

**STATUTORY AND OTHER OFFICES REMUNERATION
(EXECUTIVES) AMENDMENT ACT 1989 No. 104**

NEW SOUTH WALES



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**STATUTORY AND OTHER OFFICES REMUNERATION
(EXECUTIVES) AMENDMENT ACT 1989 No. 104**

NEW SOUTH WALES



Act No. 104, 1989

An Act to amend the Statutory and Other Offices Remuneration Act 1975 in connection with the remuneration of chief executive and senior executive office holders, and for other purposes. [Assented to 15 August 1989]

Statutory and Other Offices Remuneration (Executives) Amendment 1989

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Statutory and Other Offices Remuneration (Executives) Amendment Act 1989.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Statutory and Other Offices Remuneration Act 1975 (1976 No. 4)

3. The Statutory and Other Offices Remuneration Act 1975 is amended as set out in Schedules 1 and 2.

**SCHEDULE 1 - AMENDMENTS RELATING TO CHIEF
EXECUTIVE AND SENIOR EXECUTIVE
OFFICE HOLDERS**

(Sec. 3)

(1) Part 3A:

After Part 3, insert:

**PART 3A - REMUNERATION PACKAGES FOR
CHIEF EXECUTIVE AND SENIOR
EXECUTIVE OFFICE HOLDERS**

Definitions

24A. In this Part:

"chief executive office holder" means the holder of a position referred to in Schedule 3A to the Public Sector Management Act 1988;

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SCHEDULE 1 - AMENDMENTS RELATING TO CHIEF EXECUTIVE
AND SENIOR EXECUTIVE OFFICE HOLDERS - *continued*

"determination" means a determination made by the Tribunal under section 24B, 24C or 24D;

"executive office holder" means a chief executive office holder or a senior executive office holder;

"remuneration package" means the annual amount payable under section 42L of the Public Sector Management Act 1988:

- (a) as monetary remuneration for the executive office holder; or
- (b) partly as that remuneration and partly as the cost to the employer of the executive office holder of employment benefits;

"senior executive office holder" means the holder of a position referred to in Schedule 3B to the Public Sector Management Act 1988.

Initial determinations

24B. (1) The Tribunal is required to make, as soon as practicable after the commencement of this Part, a determination of the remuneration packages for executive office holders.

(2) The Tribunal is required to make, as occasion requires, a determination of the remuneration package for an executive office holder not included in any previous determination.

(3) The Tribunal may make a determination under this section in respect of a prospective executive office holder notified to the Tribunal by the Minister.

Annual determinations

24C. The Tribunal is required to make, not earlier than 1 July and not later than 31 August in each year, a determination of the remuneration packages for executive office holders as on and from 1 October in that year.

SCHEDULE 1 - AMENDMENTS RELATING TO CHIEF EXECUTIVE
AND SENIOR EXECUTIVE OFFICE HOLDERS - *continued*

Special determinations

24D. (1) If the Minister so directs, the Tribunal is required to make (not later than the day specified in the direction as the day on or before which the determination is to be made) a determination as to whether, and (if so) how, any determination already made should be altered in relation to such executive office holders as are referred to in the direction.

(2) A reference in subsection (1) to an executive office holder includes a reference to an executive office holder whose remuneration package is not fixed by the determination to which the determination made under this section relates.

Directions by Minister

24E. (1) The Minister may give the Tribunal directions as to matters which the Tribunal should take into consideration when making determinations of the remuneration packages for executive office holders or for any of them or for any class of them.

(2) In making a determination, the Tribunal must take into consideration any such matters and such other matters as the Tribunal thinks fit.

General provisions relating to determinations

24F. (1) In making a determination, the Tribunal may:

- (a) fix, as a remuneration package, a specified amount or any amount that is within a specified range of amounts; or
- (b) provide that a different remuneration package applies in the case of an executive office holder who is named in the determination; or
- (c) increase, reduce or not change any remuneration package; or

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SCHEDULE 1 - AMENDMENTS RELATING TO CHIEF EXECUTIVE
AND SENIOR EXECUTIVE OFFICE HOLDERS - *continued*

(d) fix remuneration packages for particular executive office holders or for classes of executive office holders.

(2) A remuneration package determined by the Tribunal for an executive office holder may not be less than the remuneration package which the Tribunal considers appropriate for a clerk (grade 12) in the Public Service with general administrative duties.

(3) The Tribunal may make a determination that applies in relation to an executive office holder even though no person holds the office for the time being.

Inquiries

24G. (1) Before making a determination, the Tribunal may make such inquiry as the Tribunal thinks necessary.

(2) An inquiry for the purpose of a determination to be made under section 24C (Annual determinations) may not be commenced before 1 April in the year in which the determination is to be made.

(3) In the exercise or performance of the Tribunal's powers, authorities, duties and functions under this Part:

- (a) the Tribunal may inform himself or herself in such manner as he or she thinks fit;
- (b) the Tribunal may receive written or oral submissions;
- (c) the Tribunal must take into consideration submissions received by him or her relating to the remuneration packages for executive office holders, whether or not those submissions were received in response to an invitation under subsection (4);
- (d) the Tribunal is not required to conduct any proceedings in a formal manner; and
- (e) the Tribunal is not bound by the rules of evidence.

(4) Without affecting the generality of subsection (3), the Tribunal may invite submissions from executive office holders, Ministers of the Crown, members and officers of

SCHEDULE 1 - AMENDMENTS RELATING TO CHIEF EXECUTIVE
AND SENIOR EXECUTIVE OFFICE HOLDERS - *continued*

statutory bodies and Departments of the Government and any other persons.

Tribunal's reports

24H. (1) The Tribunal must, as soon as practicable after making a determination under section 24B (Initial determinations), make a report to the Minister of the Tribunal's determination.

(2) The Tribunal must, not earlier than 1 July and not later than 31 August in each year, make a report to the Minister of the Tribunal's determination under section 24C (Annual determinations).

(3) The Tribunal must, not later than the day specified in a direction referred to in section 24D (Special determinations) as the day on or before which the determination is to be made, make a report to the Minister of the Tribunal's determination made in consequence of that direction.

Publication of determinations

24I. The report of a determination may be published by the Minister in the Gazette and in such other manner as the Minister thinks fit.

Operation of determinations

24J. (1) Subject to this Part, a determination which was made under:

- (a) section 24B (Initial determinations) - is to be taken to have come into force on the date that the first appointment is made to the office concerned; and
- (b) section 24C (Annual determinations) - comes into force, or is to be taken to have come into force, on 1 October in the year in which it is made; and
- (c) section 24D (Special determinations) - comes into force, or is to be taken to have come into force, on the

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**SCHEDULE 1 - AMENDMENTS RELATING TO CHIEF EXECUTIVE
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day specified in the determination as the day on which the determination is, or is to be taken, to come into force.

(2) Subject to this Part, a determination continues in force until and including 30 September next following the day on which it comes into force.

(3) Subject to this Part, a determination has effect subject to any determination that was made under section 24D (Special determinations) and that is in force.

(4) A determination may not be challenged, reviewed, quashed or called into question before any court in any legal proceedings, or restrained, removed or otherwise affected by proceedings in the nature of prohibition, mandamus, certiorari or otherwise.

Remuneration package during period before making of report

24K. (1) If the report of a determination under section 24C (Annual determinations) is made to the Minister after 1 October in any year, the remuneration package for each executive office holder is (for the period commencing on and including that day and ending on and including the day preceding the date the report is made) the remuneration package that would have been applicable had the determination in force on the preceding 30 September continued in force (subject to any adjustment necessary because of the making of the report).

(2) Despite anything in this Part, if a determination takes effect on a date (the "effective date") that is earlier than the date that the report of the determination is made to the Minister, a person who:

- (a) was an executive office holder at or at any time before the effective date; and
- (b) was not an executive office holder at the date that the report is made,

**SCHEDULE 1 - AMENDMENTS RELATING TO CHIEF EXECUTIVE
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is not, in relation to any period before the date the report is made, affected by the determination, unless:

- (c) the determination would, if the person had continued in office, operate to increase the remuneration package for the person in relation to that period; and
- (d) the person ceased to hold office otherwise than because of the resignation of his or her office (except by way of retirement) or because of his or her removal from office.

Remuneration packages for executive office holders not dealt with

24L. (1) If, but for this section, no remuneration package would be applicable to an executive office holder in respect of any period during which he or she is an executive office holder, the Minister may, from time to time, fix the remuneration package for the executive office holder in respect of that period.

(2) The remuneration package for an executive office holder under this section applies until a determination applicable to the person comes into force.

(2) Schedule 2, Part 1 (Public offices):

Omit "Western Lands Commissioner."

Omit "Assistant Western Lands Commissioner."

Omit "President of the Board of Fire Commissioners of New South Wales."

Omit "General Manager of the Homebush Abattoir Corporation."

Omit "Deputy General Manager of the Homebush Abattoir Corporation."

Omit "Commissioner (under the Forestry Act 1916)."

Omit "Assistant Commissioner (under the Forestry Act 1916)."

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SCHEDULE 1 - AMENDMENTS RELATING TO CHIEF EXECUTIVE
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- Omit "Managing Director of the Water Board."
- Omit "Deputy Managing Director of the Water Board."
- Omit "Managing director of the Government Insurance Office of New South Wales."
- Omit "Deputy managing director of the Government Insurance Office of New South Wales."
- Omit "Director of State Lotteries."
- Omit "Managing director of the State Bank."
- Omit "Deputy managing director of the State Bank."
- Omit "General Manager of The Maritime Services Board of New South Wales."
- Omit "Deputy General Manager of The Maritime Services Board of New South Wales."
- Omit "Commissioner of the Soil Conservation Service."
- Omit "Managing Director of the Hunter Water Board."
- Omit "Deputy Managing Director of the Hunter Water Board."
- Omit "President of the Broken Hill Water Board."
- Omit "Full-time member of a Water Supply Authority (other than the Broken Hill Water Board) listed in Part 1 of Schedule 1 to the Water Supply Authorities Act 1987."
- Omit "General Manager of The Electricity Commission of New South Wales."
- Omit "Managing Director of the Grain Handling Authority of New South Wales."
- Omit "Managing Director of the Sydney Market Authority."
- Omit "Director and Deputy Chairman of the Sydney Cove Redevelopment Authority."
- Omit "General Manager of the New South Wales Dairy Corporation."

SCHEDULE 1 - AMENDMENTS RELATING TO CHIEF EXECUTIVE
AND SENIOR EXECUTIVE OFFICE HOLDERS - *continued*

Omit "Commissioner for Corporate Affairs."
Omit "Director of the State Pollution Control Commission."
Omit "Managing Director of the Waste Management Authority of New South Wales."
Omit "Deputy Managing Director of the Waste Management Authority of New South Wales."
Omit "Director of National Parks and Wildlife."
Omit "Chairman of the Ethnic Affairs Commission of New South Wales."
Omit "Chairman of New South Wales Meat Industry Authority."
Omit "Chairman of the Council of Auctioneers and Agents."
Omit "Director of the Legal Aid Commission of New South Wales."
Omit "Director of Environment and Planning."
Omit "Director of Equal Opportunity in Public Employment."
Omit "Managing Director of the New South Wales Egg Corporation."
Omit "General Manager of the Tourism Commission of New South Wales."
Omit "General Manager of the New Darling Harbour Authority."
Omit "President of the State Authorities Superannuation Board."
Omit "Vice-President of the State Authorities Superannuation Board."
Omit "Full-time member of the State Authorities Superannuation Board, other than President and Vice-President."
Omit "General Manager of the Motor Accidents Authority."
Omit "Deputy General Manager of the Motor Accidents Authority."

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**SCHEDULE 1 - AMENDMENTS RELATING TO CHIEF EXECUTIVE
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Omit "General Manager of the Workers Compensation and Rehabilitation Authority."

Omit "Deputy General Manager of the Workers Compensation and Rehabilitation Authority."

Omit "Chief Executive of the New South Wales Rural Assistance Authority."

(3) **Schedule 3, Part 2 (Public Offices):**

Omit "Deputy Chairman of the Ethnic Affairs Commission of New South Wales."

Omit "Commissioner of the Ethnic Affairs Commission of New South Wales, other than the Chairman and Deputy Chairman."

SCHEDULE 2 - CONSEQUENTIAL AND OTHER AMENDMENTS
(Sec. 3)

(1) **Section 3 (Division of Act):**

Omit the section.

(2) **Section 4 (Definitions):**

Section 4 (1), definitions of "allowance", "determination", "office holder", "remuneration":

Omit the definitions.

(3) **Section 6 (Statutory and Other Offices Remuneration Tribunal):**

Section 6 (4) (a):

Omit the paragraph, insert instead:

- (a) an office holder (within the meaning of Part 3) or an executive office holder (within the meaning of Part 3A);

SCHEDULE 2 - CONSEQUENTIAL AND OTHER AMENDMENTS
- *continued*

- (4) Section 7 (**Assessors**):
- (a) Omit "2 assessors", insert instead "3 assessors".
 - (b) Section 7 (1) (a1):
After section 7 (1) (a), insert:
 - (a1) another of whom shall be the Director-General of the Premier's Department; and
 - (c) Section 7 (4):
After section 7 (3), insert:
 - (4) An assessor referred to in subsection (1) (a) or (a1) may appoint a deputy and, in the absence of the assessor, the deputy may act as an assessor.
- (5) Part 3, heading:
Omit the heading, insert instead:

**PART 3 - REMUNERATION OF OFFICE HOLDERS
(OTHER THAN CHIEF EXECUTIVE OR SENIOR
EXECUTIVE OFFICE HOLDERS)**

- (6) Section 10A:
Before section 11, insert:
Definitions: Part 3
- 10A. In this Part:
- "allowance" does not include a travelling or subsistence allowance;
 - "determination" means a determination made by the Tribunal under section 13, 14, 15 or 15A;
 - "office holder" means the holder of an office specified in Schedule 1, 2 or 3;
 - "remuneration" means remuneration by way of salary or allowances payable in money to an office holder.

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SCHEDULE 2 - CONSEQUENTIAL AND OTHER AMENDMENTS
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(7) Section 11A:

After section 11, insert:

Employment benefits for non-judicial office holders

11A (1) This section applies to office holders (other than office holders who are judicial officers within the meaning of the Judicial Officers Act 1986) who are nominated by the Minister by notice in writing to the Tribunal for the purposes of this section.

(2) A determination of the remuneration to be paid to office holders to whom this section applies must fix the remuneration as a single amount without reference to salary or allowances.

(3) An office holder to whom this section applies is entitled to be provided with employment benefits (within the meaning of Division 4 of Part 2A of the Public Sector Management Act 1988) if:

- (a) the office holder elects by notice in writing to the Minister to be provided with those employment benefits; and
- (b) the Minister approves of that election; and
- (c) the remuneration otherwise payable to the office holder under section 11 is reduced by the cost of those employment benefits (being the cost determined under that Division of similar employment benefits provided to an executive officer under that Division).

(4) A nomination referred to in subsection (1) may be revoked at any time, but the revocation does not apply to the determination in force at the time of the revocation.

(5) An election referred to in subsection (3) (a) may, with the approval of the Minister, be revoked at any time.

(6) In the case of the holder of an office specified in Schedule 1:

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SCHEDULE 2 - CONSEQUENTIAL AND OTHER AMENDMENTS

- continued

- (a) a nomination referred to in subsection (1) may not be made or revoked without the approval of that office holder; and
 - (b) an election referred to in subsection (3) (a) may be made or revoked without the Minister's approval.
- (7) This section has effect despite anything to the contrary in this Part.
- (8) Section 16 (**General provisions as to determinations**):
- After section 16 (1), insert:
- (1A) A determination by the Tribunal of the remuneration to be paid to an office holder who is an officer in the Public Service may not be less than the maximum salary, at the time of the determination, for a clerk (grade 12) in the Public Service.
- (9) Section 17 (**Inquiries**):
- Section 17 (3):
- After "functions", insert "under this Part".

[Minister's second reading speech made in -
Legislative Assembly on 27 July 1989
Legislative Council on 8 August 1989]