



Statutory and Other Offices Remuneration (Judicial and Other Office Holders) Regulation 2013

under the

Statutory and Other Offices Remuneration Act 1975

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Statutory and Other Offices Remuneration Act 1975*.

BARRY O'FARRELL, MP
Premier

Explanatory note

The object of this Regulation is to declare the Government's policies concerning the remuneration of office holders to which Part 3 of the *Statutory and Other Offices Remuneration Act 1975* applies for the purposes of section 6AB of that Act (as inserted by the *Statutory and Other Offices Remuneration Amendment (Judicial and Other Office Holders) Act 2013*). That section requires the Statutory and Other Offices Remuneration Tribunal to give effect to such policies when making a determination that alters the remuneration of such office holders.

This Regulation is made under the *Statutory and Other Offices Remuneration Act 1975*, including sections 6AB and 25 (the general regulation-making power).

2013 No 308

Statutory and Other Offices Remuneration (Judicial and Other Office Holders) Regulation
2013

Contents

	Page
1 Name of Regulation	3
2 Commencement	3
3 Definitions	3
4 Declarations under section 6AB	4
5 Paramount policy	4
6 Other policies	4
7 Meaning of “officer-related cost savings”	5

Statutory and Other Offices Remuneration (Judicial and Other Office Holders) Regulation 2013

under the

Statutory and Other Offices Remuneration Act 1975

1 Name of Regulation

This Regulation is the *Statutory and Other Offices Remuneration (Judicial and Other Office Holders) Regulation 2013*.

2 Commencement

This Regulation commences on 1 July 2013 and is required to be published on the NSW legislation website.

3 Definitions

In this Regulation:

employment entitlements means any of the following:

- (a) unpaid or paid parental leave,
- (b) employer payments to employee superannuation schemes or funds,
- (c) long service or extended leave,
- (d) annual leave,
- (e) sick leave,
- (f) public holiday entitlements,
- (g) part-time work entitlements.

industrial instrument has the same meaning as in the *Industrial Relations Act 1996*.

office holder has the same meaning as in Part 3 of the Act.

officer-related cost savings for an office holder—see clause 7.

officer-related costs for an office holder are the costs to the State of the appointment of the office holder, being costs related to each of the following:

- (a) the remuneration payable to the office holder,
- (b) the employment entitlements of the office holder,
- (c) the personal appointment benefits of the office holder.

personal appointment benefit of an office holder means a benefit or entitlement (other than an employment entitlement) that is payable or provided to the office holder on a personal basis, including at the officer's election, in connection with the officer's appointment.

relevant agency for an office holder—see clause 6 (2) (b).

remuneration has the same meaning as in Part 3 of the Act.

the Act means the *Statutory and Other Offices Remuneration Act 1975*.

4 Declarations under section 6AB

The matters set out in this Regulation are declared, for the purposes of section 6AB of the Act, to be aspects of government policy that are to be given effect to by the Tribunal when making a determination under Part 3 of the Act of any alteration in the remuneration to be paid to office holders.

5 Paramount policy

It is declared that equal remuneration for men and women doing work of equal or comparable value is a paramount policy.

6 Other policies

- (1) The following policies are also declared, but are subject to compliance with the declared paramount policy:
 - (a) an office holder may be awarded increases in remuneration that do not increase the officer-related costs for the office holder by more than 2.5% per annum,
 - (b) increases in remuneration that increase the officer-related costs for the office holder by more than 2.5% per annum can be awarded, but only if sufficient officer-related cost savings for the office holder have been achieved to fully offset the increased officer-related costs.
- (2) For the purposes of subclause (1) (b):
 - (a) whether relevant officer-related cost savings have been achieved is to be determined by the Tribunal, and
 - (b) the office, organisation or other agency for which the office holder is to be treated as belonging in connection with the relevant officer-related cost savings (the *relevant agency* for an office holder) is also to be determined by the Tribunal, and
 - (c) increases may be awarded before the relevant officer-related cost savings have been achieved, but are not payable until they are achieved, and

-
- (d) the full officer-related cost savings are not required to be awarded as increases in remuneration.
- (3) For the avoidance of doubt, the Tribunal may take into account any additional functions conferred or imposed on the office held by an office holder in determining the remuneration of the office holder. However, any such additional functions cannot be used as a basis for awarding an office holder an increase in remuneration that increases the officer-related costs for the office holder by more than 2.5% per annum without offsetting relevant officer-related cost savings.

7 Meaning of “officer-related cost savings”

- (1) For the purposes of this Regulation, *officer-related cost savings* for an office holder are savings:
- (a) that are identified in the determination of the Tribunal that relies on those savings, and
 - (b) that involve any or all of the following:
 - (i) savings resulting from a change in the work practices, terms of appointment, employment entitlements or personal appointment benefits of the office holder (other than savings from a reduction of the kind referred to in paragraph (c) (i)),
 - (ii) savings resulting from structural changes to the relevant agency for the office holder, but only if the office holder managed the implementation of the whole or any part of those changes or participated in or otherwise contributed to those savings (whether directly or indirectly),
 - (iii) savings resulting from changes to the work practices of the relevant agency for the office holder, or persons working for that agency, but only if the office holder managed the implementation of the whole or any part of those changes or participated in or otherwise contributed to those savings (whether directly or indirectly), and
 - (c) that are not achieved by a reduction in any of the following:
 - (i) an amount payable or provided as a term of the appointment, or as an employment entitlement or personal appointment benefit, of the office holder if legislation requires that amount (or at least that amount) to be paid or provided to the office holder in connection with the officer’s appointment,
 - (ii) employment entitlements of any other persons working (whether as an employee or as an office holder) in the same relevant agency for the office holder, and

2013 No 308

Statutory and Other Offices Remuneration (Judicial and Other Office
Clause 7 Holders) Regulation 2013

- (d) that are not existing savings (as defined in subclause (2)), and
 - (e) that are additional to whole of Government savings measures (such as efficiency dividends).
- (2) Savings are *existing savings*:
- (a) if and to the extent that:
 - (i) the savings have been identified in a determination of the Tribunal made under the Act before the relevant policy application day for the office holder concerned, and
 - (ii) the savings have been relied on by that determination and the remuneration specified in the determination has been paid (whether or not the savings have been achieved and whether or not they were or are achieved during the term of the determination), or
 - (b) if and to the extent that:
 - (i) the savings have been identified in an industrial instrument of the Industrial Relations Commission made before the commencement of the *Industrial Relations (Public Sector Conditions of Employment) Regulation 2011* (or in an agreement contemplated by such an instrument), and
 - (ii) the savings have been relied on by that instrument (whether or not the savings have been achieved and whether or not they were or are achieved during the term of the instrument).
- (3) In this clause:
relevant policy application day for an office holder means:
- (a) in the case of a judicial officer within the meaning of the *Judicial Officers Act 1986*—the day on which this Regulation commenced, and
 - (b) in any other case—27 June 2011 (being the day on which the *Parliamentary, Local Council and Public Sector Executives Remuneration Legislation Amendment Act 2011* commenced).