



# Cabinet Office

CO (11) 7

## Circular

21 October 2011

<b>Intended for</b>	All Ministers All Chief Executives All Senior Private Secretaries All Private Secretaries
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### Role of the Remuneration Authority in Setting Remuneration for Individuals Appointed to Statutory Bodies and Other Positions

#### Summary

- 1 The Remuneration Authority (the Authority) is responsible for setting the remuneration of a number of individuals appointed to statutory bodies and other positions. This circular:
  - 1.1 outlines the role of the Authority in relation to setting the remuneration for those individuals, and the processes that it follows;
  - 1.2 to facilitate the process of setting remuneration for these positions, sets out the information that the Authority requires from Ministers, and from departments responsible for managing, on behalf of Ministers, the processes for appointment to those positions.
- 2 This circular should be read in conjunction with [Cabinet Office Circular CO \(09\) 5 \(Fees framework for members appointed to bodies in which the Crown has an interest\)](#), the [State Services Commission's \(SSC\) appointment guidelines \(Board Appointments and Induction Guidelines\)](#), and [CO \(99\) 12 \(Guidance for Members of Statutory, Commercial and other Bodies Appointed by the Crown\)](#).
- 3 Ministers and Chief Executives are asked to ensure that all staff in departments involved in appointments to bodies where remuneration is set by the Authority are familiar with the material in this circular, and that the information in this circular is made available to the heads of all relevant organisations for which they have a monitoring role, and given to new appointees as they take up their roles.

#### Remuneration Authority: Background

- 4 The Authority, formerly the Higher Salaries Commission, is responsible under certain legislation for setting the remuneration (including superannuation and certain allowances) of the Governor-General, Ministers, Members of Parliament, judges, members of local authorities, and community boards.
- 5 The Authority is also responsible for determining the remuneration of specified officers, whose roles require them to perform quasi judicial roles, or to exercise, and be seen to exercise, a high degree of independence.

- 6 These roles are listed in [Annex 1](#), and include certain Chief Executives and other officers of public service and non-public service departments, officers of Parliament, members of all Independent Crown Entities, members of those Crown Agents or Autonomous Crown Entities that are corporations sole, and the heads and members of certain tribunals.
- 7 Members of the Authority are appointed by the Governor-General by Order in Council on the advice of the Minister of Labour. The Authority is made up of a Chair and two members, all of whom work part-time on Authority business. The Authority is supported by a full-time Executive Officer.

### **Role of the Remuneration Authority in relation to statutory officers and others**

- 8 The Authority considers and determines the total remuneration for statutory officers and other individuals annually<sup>1</sup>, on the basis of the following criteria:
  - 8.1 the requirements of the position;
  - 8.2 the conditions of service enjoyed by those whose remuneration is being set, and by those in comparable roles;
  - 8.3 the need to recruit and retain competent people;
  - 8.4 fair relativity with levels of remuneration received elsewhere;
  - 8.5 fairness to the person whose remuneration is being set;
  - 8.6 fairness to the taxpayer;
  - 8.7 prevailing adverse economic conditions (which may lead the Authority to set remuneration at a rate lower than it would otherwise have done).
- 9 In the annual reviews, the Authority considers information, relevant to the above criteria, from a range of sources. Those people whose remuneration is set by the Authority are invited to provide any information that they consider relevant to the review, such as any changes to the nature, scope, complexity, or challenges of the role.
- 10 Individuals are also asked to provide information on non-salary remuneration such as leave, superannuation, cars, and other benefits. These factors are valued and offset against the total remuneration in setting salary levels. Work-related expenses, such as phone rental, carparks, and Koru Club membership, are not generally considered part of remuneration.
- 11 The Authority has no mandate to take account of performance in determining remuneration for these, or any other, individuals within its mandate.
- 12 Once the Authority has decided on the appropriate level of total remuneration for an individual, it sets out its decision in a determination which specifies salary, and any other benefits which it is responsible for setting, and the dates from which they apply. The determinations, specific to the individuals concerned, *must* be followed.

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<sup>1</sup> Determinations normally expire at the end of June, and the Authority considers remuneration for the following year in August/September. All determinations are backdated to the day after the date of expiry of the previous determination.

- 13 While the Authority's determinations on remuneration for this group of officers are not made public by the Authority through the [New Zealand Gazette](#), information on the total value of remuneration of members appointed under the [Crown Entities Act 2004](#) must be included in the relevant organisation's annual report. Information on the remuneration of Chief Executives and other senior staff in the public service and wider State sector, whose remuneration is set by the Authority, is included in the [SSC's annual report](#).

### **Establishment of new positions or new appointments to existing positions**

- 14 When a new position is established, or a new person is appointed to an existing position, the usual process is as follows:
- 14.1 the monitoring department advises the Authority of the intention to fill or establish the position, provides an updated job description, and seeks advice on an indicative level of remuneration;
  - 14.2 the Authority provides an *indicative* level of remuneration for discussion with potential candidates. It cannot be assumed that remuneration for a new appointee will be the same as that for a previous appointee, as all determinations are specific to individuals, and vary from year to year depending on a range of factors;
  - 14.3 non-salary terms and conditions should be advised in writing to the Authority once they have been agreed between the appointee and the Minister or the monitoring department (the Authority cannot make a final salary determination without this information). The Authority then makes a determination on salary. Ideally this process is completed at the same time as the appointee takes up the position;
  - 14.4 in the case of a new position, or a substantially changed position, the Authority normally arranges for the job to be formally evaluated in the first year of a new appointment. Evaluations are also undertaken at other times, notably when a role changes or an organisation rearranges related responsibilities.
- 15 Remuneration for most positions is set on the basis that the position is full-time. Where a role is part-time, salary is normally set as a capped daily rate, based on an eight hour day, and 230 working days per year. Superannuation is not paid where remuneration takes the form of a daily rate.
- 16 In certain circumstances, where a regular time pattern is agreed on appointment, an annual salary can be set, and pro-rated according to the agreed proportion of full-time work to be undertaken. In these situations, it is the responsibility of the individual concerned to manage the hours worked.

### **Information required to help the Remuneration Authority undertake its role**

- 17 The Authority depends on others for information at key stages. [SSC's appointment guidelines](#) indicate that, where possible, departments should start the appointment process six to nine months before the expiry of a current term. The Authority should be advised of a forthcoming appointment at the start of the appointment process.
- 18 It is important that the Authority receives information in good time before an appointment is made, so that it is able to talk to the monitoring department and others as necessary, and to give due consideration to any matters raised. In many cases, complex matters of detail will need to be addressed. Timely information will assist the Authority to make salary determinations when appointees take up their positions.

- 19 The Authority's information requirements, which differ from the requirements and arrangements for the remuneration of individuals appointed to other public sector roles, are set out in the paragraphs below.
- 20 Ministers, through their offices or departments, are invited to:
- 20.1 alert the Authority to proposals to establish new bodies where it is envisaged that remuneration will be set by the Authority;
  - 20.2 alert the Authority when significant changes are envisaged in roles where the Authority is responsible for remuneration;
  - 20.3 note that as the individuals listed in the Annex have their salaries set by the Authority, the salary/fee scales set out in the Cabinet Fees Framework under CO (09) 5 do not apply (except in relation to expenses).
- 21 Monitoring departments are requested to:
- 21.1 when a new Independent Crown Entity, or unique Board role where the Authority is to set remuneration, is being established, or significantly changed, contact the Authority and provide a job description and timeframe for the proposed appointment, so that the Authority can consider an appropriate initial salary for the position;
  - 21.2 at the start of the process of recruiting a replacement person for a unique position, contact the Authority for advice on an indicative rate of remuneration which can be drawn on in discussion with potential candidates. It is not usually necessary for recruitment to generic board member positions to be drawn to the attention of the Authority, as these do not normally require review when a replacement member is being recruited;
  - 21.3 ensure that as part of the preparation of letters of appointment (see CO (99) 12 and SSC's appointment guidelines), the relevant details of the appointment are clearly set out<sup>2</sup>. All those responsible for supporting Ministers in making appointments should draw up detailed terms and conditions for discussion and agreement with the appointee;
  - 21.4 ensure that work-related expenses are covered as part of letters of appointment. It is the usual practice for work-related expenses for these individuals (such as travel, accommodation, and meals while away from home on work-related business) to be paid on the same basis as those paid to employees of the servicing department, or employees of the entity, or to follow the rates set out in Annex 1 to CO (09) 5, entitled *Allowances under the Fees and Travelling Allowances Act 1951*;
  - 21.5 with the agreement of the appointee, provide a copy of the agreed terms and conditions to the Authority before an individual is appointed, and whenever they are updated. This information is needed before a final salary determination can be made;

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<sup>2</sup> Relevant details include employment status, term, arrangements for setting salary, superannuation and any allowances, contribution rates for any superannuation schemes, taxation arrangements, leave, any retirement allowance, expectations of hours of work, any work-related benefits which may attract Fringe Benefit Tax, professional development, and any other relevant administrative matters.

- 21.6 arrange for a new appointee to call on the Authority at the time he or she takes up the appointment;
  - 21.7 draw to the Authority's attention any changes to the nature of the role or the way it is being carried out, e.g. changes in expectations about whether it is full-time or part-time, which may be relevant to the setting of remuneration.
- 22 Appointees are requested to:
- 22.1 call on the Authority at the time of appointment;
  - 22.2 provide information on an annual basis about their work and any changes to their role to assist the Authority in setting remuneration for that year;
  - 22.3 provide the Authority with a copy of their organisation's annual report;
  - 22.4 provide the Authority with a breakdown of the elements of their remuneration package for the previous year (the Authority writes to every individual every year formally seeking this information).

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**Website reference:**

This circular can be found on the internet at <http://www.dpmc.govt.nz/cabinet/circulars/index.html>.

## **Annex 1: List of statutory officers and others for whom the Remuneration Authority sets remuneration**

### **Chief Executives and other senior officers in departments and agencies**

<b>Position</b>	<b>Responsibility for managing appointment process</b>
Director, Government Communications Security Bureau	State Services Commissioner, on behalf of Minister Responsible for the Government Communications Security Bureau
Solicitor-General	State Services Commissioner, if requested by Attorney-General
State Services Commissioner	Minister of State Services manages on behalf of Prime Minister
Deputy State Services Commissioner	State Services Commissioner, on behalf of Minister of State Services
Director, New Zealand Security Intelligence Service	State Services Commissioner, on behalf of Minister in Charge of the New Zealand Security Intelligence Service
Commissioner of Police, Deputy Commissioners of Police	State Services Commissioner, on behalf of Minister of Police
Chief Parliamentary Counsel	State Services Commissioner, on behalf of Attorney-General if requested
Chief of Defence Force Chiefs of Air Force, Army, Navy	State Services Commissioner, on behalf of Minister of Defence
Clerk of the House of Representatives  Deputy Clerk of the House of Representatives	State Services Commissioner, if requested by the Speaker  Clerk of the House, if requested by the Speaker
General Manager, Parliamentary Service	Speaker

### **Officers of Parliament**

Controller and Auditor-General and Deputy Controller and Auditor-General	Speaker
Ombudsmen, including Chief Ombudsman	Speaker
Parliamentary Commissioner for the Environment	Speaker

## Crown Entities

Accounting Standards Review Board, members (External Reporting Board from 1 July 2011)	Ministry of Economic Development (MED), on behalf of Minister of Commerce
Broadcasting Standards Authority, Chair and members	Ministry of Culture and Heritage (MCH), on behalf of Minister of Broadcasting
Children's Commissioner	Ministry of Social Development, on behalf of Minister for Social Development and Employment
Commerce Commission, Chair, Deputy, members, and associate members. Telecommunications Commissioner, Cease and Desist Commissioners	MED, on behalf of Minister of Commerce
Drug Free Sport NZ, Chair and members	MCH, on behalf of Minister for Sport and Recreation
Electoral Commission, Chief Electoral Officer and Chief Executive, Chair, Deputy Chair	Ministry of Justice (MoJ), on behalf of Minister of Justice
Electricity Authority, Chair, members. Rulings Panel, Chair, Deputy Chair, members	MED, on behalf of Minister of Energy and Resources
Financial Markets Authority, members and associate members	MED, on behalf of Minister of Commerce
Health and Disability Commissioner, Deputy Health and Disability Commissioners	Ministry of Health, on behalf of Minister of Health
Human Rights Commission, Chief Commissioner, members, and alternate members. Race Relations Commissioner, Equal Employment Opportunities Commissioner, Director Human Rights Proceedings or alternate	MoJ, on behalf of Minister of Justice
Independent Police Conduct Authority, Chair, members	MoJ, on behalf of Minister of Justice who makes recommendation to House of Representatives
Law Commissioner, President, Deputy President, members	MoJ, on behalf of Minister of Justice
New Zealand Productivity Commission, Chair, Commissioners	The Treasury, on behalf of Minister of Finance
Office of Film and Literature Classification, Chief Censor of Film and Literature, Deputy Chief Censor of Film and Literature	Department of Internal Affairs, on behalf of Minister of Internal Affairs
Privacy Commissioner, Deputy Privacy Commissioner	MoJ, on behalf of Minister of Justice
Retirement Commissioner	MED, on behalf of Minister of Commerce
Takeovers Panel, Chair, members	MED, on behalf of Minister of Commerce

Transport Accident Investigation Commission, Chief Commissioner, Deputy Chief Commissioner, Commissioner	Ministry of Transport, on behalf of Minister of Transport
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## Tribunals and Other Bodies

Chief Community Magistrate	MoJ, on behalf of Minister of Justice
Court Martial, Registrar	Chief Judge of Court Martial
Employment Relations Authority, Chief and members	Department of Labour, on behalf of Minister of Labour
Judicial Conduct Commissioner and Deputy Judicial Conduct Commissioner. Members of Judicial Conduct Panel (unless appointee is a judge)	Attorney-General who makes recommendation to House of Representatives Attorney-General
Motor Vehicle Disputes Tribunal, Adjudicators	Ministry of Consumer Affairs, on behalf of Minister of Justice and Minister of Consumer Affairs
New Zealand Parole Board, Chair, Panel Convenors who hold a warrant as a District Court judge or a Judge of the High Court	MoJ, on behalf of Attorney-General
Principal Disputes Referee	MoJ, on behalf of Minister of Justice
Principal Tenancy Adjudicator and Deputy	MoJ, on behalf of Minister of Justice and Minister for Building and Construction
Sports Tribunal of New Zealand, Chair, Deputies, members	MCH, on behalf of Minister for Sport and Recreation
Summary Appeal Court of New Zealand, Registrar	Judge Advocate-General
Waitangi Tribunal, members	Te Puni Kokiri (TPK), on behalf of Minister of Maori Affairs
Tribunal under the Weathertight Homes Resolution Services Act 2006, Chair	Department of Building and Housing and MoJ, on behalf of Minister of Justice and Minister for Building and Construction
Maori Trustee	TPK, on behalf of Minister of Maori Affairs
Masterton Trust Lands Trust, Chair, Committee Chairs, members	[Elected in local government elections]