

October 2024

## Requirements for Determining the Remuneration of Individuals Appointed or Reappointed to Statutory Bodies and Other Positions

### Introduction

1. This paper serves the following purposes, it:
  - 1.1 **outlines** the role of the Remuneration Authority (**the Authority**) in determining the remuneration for individuals appointed or reappointed to independent statutory bodies and other positions as listed in Schedule 4 of the Remuneration Authority Act 1977 (**the Act**), in the Crown Entities Act 2004 or within their own legislation;
  - 1.2 **facilitates** the process of determining remuneration for those positions;
  - 1.3 **sets out**, in accordance with section 25(2) of the Act, the information the Authority requires from Ministers, and from departments responsible for managing, on behalf of Ministers (the administering departments), the processes for appointment or reappointment to those positions.
2. This paper should be read in conjunction with the Authority's paper entitled: "**Employment Status and Remuneration of Statutory Officers**"<sup>1</sup>.
3. Ministers and chief executives are asked to ensure that all staff in departments involved in appointments and reappointments to bodies and other positions where remuneration is determined by the Authority are familiar with the material in this document. The administering department must also give a copy of this document to all short-listed candidates at the time they are being considered for appointment and to reappointees before they commence their new term of appointment.

### Remuneration Authority: Background

4. The Authority is an independent statutory body responsible under certain legislation for determining the remuneration (including superannuation and certain allowances) of the Governor-General, Ministers, members of Parliament, judges, members of local authorities, local boards and community boards.
5. The Authority is also responsible for determining the remuneration of specified public officer holders, 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 Schedule 4 of the Act, in other legislation and on the Authority website: [www.remauthority.govt.nz](https://www.remauthority.govt.nz). The roles 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 corporation soles and the heads and members of certain tribunals.

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<sup>1</sup> This paper can be obtained from the Authority's website: <https://www.remauthority.govt.nz/independent-officers-and-boards>

7. Members of the Authority are appointed by the Governor-General by Order in Council on the advice of the appropriate Minister. 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 small office.

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

8. The Authority considers and determines the remuneration for statutory officers and other individuals annually, on the basis of the following criteria contained in section 18 of the Act, which says it “shall have regard” to:

- 8.1 the need to achieve and maintain fair relativity with the levels of remuneration received elsewhere; and
- 8.2 the need to be fair both to the persons or group of persons whose remuneration is being determined; and to the taxpayer; and
- 8.3 the need to recruit and retain competent persons.

And that it “shall take into account”:

- 8.4 the requirements of the position concerned; and
  - 8.5 the conditions of service enjoyed by the persons whose remuneration is being determined and those enjoyed by the persons or members of the group of persons whose remuneration and conditions of employment are, in the opinion of the Authority, comparable with those of the persons or members of the group of persons whose remuneration is being determined.
9. Under section 18(A) of the Act, the Authority must take into account any prevailing adverse economic conditions which may lead the Authority to determine remuneration at a rate lower than it would otherwise have done.
  10. In the annual reviews, the Authority considers information, relevant to the above criteria, from a range of sources. Those individuals whose remuneration is determined 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 their role.
  11. The individuals are also invited to provide information on non-salary remuneration such as annual leave, superannuation, cars, and other benefits. These factors are valued and offset against the remuneration in determining the base salary where applicable.
  12. Work-related expenses, such as phone rental, office carparks and Koru Club membership, are not generally considered part of remuneration.
  13. The Authority has no mandate to take account of performance in determining remuneration for these, or any other, individuals within its jurisdiction.
  14. Once the Authority has decided on the appropriate level of remuneration for an individual, it sets out its decision in a determination which specifies the remuneration (including base salary if applicable), and any other benefits which it is responsible for determining, and the dates from which they apply.

15. The Authority's determinations must be followed. It is unlawful for any person to act contrary to a determination or fail to observe the criteria or limits specified in it<sup>2</sup>.
16. While the Authority's determinations on remuneration for this group of officers are not made public by the Authority through the New Zealand Gazette or on its website, 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.
17. Information on the remuneration of some chief executives and other senior staff in the public service and wider public sector, whose remuneration is determined by the Authority, is publicly reported on the Public Service Commission's (the PSC) *public service leaders pay* webpage.

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

18. When a new position is established, or a new person is appointed to an existing position, or a person is reappointed to an existing position the process at the beginning of the recruitment, appointment or reappointment is as follows:
  - 18.1 The administering department is required<sup>3</sup> to advise the Authority of the intention to fill or establish the position, provide an updated position description and any other supporting information, and may seek advice on an indicative level of remuneration for the role;
  - 18.2 The Authority provides an indicative level of remuneration to inform potential candidates. It cannot be assumed that remuneration for a new appointee or reappointee will be the same as that for a previous appointee, as new determinations might be specific to individuals, and may vary from year to year depending on a range of factors;
  - 18.3 Non-salary terms and conditions must be advised in writing to the Authority once they have been agreed between the appointee or reappointee and the Minister or the administering department. The Authority cannot make a final determination without this information. The Authority then determines the remuneration of the appointee or reappointee. Ideally this process is completed at the same time, or preferably before, the person takes up their position;
  - 18.4 In the case of a new position, the Authority normally arranges for the job to be formally evaluated at the time of establishment or in the first year of a new appointment. Evaluations are also undertaken at other times, notably when a role substantially changes or an organisation rearranges related responsibilities.
19. Remuneration for most positions is determined on the basis that the position is full-time.
  - 19.1 Where a role is part-time, remuneration is normally determined as a capped daily rate, based on an eight-hour day, and 225 working days per year.

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<sup>2</sup> See section 14 of the Remuneration Authority Act 1977.

<sup>3</sup> See section 25(2) of the Remuneration Authority Act 1977.

- 19.2 Positions determined on a full-time basis assume an annual leave entitlement of 28 working days, including the 3 days taken between Christmas and New Year, as part of the position's remuneration.
  - 19.3 Where a statutory officer has negotiated annual leave entitlements above the 28 working days annual leave entitlement an adjustment for the additional annual leave will be made to the individual's base salary component of remuneration.
  - 19.4 The daily rate is not paid for statutory holidays nor when the position holder is on annual leave.
  - 19.5 Where the position holder chooses to contribute to a retirement savings or superannuation scheme, the amount of any employer contribution, inclusive of employer superannuation tax, must be deducted from the gross salary or daily rate as shown in the determination.
20. In certain circumstances, where a regular time pattern is agreed on appointment or reappointment, an annual remuneration rate can be determined, and pro-rated according to the agreed proportion of the full-time equivalent rate for the position. 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**

21. The Authority depends on others for information at key stages. The PSC'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 is required to be advised of a forthcoming appointment at the start of the appointment process, and similarly for a reappointment.
22. It is important that the Authority receives information in good time before an appointment or reappointment is made, so that it is able to talk to the administering 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 its remuneration determinations by the time the appointee or reappointee takes up their position.
23. Ministers, through their offices or administering departments, are invited to:
  - 23.1 alert the Authority to proposals to establish new bodies or positions where it is envisaged that remuneration will be determined by the Authority;
  - 23.2 alert the Authority when significant changes are envisaged in roles where the Authority is responsible for determining remuneration;
  - 23.3 note that as the individuals listed on the Authority's website have their remuneration determined by the Authority, the payment rates set out in Cabinet Office Circular CO (22) 2 - *Revised Fees Framework for members appointed to bodies in which the Crown has an interest*<sup>4</sup> do not apply.

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<sup>4</sup> This circular can be found on the Department of Prime Minister and Cabinet's website.

24. Administering departments are required to:

- 24.1 when a new position, where the Authority is to determine remuneration, is being established or significantly changed, contact the Authority and provide relevant information about the role, function, size etc of a new entity and position(s), a position description and the timeframe for the proposed appointment, so that the Authority can consider an appropriate initial remuneration for the position;
- 24.2 at the start of the process of appointing a new person, recruiting a replacement person or reappointing a 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;
- 24.3 provide the Authority with a copy of the detailed terms and conditions of appointment so relevant aspects may be considered in the remuneration determination process;
- 24.4 ensure that work-related expenses are covered as part of letters of appointment or reappointment. 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 administering department, or employees of the entity, or to follow the rates set out in paragraphs 95-97 of the *Revised Fees Framework for members appointed to bodies in which the Crown has an interest*, entitled *Reimbursing expenses*;
- 24.5 as soon as the appointment or reappointment is made, provide to the Authority copies of the:
- **letter of appointment or reappointment**
  - **signed warrant/instrument/notice of appointment or reappointment**
  - **agreed terms and conditions of appointment or reappointment**
  - **curriculum vitae (CV) and contact details for the appointee or reappointee, including an email address.**

*This information is needed before a final remuneration determination can be made.*

- 24.6 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 terms and conditions, which may be relevant to determining remuneration.

25. Appointees and reappointees are invited to:

- 25.1 if they wish to, engage with the Authority at the time of appointment or reappointment.
- 25.2 provide information on an annual basis about their work and any changes to their role or terms and conditions to assist the Authority in determining remuneration for that year.

## List of statutory officers and others whose remuneration is determined by the Authority

A full list of statutory officers and others whose remuneration is determined by the Authority can be found on the Authority's website, using the following link:

<https://www.remauthority.govt.nz/independent-officers-and-boards/specified-officers-and-boards/>

## The Authority's contact details

**Email:** [info@remauthority.govt.nz](mailto:info@remauthority.govt.nz)

**Mail:** Remuneration Authority, PO Box 10084, Wellington 6140, New Zealand

**Phone:** (04) 499 3068 (from outside New Zealand +64 4 499 3068)

## Website

[www.remauthority.govt.nz](http://www.remauthority.govt.nz)