relevant bodies on the remuneration and other conditions of a range of offices for which the Tribunal has advisory responsibilities.

During the reporting period, the Tribunal commenced a review of Secretaries of Departments. The Tribunal expects that the review will be completed in 2008-2009.

4. Financial Matters

The Tribunal's financial requirements are met through the Department of Education, Employment and Workplace Relations (DEEWR), sub-program 2.2.4, "Secretariat to the Remuneration Tribunal". There is no separate form of accounts applicable to the Tribunal.

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

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

5. Consultancies

Morris Walker Pty Ltd (Morris Walker) continued to provide media advisory services to the Tribunal. As reported last year, Morris Walker was selected, following a tender process, to provide such services for, initially, three years from 1 December 2004. Under the terms of the contract, an option was exercised to extend this period by another year.

The Tribunal notes that, as part of its review of departmental Secretaries, the Department of Education, Employment and Workplace Relations (and its predecessor Department) entered into two contracts:

- (i) Mr Richard C. Smith AO - for the preparation of a paper about the roles and responsibilities of departmental Secretaries; and
- (ii) Egan Associates – provision of assistance with the review of departmental Secretaries, including preparation of associated papers.

6. Legislative Requirements

6.1 Occupational Health and Safety Act 1991

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

6.2 Advertising and Market Research (Commonwealth Electoral Act 1918)

The Tribunal did not undertake any advertising or market research activities in the reporting year.

6.3 Environment Protection and Biodiversity Conservation Act 1999

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

6.4 *Freedom of Information Act 1982*

The Tribunal is subject to the provisions of the *Freedom of Information Act 1982* (FOI Act). No requests for access to documents under the FOI Act were received during the reporting year.

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

6.5 *Legislative Instruments Act 2003*

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

Appendix 1 – List of Determinations and Reports for 2007-2008

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

- The tabling offices of the Senate or the House of Representatives;
- The Tribunal's website www.remtribunal.gov.au; and
- The Federal Register of Legislative Instruments website www.frli.gov.au

2008/11	Remuneration and Allowances for Holders of Public Office
2008/10	Principal Executive Office (PEO) Classification Structure and Terms and Conditions
2008/09*	Judicial and Related Offices - Remuneration and Allowances
2008/08*	Remuneration and Allowances for Holders of Full-Time Public Office
2008/07*	Remuneration and Allowances for Holders of Part-Time Public Office
2008/06*	Specified Statutory Officers - Remuneration and Allowances
Statement	2008 Review of Remuneration for Holders of Public Office
2008/05	Remuneration and Allowances for Holders of Public Office
2008/04	Remuneration and Allowances for Holders of Public Office
2008/03	Remuneration and Allowances for Holders of Public Office
2008/02	Members of Parliament - Travelling Allowance
2008/01	Remuneration and Allowances for Holders of Public Office
2007/19	Remuneration and Allowances for Holders of Public Office
2007/18	Remuneration and Allowances for Holders of Public Office and Members of Parliament
Report 1	Report on Ministers of State - Salaries Additional to the Basic Parliamentary Salary
2007/17*	Parliamentary Office Holders - Additional Salary
2007/16	Official Travel by Office Holders
2007/15*	Members of Parliament - Travelling Allowance
2007/14	Remuneration and Allowances for Holders of Public Office

* These documents are Principal Determinations

Appendix 2 – Variation to Bodies/Offices in 2007-2008

Full-Time Offices

New

Registrar, Administrative Appeals Tribunal (moved from PEO structure);
Chief Executive Officer, Australian Pesticides and Veterinary Medicines Authority (moved from PEO structure);
Executive Director of Township Leasing;
Chair, Murray-Darling Basin Authority.

No Longer Appearing in the Determination

Nil.

Renamed

Nil.

Part-Time Offices

New

Australian Families and Children Council;
Australian Social Inclusion Board;
Commission for International Agricultural Research;
Export Wheat Commission;
Gene Technology Ethics and Community Consultative Committee;
Higher Education Endowment Fund Advisory Board;
Infrastructure Australia;
Regional Telecommunications Independent Review Committee;
Skills Australia.

No Longer Appearing in the Determination

Australian Centre for International Agricultural Research Board,
Australian Council for Children and Parenting;
Australian Council for Employment and Training;
Commissioner appointed under the *Environment Protection (Impact of Proposals) Act 1974*;
Forest and Wood Products Research and Development Corporation;
Gene Technology Community Consultative Committee;
Gene Technology Ethics Committee;
Maritime Industry Finance Company Limited;
National Health and Medical Research Council – Gene and Related Therapies Research Advisory Panel;
Wheat Export Authority.

Renamed

Carrick Institute for Learning and Teaching in Higher Education Ltd: now Australian Learning and Teaching Council;

Defence Housing Authority: now Defence Housing Australia;
Pooled Development Funds Program Registration Board: now Venture Capital Registration Board.

Appendix 3 – Secretariat

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

The Secretary to the Tribunal is Mr Derren Gillespie.

The Secretariat can be contacted by writing to:

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

Or via:

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

This Annual Report is available on the Tribunal's website: www.remtribunal.gov.au

Media inquiries should be directed to:

Ms Danielle Morris
Morris Walker Pty Limited

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

Appendix 4 – Freedom of Information Act 1982

Establishment

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

Organisation

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

Functions/Powers

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

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

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

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

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

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

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

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

Categories of Documents

Documents maintained by the Tribunal include:

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

FOI procedures and initial contact points

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

The Secretary
Remuneration Tribunal
PO Box 281
CIVIC SQUARE ACT 2608

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

Media inquiries should be directed to:

Danielle Morris
Morris Walker Pty Limited

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

Appendix 5 – Corrections to 2006-2007 Annual Report

Corrections of Material Errors in Previous Annual Report

Page 13, first paragraph in Section 3.6

- Omit “Determination 2004/14 – *Members of Parliament – Travelling Allowance*”, substitute “Determination 2004/14 – *Judicial and Related Offices – remuneration and allowances*”.