



**JUDICIAL AND STATUTORY OFFICERS:
2006 REVIEW OF FEES**

R E P O R T

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RECOMMENDATIONS

ABORTION SUPERVISORY COMMITTEE

For the Chair and Members:

- i) That the annualised fee payable to the Chair of the Abortion Supervisory Committee be increased from \$730 per day to \$800 per day from 1 July 2007.
- ii) That the daily fee for Members of the Abortion Supervisory Committee be increased from \$460 per day to \$495 per day from 1 July 2007.

For Certifying Consultants:

- i) increase the by-phone consultation rate from \$37.50 to \$56.00 from 1 July 2007.

ACCIDENT COMPENSATION APPEALS AUTHORITY

- i) That the daily fee for the Chair of the Accident Compensation Appeals Authority be increased from \$730 per day to \$755 per day from 1 July 2007.

COYPRIGHT TRIBUNAL

- i) That the daily fee for the Chair of the Copyright Tribunal be increased from \$730 per day to \$755 per day from 1 July 2007;
- ii) That the daily fee for Members of the Copyright Tribunal be increased from \$460 per day to \$476 per day from 1 July 2007.

CRIMINALJUSTICE REIMBURSEMENT ASSESSOR

- i) That the daily fee for the Chair (Assessor) of the Criminal Justice Assistance Reimbursement Scheme be increased from \$600 per day to \$755 per day from 1 July 2007.

CUSTOMS APPEAL AUTHORITY

- i) That the daily fee for the Chair (Authority) of the Customs Appeal Authority be increased from \$600 per day to \$800 per day from 1 July 2007.

DEPORTATION REVIEW TRIBUNAL

- i) That the daily fee for the Chair of the Deportation Review Tribunal be increased from \$730 per day to \$755 per day from 1 July 2007;
- ii) That the daily fee for the Members of the Deportation Review Tribunal be increased from \$460 per day to \$476 per day from 1 July 2007.

DISPUTES TRIBUNAL

- i) That the daily fee for Referees of the Disputes Tribunal be increased from \$400 per day to \$460 per day from 1 July 2007;
- ii) That the Ministry and the State Services Commission give consideration to situations where Disputes Referees receive their sole income undertaking judicial/statutory officer duties and explore possible alternative fees arrangements, other than an annualised daily fee arrangement, either within or outside the Cabinet Fees Framework;
- iii) That the Ministry and the State Services Commission explore the possibility of creating an intermediate category under the CFF Group 2 specifically for unique roles that sit alone managing their own proceedings, but which are not defined as Chairs of tribunals.

ENVIRONMENT COURT

- i) That the Ministry clarify for all Environment Commissioners and Deputy Environment Commissioners that its standard 'sitting day year' for the bodies covered by the Special Jurisdictions Group is set at 230 days;
- ii) The application of this principle to Environment Commissioners and Deputy Environment Commissioners equates to a 'pre-review' daily fee of \$541.30 for Environment Commissioners and a 'pre-review' daily fee of \$475 for Deputy Environment Commissioners;
- iii) That the Ministry advise all Environment Commissioners and Deputy Environment Commissioners that this revised calculation process is to clarify the basis of calculation, but not alter the quantum, of the current remuneration for both groups of officers;
- iv) That the daily fee for full and part time Environment Commissioners be increased from \$541.30 per day to \$600 per day from 1 July 2007. When applied to the annualised full time and prorated daily fees this will result in annualised fees of \$137,996 (full time) and \$103,497 (75% pro rated) respectively;

- v) That the daily fee for Deputy Environment Commissioners be increased from \$475 per day to \$600 per day from 1 July 2007, in order to accurately recognise that Deputy Environment Commissioners hold identical positions to Environment Commissioners when required to act for this body;
- vi) That the Ministry therefore seek continued approval for exceptions to the Cabinet Fees Framework for the increased levels of fees recommended above;
- vii) That the Ministry take all practicable steps to effect, with urgency, the proposal for Environment Commissioners and Deputy Environment Commissioners to be covered by the Remuneration Authority.

HUMAN RIGHTS REVIEW TRIBUNAL

- i) That the annualised payment for the Chairperson of the Human Rights Review Tribunal be \$190,440, which equates to an increase in the daily fee from \$800 per day to \$828 per day from 1 July 2007;
- ii) That the daily fee for Members of the Human Rights Review Tribunal be increased from \$460 per day to \$476 per day from 1 July 2007;
- iii) That the Ministry therefore seek continued approval for an exception to the Cabinet Fees Framework for the increased level of fee recommended at i) above;
- iv) That the Ministry take all practicable steps to effect, with urgency, the proposal for the Chairperson of the Human Rights Review Tribunal to be covered by the Remuneration Authority.

LAND VALUATION TRIBUNAL

- i) That the daily fee for Members of the Land Valuation Tribunals be increased from \$460 per day to \$476 per day from 1 July 2007.

LAY MEMBERS OF DISTRICT & NEW ZEALAND LAW PRACTITIONERS DISCIPLINARY TRIBUNAL

- i) That the daily fee for Lay Members of the District Disciplinary Tribunals and New Zealand Law Practitioners Disciplinary Tribunals be increased from \$350 per day to \$385 per day from 1 July 2007.

LAY OBSERVERS: DISTRICT LAW SOCIETIES

- i) That the daily fee to be pro-rated as an annualised payment for Lay Observers of the District Law Societies be increased from \$350 per day to \$385 per day from 1 July 2007.

LIQUOR LICENSING AUTHORITY

- i) That the daily fee for Members of the Liquor Licensing Authority be increased from \$460 per day to \$476 per day from 1 July 2007.

MAORI LAND COURT CONSULTATION FORUM: FOCUS GROUP

- i) That the daily fee for Focus Group Chair (rotating) of the Maori Land Court Consultation Forum be increased from \$250 per day to \$270 per day from 1 July 2007;
- ii) That the daily fee for Focus Group Members of the Maori Land Court Consultation Forum be increased from \$215 per day to \$225 per day from 1 July 2007.

MAORI LAND COURT RULES COMMITTEE

- i) That the daily fee for Rules Committee Members – Non Public Servant of the Maori Land Court be increased from \$215 per day to \$235 per day from 1 July 2007.

MAORI LAND COURT: ADDITIONAL MEMBERS

- i) That the daily fee for Additional Members of the Maori Land Court be increased from \$460 per day to \$476 per day from 1 July 2007.

MAORI APPELLATE COURT: ADDITIONAL MEMBERS

- i) That the daily fee for Additional Members of the Maori Appellate Court be increased from \$460 per day to \$476 per day from 1 July 2007.

MOTOR VEHICLE DISPUTES TRIBUNAL

- i) That the daily fee for Assessors of the Motor Vehicle Disputes Tribunal be increased from \$370 per day to \$460 per day from 1 July 2007.

SECONDHAND DEALERS & PAWNBROKERS LICENSING AUTHORITY

- i) That the daily fee for the Chair of the Secondhand Dealers and Pawnbrokers' Licensing Authority be increased from \$540 per day to \$559 per day from 1 July 2007.

SOCIAL SECURITY APPEAL AUTHORITY

- i) That the daily fee for the Chair of the Social Security Appeal Authority be increased from \$730 per day to \$755 per day from 1 July 2007;
- ii) That the daily fee for the Deputy Chair of the Social Security Appeal Authority be increased from \$600 per day to \$620 per day from 1 July 2007;

- iii) That the daily fee for Members of the Social Security Appeal Authority be increased from \$460 per day to \$476 per day from 1 July 2007.

STUDENT ALLOWANCE APPEAL AUTHORITY

- i) That the daily fee for the Chair of the Student Allowance Appeal Authority be increased from \$430 per day to \$500 per day from 1 July 2007.

TAIAPURE-MAORI FISHERIES TRIBUNAL: ASSESSORS

- i) That the daily fee for Assessors of the Taiapure-Maori Fisheries Tribunal be increased from \$405 per day to \$430 per day from 1 July 2007.

TAXATION REVIEW AUTHORITY

- i) That the daily fee for the Chair (Authority) of the Taxation Review Authority be increased from \$730 per day to \$800 per day from 1 July 2007.

TENANCY TRIBUNAL

- i) That the daily fee for Adjudicators of the Tenancy Tribunal be increased from \$400 per day to \$460 per day from 1 July 2007;
- ii) That the Ministry and the State Services Commission give consideration to situations where Tenancy Adjudicators receive their sole income undertaking judicial/statutory officer duties and explore possible alternative fees arrangements, other than an annualised daily fee arrangement, either within or outside the Cabinet Fees Framework;
- iii) That the Ministry and the State Services Commission explore the possibility of creating an intermediate category under the CFF Group 2 specifically for unique roles that sit alone managing their own proceedings, but which are not defined as Chairs of tribunals.

TRANS-TASMAN OCCUPATIONS TRIBUNAL

- i) That the daily fee for the Chair of the Trans-Tasman Occupations Tribunal be increased from \$600 per day to \$655 per day from 1 July 2007;
- ii) That the daily fee for Members of the Trans-Tasman Occupations Tribunal be increased from \$370 per day to \$400 per day from 1 July 2007.

OTHER MATTERS: ENTITLEMENTS & ALLOWANCES

- i) That the Ministry clarify for all officers the requirements placed upon it as a government department in accordance with public sector wide principles, practices and frequency when setting and increasing allowances and other entitlements.
- ii) That the Ministry clarify the circumstances under which officers living in remote areas may be entitled to reimbursement for travel time.
- iii) That accommodation arrangements for members of bodies be planned as best as possible to ensure officers are closely co-located to more effectively and efficiently carry out their responsibilities when sitting away from their home base.
- iv) That the Ministry clarify the administrative provisions for travel and associated costs for partners accompanying officers on Tribunal or Authority duties.

In 2004 at the request of the Minister for Courts, the Ministry of Justice initiated an independent review of the remuneration of judicial and statutory officers whose fees are covered by the Cabinet Fees Framework, and for whom administrative support is provided by the Special Jurisdictions Group of the Ministry.

Martin, Jenkins & Associates were contracted to undertake that review, and the outcome led to the publication of a report in January 2005 entitled "Tribunals and Statutory Authorities: Fees Review" (The Beresford Report¹).

The review covered all judicial officers to whom administrative support is provided by the Special Jurisdictions Group of the Ministry, covering the (then) 25 separate categories of these officers. Excluded from the review were forensic pathologists, the Pharmacy Authority, the Birdlings Flat Land Titles Commissioner and the Chairperson of the Human Rights Review Tribunal. The review was commissioned by the Ministry to help determine whether or not any changes should be recommended to the Government for the current arrangements for judicial and statutory officers whose fees were covered by the Cabinet Fees Framework.

While the review was not predicated on any particular outcome, consistency and fairness had been determined as key goals underpinning the review and the Ministry also stated its intention to establish and make known a clear process for future reviews.

The independent reviewer was asked to provide a report outlining:

- recommendations for changes (if any) to remuneration levels; and
- a recommended process for future reviews.

A number of key recommendations have since been implemented, including:

1. The Ministry has established a regular and transparent review mechanism through which input from judicial and statutory officers would be invited and the results of which would be communicated to them. The reviews to be timetabled to occur starting in 2006 and to

¹ The independent reviewer was Joanna Beresford, an Associate with Martin, Jenkins & Associates and the report is frequently referred to, and known, as 'The Beresford Report'.

be sequenced with the State Services Commission's reviews of the Cabinet Fees Framework.

2. The processes to be followed in communicating with officers on their remuneration will reflect certain processes used by the Remuneration Authority, specifically predictability, timeliness and a level of transparency and engagement appropriate to officers appointed under warrant.
3. The decisions relating to individual judicial and statutory officers arising out of the review will be communicated to those affected, enabling their input into the regular reviews, and communicating to them the outcome of each review.

In addition to the general recommendations noted above, the fees levels and arrangements for each of the 25 groupings reviewed in the Beresford Report were considered separately by the Ministry and either adjusted as agreed by Cabinet following the report or confirmed without change.

This review is the first of those recommended by the Beresford Report.

OBJECTIVES

The objective of the review is to recommend whether or not changes should be made to the arrangements for fees for judicial and statutory officers under the Cabinet Fees Framework, and what those changes should be.

The Cabinet Fees Framework² is the framework for determining or reassessing the fees paid to members of statutory and other bodies in which the Crown has an interest. Its purpose is to provide a basis for judgement in setting fees that will:

- ensure a consistent approach to remuneration across all statutory and other Crown bodies;
- contain expenditure of public funds within reasonable limits; and
- provide flexibility within clear criteria.

The scope of the review includes all current officers to whom the Special Jurisdictions Group of the Ministry of Justice provides administrative support, and a number of potential new officers in respect of tribunals or other bodies proposed for establishment in, or transfer to, the Ministry, as identified below.

² The Cabinet Fees Framework covers all statutory bodies, non-statutory bodies and committees in which the Crown has an interest. Such bodies comprise most Crown entities (including tertiary education institutions and district health boards), trust boards, advisory bodies and committees, Royal Commissions and Commissions of Inquiry, statutory tribunals, individuals appointed as statutory bodies that are not covered by the Remuneration Authority (*see below*) and subsidiary bodies of statutory entities. At the commencement of the review the existing framework, set out in Cabinet Office Circular CO (03) 4 dated 1 July 2003, was under review by the State Services Commission. A modified framework, Cabinet Office Circular CO (06) 08, dated 6 November 2006, was then published and is the framework used for this review.

Remuneration Authority: The Remuneration Authority, formerly the Higher Salaries Commission, operates under the Remuneration Authority Act 1977. It determines salaries, allowances (basic expenses allowance and office-holder allowance) and superannuation rights and obligations of Members of the House of Representatives who are not members of the Government Superannuation Fund; it determines salaries, principal allowances and superannuation rights and obligations of members of the Judiciary who are not members of the Government Superannuation Fund; and it determines the remuneration of specified statutory officers.

TERMS OF REFERENCE

The Ministry's Terms of Reference for this review are attached as Annex 1 to this report.

REVIEW PARAMETERS

The review has the following parameters:

- The Reviewer will act independently of the Ministry of Justice in the formation of recommendations;
- The process will be clear and transparent as outlined below or as otherwise agreed between the Independent Reviewer and the Ministry;
- The recommendations will be based on consistency and fairness of remuneration;
- The nature of the relationship between the judicial and statutory officers and the Ministry - which is not an employment nor a contract for services relationship - will be respected; and
- As much as possible, each group of judicial and statutory officers will be considered on its own with account taken of any specific/individual circumstances. Each group will be considered in relation to its categorisation within the Cabinet Fees Framework (where categorisation within the Cabinet Fees Framework is applicable).

The Reviewer is also requested to note any anomalies in the treatment of officers and entities, which may come to notice during the review, and to make recommendations on how any such anomaly should be addressed.

REVIEW SCOPE

The following twenty five categories of judicial and statutory officers, to whom the Ministry's Special Jurisdictions Group provides administrative support, are within the ambit of this review:

1. Abortion Supervisory Committee
2. Accident Compensation Appeals Authority
3. Copyright Tribunal

4. Criminal Justice Reimbursement Assessor
5. Customs Appeal Authority
6. Deportation Review Tribunal
7. Disputes Tribunal
8. Environment Court
9. Human Rights Review Tribunal
10. Land Valuation Tribunal
11. Lay Members of District and New Zealand Law Practitioners Disciplinary Tribunal
12. Lay Observers: District Law Societies
13. Liquor Licensing Authority
14. Maori Land Court Consultation Forum: Focus Group
15. Maori Land Court Rules Committee
16. Maori Land Court: Additional Members
17. Maori Appellate Court: Additional Members
18. Taiapure-Maori Fisheries Tribunal: Assessors
19. Motor Vehicle Disputes Tribunal
20. Secondhand Dealers and Pawnbrokers' Licensing Authority
21. Social Security Appeal Authority
22. Student Allowance Appeal Authority
23. Taxation Review Authority
24. Tenancy Tribunal
25. Trans-Tasman Occupations Tribunal

NEW ENTITIES

The scope of the review includes anticipating the possibility that other entities may become the responsibility of Special Jurisdictions while the review is being conducted. These may be entities that are newly established, or entities transferred from other public service departments. The Ministry requires these entities to be treated in the following manner by the reviewer:

- i) The Weathertight Homes Tribunal:

The Weathertight Homes Resolution Service, as the body is currently known, is expected to transfer to the Ministry of Justice on 1 April 2007 and become the Weathertight Homes Tribunal. It is anticipated that the (current) office of Chief Adjudicator would be re-titled as Chairperson of the Tribunal. Responsibility for setting the remuneration for this office is currently, and would remain, under the jurisdiction of the Remuneration Authority, and with effect from 1 April 2007 there will be created a new office of Tribunal Member to be appointed under the Cabinet Fees Framework (replacing the role of Adjudicator under the current Service).

The reviewer has been requested to confirm the rationale for the existing remuneration framework for this body, but not to review or make recommendations in respect of levels of remuneration payable to holders of the current adjudicator roles or the proposed new tribunal member role.

- ii) Lawyers and Conveyancers Disciplinary Tribunal; Lawyers and Conveyancers Review Officer: The Lawyers and Conveyancers Act 2006, yet to come into force³, establishes an office of Legal Complaints Review Officer and establishes the Lawyers and Conveyancers Disciplinary Tribunal. The tribunal is proposed to include a Chair, Deputy Chair, members and lay members all of whose remuneration would be fixed under the Cabinet Fees Framework.

The reviewer has been requested to identify a rationale for a remuneration framework for both bodies, but not to make recommendations in respect of levels of remuneration payable.

ENTITIES THAT MAY CEASE TO BE THE RESPONSIBILITY OF THE MINISTRY OF JUSTICE

It is also possible that for some entities the current fee setting authority and process may change from that of the responsible Minister acting under the Cabinet Fees Framework setting the fee to the Remuneration Authority setting the fee. If this occurs, then the Ministry shall advise the independent reviewer how and when work by the independent reviewer in relation to the judicial and/or statutory officers relating to those entities shall be concluded.

ANOMALIES

The reviewer is requested to note any anomalies in the entitlements and allowances which are being claimed or should be able to be claimed by different members/authorities. Where such anomalies come to light, the reviewer will provide the Ministry with recommendations with regard to what should be done to address them.

³ Section 2 of the Lawyers and Conveyancers Act 2006 provides for the Act to come into force on a date to be appointed by the Governor-General by Order in Council, and 1 or more orders may be made appointing different dates for different provisions

OTHER BODIES NOT INCLUDED IN THE REVIEW

The Ministry has responsibility for a wider range of tribunals than noted under the 'Review Scope' section above. Those additional bodies, which have been excluded from the review, are as follows:

1. Accident Compensation District Courts Registry: judicial salary set by the Remuneration Authority.
2. Birdlings Flat Land Titles Commissioner: only one case remains to be finalised; jurisdiction is expected to cease when that case is completed.
3. Coroners: new legislation will come into effect on 1 July 2007, at which time the responsibility for setting remuneration for Coroners will rest with the Remuneration Authority.
4. Principal Disputes Referee: remuneration set by Remuneration Authority.
5. Employment Court Judges: judicial salary set by Remuneration Authority.
6. Environment Court Judges: judicial salary set by Remuneration Authority.
7. Forensic Pathologists: fees are set by statutory regulation and are currently paid through a contractual arrangement with the Auckland District Health Board. The reviewer understands that the Ministry will review these fees within the context of renewal of this contractual arrangement.
8. Liquor Licensing Authority Chair: judicial salary set by Remuneration Authority.
9. Maori Land Court and Maori Appellate Court Judges: judicial salary set by Remuneration Authority.
10. Motor Vehicle Disputes Tribunal Chair: remuneration set by Remuneration Authority.
11. Taiapure Maori Fisheries Tribunal Chair: judicial salary set by Remuneration Authority.
12. Principal Tenancy Adjudicator: remuneration set by Remuneration Authority.
13. Victims' Special Claims Tribunal Chair: judicial salary set by Remuneration Authority.
14. Waitangi Tribunal Members: remuneration set by Remuneration Authority.

REVIEW PROCESS

In early October 2006 the Deputy Secretary of Justice (Operations) advised the affected judicial and statutory officers in writing of the review and its purpose. At the same time, affected officers received written communication from the reviewer seeking their input into the review. Specifically sought, was comment from those covered by the review on those aspects of the current arrangements (process/determinants and levels) associated with the fees received that they considered satisfactory, along with what they considered needed changing and why.

The reviewer confirmed that:

- the review was being undertaken to determine whether or not any changes to the arrangements acted upon pursuant to the Beresford Report in 2005 for those judicial and statutory officers whose fees are covered by the Cabinet Fees Framework should be recommended to Government
- the review is not predicated on any particular outcome, but will follow a clear process ensuring an underpinning of consistency and fairness as key goals
- the unique nature of appointments to judicial and statutory officer positions will be respected and the review will not be conducted in a manner that implies any element of the negotiation that occurs in employer/employee working relationships.

Input was invited via e-mails, telephone discussions, letters, individual and group submissions and face-to-face meetings.

Discussions took place with the State Services Commission, and Ministry of Justice personnel, and their perspectives were taken into account. Contact was also made with the Remuneration Authority.

In examining each group of officers and reaching recommendations for each group as set out in this report, the reviewer has analysed all the information in the context of a) the Cabinet Fees Framework requirements for fee setting, and b) the needs of the Ministry of Justice in its treatment of and support for these officers, and addressed the following questions:

- i) is the group of officers appropriately classified under the Cabinet Fees Framework (or the Remuneration Authority)?
- ii) is the category under the Framework appropriate?
- iii) is the fee appropriate? That is:

- a. does the recommended fee adequately reflect levels of responsibility?
- b. will the recommended fee (or lack of recommendation) contribute to greater consistency and uniformity between Tribunals and associated bodies?
- c. does the recommended fee (or lack of recommendation) provide reasonable alignment with relative rates in other sectors and jurisdictions?
- d. is the recommended fee (or lack of recommendation) being set on a fair but conservative basis, reflecting the balance of discount for the element of service to the public involved?
- e. does the recommended fee (or lack of recommendation) have regard to the factors of complexity of the work undertaken, the expertise required and recruitment and retention issues of relevance to any specific group?
- f. does the recommended fee (or lack of recommendation) have regard to relevant policy initiatives and foreshadowed legislative changes?
- g. Where paid at an annual rate, does the recommended fee (or lack of recommendation) reflect the time involved?
- h. Where an increase in a fee is recommended, is it affordable?

Finally, in terms of financial implications of any recommended increases in remuneration and/or allowances arising from this review, it is noted that expenditure on remuneration and allowances for the officers covered by the review will be (approximately) \$10.8 million during the fiscal year 2005/06.

THE BERESFORD REPORT: A PLATFORM FOR THIS REVIEW

A key finding in the Beresford Report pin-pointed inconsistencies relating to the fixing of fees payable which, prior to that review, it is fair to say had led to a number of parties being critical of the lack of integrity of the process.

The Beresford Report also noted the following important points:

- fee arrangements covering officers were complex, having arisen from an apparent mix of historical decision making (applying both defined rules and pragmatic decisions to reflect particular circumstances) and full-time, consistent part-time and short term/episodic engagements
- the adequacy or otherwise of fees could not sensibly be fully analysed in isolation from total remuneration received, including provisions such as superannuation and allowances, and the time it takes to earn that remuneration.

Recognising the centrality of the Cabinet Fees Framework to remuneration for personnel across the state sector, and Government's commitment to its continuance, the Beresford Report focussed on proposing changes for those officers whose fees are administered by the Ministry of Justice that:

- would be likely to attract broad support
- would ameliorate certain very apparent deficiencies in current fee levels
- would result in the development and application of a robust and durable process for regular review
- would build confidence amongst judicial and statutory officers that the Ministry is "looking after" them".

As a result, the proposals for adjusting the fees (or not) in that Report developed for the first time for the Ministry a platform of consistency, fairness and alignment (having regard to affordability) that had, hitherto, been lacking for judicial and statutory officers administered by Special Jurisdictions.

That platform, in turn, has enabled this reviewer to recommend enhancements that further develop the review framework along established organisational and labour market principles for remuneration setting.

COVERAGE OF JUDICIAL & STATUTORY OFFICERS BY THE CABINET FEES FRAMEWORK

A number of submissions noted that judicial and statutory officers covered under the Cabinet Fees Framework, and hence covered by this review process, should instead be covered by the Remuneration Authority's jurisdiction and have their remuneration fixed under the Authority's separate process.

The specific submissions in support of this are set out in the later sections of this report, under the respective groups from whom the submissions were made.

The reviewer notes these submissions, and notes that government policy has determined the current balance of officers covered respectively by the Cabinet Fees Framework and the Remuneration Authority. Nonetheless, comment is made under the relevant sections of this report in respect of officers whose coverage should more appropriately be under the Remuneration Authority, where the reviewer considers it appropriate.

A MIX OF FACTORS AND RELATED ROLES TO INFORM THIS REVIEW

In conducting this review under the provisions of the Cabinet Fees Framework, where the reviewer has recommended increases in fees in this report some or all of the following circumstances have, in the reviewer's opinion and on the facts, been applicable:

- i) the current fee does not reflect the complexity of the functions and the expertise required
- ii) the current fee, when paid as an annual rate, does not reflect the time involved
- iii) the current fee does not reflect recruitment and retention issues, either at the time of the review or - importantly from the Ministry's perspective - in the Ministry having confidence that the current fee, going forward, will maintain a level of stability around recruitment and retention
- iv) the current fee does not reflect the degree to which the role is in the public eye
- v) the current fee rate needs to be varied to reflect additional responsibilities
- vi) a higher fee is necessary to secure scarce specialist skills.

In taking this approach, as required under the Framework, the reviewer has also had regard to various labour market factors and disciplines/roles that have similarities with respective groups, and this has included:

- consideration of labour market skill supply and shortages in areas relevant to specific tribunals/authorities
- consideration of the Remuneration Authority's determinations for judicial officers
- the scale of Crown Solicitors' fees.

This mix of labour market inputs providing broad input information enables the reviewer to take a multi-dimensional approach when reviewing the remuneration for officers covered by this review. It aligns with sound labour market practices, both public and private sector, and - importantly - aligns with the general approach of the Remuneration Authority.

COMMENT REGARDING INCREASES PROPOSED IN THIS REPORT

It will be noted that roles in all bodies (with one exception) are proposed to receive fee increases of, at a minimum, 3.4%. This reflects the reviewer's careful consideration of all relevant circumstances, including the effect on recruitment and retention for the bodies

reviewed of movements in related roles, bodies, occupations and skill areas in the wider labour market since the last review. It is, however, not a precedent for any future reviews (either in principle or in quantum) and is made independently of the increases to fee ranges resulting from the 2006 review of the Cabinet Fees Framework.

It will also be noted that for some roles their proposed placement within the appropriate fee range may, as a result of this review, differ from the existing placement in the range. This also results from the reviewer's careful consideration of all relevant circumstances, including the nature of the work carried out by the bodies, the depth and breadth of skill, knowledge and experience required to carry out that work, and the profoundness of impact (in the reviewer's opinion) of decisions on the economic/social functioning of the community.

REVIEW OF FEES FOR RESPECTIVE GROUPINGS OF JUDICIAL & STATUTORY OFFICERS

Attached as Annex 2 to this report is an outline of the dimensions of each of the twenty five bodies covered by this review. The information in the annex has been updated as at 2006.

Set out below is comment, including matters raised from submissions received, relevant to each body and the reviewer's conclusion and recommendations in respect of the roles in each body.

ABORTION SUPERVISORY COMMITTEE

Role	Remuneration as at 1 October 2006	Last Review Movement	Relevant Cabinet Fees Framework Range
Chair	\$37,712 pa Annualised \$730 daily fee	1 July 2005 - increased by 24.3%	\$600 to \$970 per day (i.e. Group 4, Level 1)
Members	\$460 per day	1 July 2005 - increased by 24.3%	\$450 to \$730 per day (i.e. Group 4, Level 1)
Certifying Consultants	\$135.00 per face-to-face consultation \$37.50 per phone consultation	1 July 2005 - increased by 54% 1 July 2005 - increased by 7%	NA

Overview

Under the Contraception, Sterilisation and Abortion Act 1977, this committee is responsible for keeping under review abortion law and practice in New Zealand, and licensing both institutions for the performance of abortions and medical practitioners as certifying consultants to consider cases for abortion.

It is classified as a Group 4, Level 1 body under the Cabinet Fees Framework, and the last review movements are noted in the table above. The committee has statutory powers to co-opt technical sub-committees and specialist advice.

The reviewer notes that the Beresford Report made specific reference to reviewing the 'by phone' consultation rate paid to Certifying Consultants in subsequent reviews.

Ministry records indicate that the committee comprises a Chair, two Members and 206 Certifying Consultants. There is currently a vacancy for one member.

Matters raised with the reviewer through submissions

Submissions to the reviewer covered the following points:

- there remains a shortage of assessing and operating Consultants, particularly in respect of cover during absences for leave and sickness
- the remuneration for Consultants should be index linked to keep pace with inflation and the cost of living
- in setting the fee for Consultants, recognition should be given to the costs involved in running a professional consulting room, at two levels – first, the actual gross cost of running a professional consulting room; secondly, that increases in overheads for such businesses traditionally exceed the rate of inflation.

Evaluation

1. Current Classification:

This committee is currently classified under the CFF as a Group 4 Level 1 body. That classification is the highest available under this Group and the reviewer concludes that the current classification is appropriate for this body.

2. Cabinet Fees Framework - factors to be considered in setting fees: Evaluated against the CFF, the reviewer's perspective is as follows:

	Chair	Members	Certifying Consultants
Does the current fee reflect the complexity of the functions and the expertise required?	Yes	Yes	Yes
If the fee is paid at an annual rate does it reflect the time involved?	Yes	NA	NA
Does the current fee reflect recruitment and retention issues?	The reviewer concludes that there are currently no clear recruitment and retention difficulties but that, for the Ministry to have reasonable confidence in this situation continuing, a modest fee increase is warranted.	Despite one current vacancy, the reviewer concludes that there are currently no clear recruitment and retention difficulties but that, for the Ministry to have reasonable confidence in this situation continuing, a modest fee increase is warranted.	Yes. Information provided by the Ministry indicates a high retention level (average tenure exceeding 10 years, evenly spread across all regions), and the reviewer concludes, on the information available, that there are currently no clear recruitment and retention difficulties, and further that this situation appears (to the reviewer) likely to remain stable in the absence of a fee increase for face-to-face consultations in this review.
Does the current fee reflect the extent to which an individual member needs to insure against personal liability?	No issues have been brought to the reviewer's attention on this criterion.	No issues have been brought to the reviewer's attention on this criterion.	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the potential risk to reputation for the officer?	No issues have been brought to the reviewer's attention on this criterion.	No issues have been brought to the reviewer's attention on this criterion.	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the degree to which the role is in the public eye?	While no issues have been brought to the reviewer's attention on this criterion in the reviewer's opinion the nature of this role warrants special, albeit, modest consideration for an increase in the fee.	While no issues have been brought to the reviewer's attention on this criterion in the reviewer's opinion the nature of this role warrants special, albeit, modest consideration for an increase in the fee.	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee rate need to be varied to reflect additional responsibilities, such as chairperson or deputy chairperson roles?	No	No	No
Is a higher fee necessary to secure scarce specialist skills?	While no issues have been brought to the reviewer's attention on this criterion the unique nature of the role warrants special, albeit, modest consideration for an increase in the fee.	While no issues have been brought to the reviewer's attention on this criterion the unique nature of the role warrants special, albeit, modest consideration for an increase in the fee.	No issues have been brought to the reviewer's attention on this criterion.

3. Quantitative Factors – occupational group/role comparisons and other factors:

- a) In respect of the roles of Chair and Member, the reviewer has considered the mix of factors and related roles noted earlier in this report, and having regard to the comments made in the evaluation table above considers that a modest increase in the fees paid is warranted to ensure continued retention of the specialist skills for the roles of Chair and Member, to ensure appropriate reflection of the degree to which the roles of Chair and Member are in the public eye, and to ensure recruitment and retention to these roles;
- b) In respect of the role of Certifying Consultant, the reviewer has considered the mix of factors and related roles noted earlier in this report and considers that the face-to-face consultation rate is appropriate for ensuring continued recruitment and retention to these roles, but that the alignment between the face-to-face and by-phone rates should be adjusted having regard to the historical differential (i.e. the differential that existed prior to 1 July 2005).

Recommendations

For the Chair and Members:

- i) That the annualised fee payable to the Chair of the Abortion Supervisory Committee be increased from \$730 per day to \$800 per day from 1 July 2007;
- ii) That the daily fee for Members of the Abortion Supervisory Committee be increased from \$460 per day to \$495 per day from 1 July 2007.

For Certifying Consultants:

- i) increase the by-phone consultation rate from \$37.50 to \$56.00 from 1 July 2007.

ACCIDENT COMPENSATION APPEALS AUTHORITY

Role	Remuneration as at 1 October 2006	Last Review Movement	Relevant Cabinet Fees Framework Range
Authority (Chair)	\$730 per day	1 July 2005 - increased by 21.7%	\$540 to \$800 per day

Overview

Under the (repealed) Accident Compensation Act 1982 this authority deals with residual appeals from the decisions of the predecessor organisation to the Accident Compensation Corporation (the then Accident Rehabilitation and Compensation Insurance Corporation).

It is classified as a Higher Rate Tribunal under the Cabinet Fees Framework, and the last review movement is noted in the table above.

Ministry records indicate that the authority currently comprises one officer who is the Chair.

Matters raised with the reviewer through submissions

There were no matters raised with the reviewer through submissions.

Evaluation

1. Current Classification:

This authority is currently classified under the CFF as a Group 2 Higher Rate Tribunal.

The reviewer concludes that the current classification is appropriate for this body.

2. Cabinet Fees Framework - factors to be considered in setting fees: Evaluated against the CFF, the reviewer's perspective is as follows:

	Chair
Does the current fee reflect the complexity of the functions and the expertise required?	Yes
If the fee is paid at an annual rate does it reflect the time involved?	NA
Does the current fee reflect recruitment and retention issues?	The reviewer concludes that there are currently no clear recruitment and retention difficulties but that, for the Ministry to have reasonable confidence in this situation continuing, a modest fee increase is warranted.
Does the current fee reflect the extent to which an individual member needs to insure against personal liability?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the potential risk to reputation for the officer?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the degree to which the role is in the public eye?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee rate need to be varied to reflect additional responsibilities, such as chairperson or deputy chairperson roles?	NA
Is a higher fee necessary to secure scarce specialist skills?	No issues have been brought to the reviewer's attention on this criterion.

3. Quantitative Factors – occupational group/role comparisons and other factors:

In respect of the role of Chair the reviewer has considered the mix of factors and related roles noted earlier in this report and considers that a modest increase in the fee paid is appropriate to ensure continued recruitment and retention to this role.

Recommendation

- i) That the daily fee for the Chair of the Accident Compensation Appeals Authority be increased from \$730 per day to \$755 per day from 1 July 2007.

COYPRIGHT TRIBUNAL

Role	Remuneration as at 1 October 2006	Last Review Movement	Relevant Cabinet Fees Framework Range
Chair	\$730 per day	1 July 2005 - increase by 21.7%	\$540 to \$800 per day
Members	\$460 per day	1 July 2005 - increase by 24.3%	\$340 to \$510 per day

Overview

This body deals with disputes about licences allowing the copying, performing and broadcasting of works under the Copyright Act 1994.

It is classified as a Higher Rate Tribunal under the Cabinet Fees Framework, but where the Chair is a District Court Judge the remuneration is fixed by the Remuneration Authority. The last review movements are noted in the table above.

Ministry records indicate that the authority currently comprises a Chair and two Members.

Matters raised with the reviewer through submissions

There were no matters raised with the reviewer through submissions.

Evaluation

1. Current Classification:

This tribunal is currently classified under the CFF as a Group 2 Higher Rate Tribunal.

The reviewer concludes that the current classification is appropriate for this body.

2. Cabinet Fees Framework - factors to be considered in setting fees: Evaluated against the CFF, the reviewer's perspective is as follows:

	Chair	Members
Does the current fee reflect the complexity of the functions and the expertise required?	Yes	Yes
If the fee is paid at an annual rate does it reflect the time involved?	NA	NA
Does the current fee reflect recruitment and retention issues?	The reviewer concludes that there are currently no clear recruitment and retention difficulties but that, for the Ministry to have reasonable confidence in this situation continuing, a modest fee increase is warranted.	The reviewer concludes that there are currently no clear recruitment and retention difficulties but that, for the Ministry to have reasonable confidence in this situation continuing, a modest fee increase is warranted.
Does the current fee reflect the extent to which an individual member needs to insure against personal liability?	No issues have been brought to the reviewer's attention on this criterion.	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the potential risk to reputation for the officer?	No issues have been brought to the reviewer's attention on this criterion.	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the degree to which the role is in the public eye?	No issues have been brought to the reviewer's attention on this criterion.	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee rate need to be varied to reflect additional responsibilities, such as chairperson or deputy chairperson roles?	No	No
Is a higher fee necessary to secure scarce specialist skills?	No issues have been brought to the reviewer's attention on this criterion.	No issues have been brought to the reviewer's attention on this criterion.

3. Quantitative Factors – occupational group/role comparisons and other factors:

In respect of the roles of Chair and Members, the reviewer has considered the mix of factors and related roles noted earlier in this report and considers that a modest increase in the fees paid is appropriate to ensure continued recruitment and retention to these roles.

Recommendations

- i) That the daily fee for the Chair of the Copyright Tribunal be increased from \$730 per day to \$755 per day from 1 July 2007;
- ii) That the daily fee for Members of the Copyright Tribunal be increased from \$460 per day to \$476 per day from 1 July 2007.

CRIMINAL JUSTICE ASSISTANCE REIMBURSEMENT SCHEME

Role	Remuneration as at 1 October 2006	Last Review Movement	Relevant Cabinet Fees Framework Range
Assessor	\$600 per day	1 February 1998	NA

Overview:

This body considers applications for compensation for any material loss caused by victimisation as a consequence of assisting in the administration of justice.

There is no legislative authority for this body, with the role being established by Cabinet.

Ministry records indicate that there is currently one Assessor, who is also the Chair of this body.

The reviewer notes that there were no recommendations made in the Beresford Report regarding fees, pending the research and consideration of further information in the process of this review.

Matters raised with the reviewer through submissions

There were no matters raised with the reviewer through submissions.

Consideration of further information regarding the functions of this body

The reviewer notes that the preferred background for appointment to this body is from the judicial bench, and considers that this high and specialist level of skill, knowledge and experience should be reflected in the fee level. The reviewer also notes, based on the number of sitting days recorded by the Ministry during the 2005/06 year, that this body has a small number of appointments.

Evaluation

1. Current Classification:

This body does not fall within the Cabinet Fees Framework. It was established (as noted above) by Cabinet and has no empowering legislation, thus the Ministry uses the CFF as a guide.

2. Cabinet Fees Framework - factors to be considered in setting fees: Evaluated against the CFF, the reviewer's perspective is as follows:

	Assessor
Does the current fee reflect the complexity of the functions and the expertise required?	No.
If the fee is paid at an annual rate does it reflect the time involved?	NA
Does the current fee reflect recruitment and retention issues?	The reviewer concludes that there are currently no clear recruitment and retention difficulties but that, for the Ministry to have reasonable confidence in this situation continuing, a fee increase is warranted.
Does the current fee reflect the extent to which an individual member needs to insure against personal liability?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the potential risk to reputation for the officer?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the degree to which the role is in the public eye?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee rate need to be varied to reflect additional responsibilities, such as chairperson or deputy chairperson roles?	NA
Is a higher fee necessary to secure scarce specialist skills?	No issues have been brought to the reviewer's attention on this criterion.

3. Quantitative Factors – occupational group/role comparisons and other factors:

The reviewer has considered the mix of factors and related roles noted earlier in this report. The reviewer has also compared the fee for this role with the fee for other roles requiring the officer to be a member of the judiciary. Taking both of these factors into account, the reviewer considers that an appropriate increase in the fee to ensure continued recruitment and retention to this role is warranted in this review.

Recommendation

- i) That the daily fee for the Chair (Assessor) of the Criminal Justice Assistance Reimbursement Scheme be increased from \$600 per day to \$755 per day from 1 July 2007.

CUSTOMS APPEAL AUTHORITY

Role	Remuneration as at 1 October 2006	Last Review Movement	Relevant Cabinet Fees Framework Range
Chair	\$600/day	Reviewed in 1997, increase effective 1/2/98; Reviewed in 2004 - no increase	\$540 to \$800 per day

Overview

This body determines appeals under the Customs and Excise Act 1996 or any other Act against assessments, decisions, rulings, determinations and directions of the Comptroller of Customs.

It functions as a Commission of Inquiry, sitting as a one member judicial authority, and is classified as a Higher Rate Tribunal under the Cabinet Fees Framework. The last review movements are noted in the table above.

Ministry records indicate that the authority currently comprises one member who sits as the Chair.

It is noted that the Beresford Report made no recommendation regarding fees for this body, with the comment “...*pending the research and consideration of further information in the process of the next review*”, also noting that “...*indications suggest that alignment with other appeal authorities is probably justified*”.

Matters raised with the reviewer through submissions

Submissions to the reviewer covered the following points:

- the Authority handles complex cases, which usually involve large amounts of duty
- the Chair is required to have a wide breadth and depth of knowledge of revenue law (in the same way as does the Chair of the Taxation Review Authority), in addition to general commercial law and principles of equity, and to bring this to bear in decisions that often have wide significance to other importers
- jurisdiction is concurrent with the District Court
- it is common for customs decisions to be reviewed at High Court level, and sometimes beyond to the Privy Council (or now Supreme Court)
- Senior Counsel and Queens Counsel regularly appear
- all decisions are published (refer CCH New Zealand Tax Cases and on line), including the publishing of case notes about every customs case.

Evaluation

1. Current Classification:

This body is currently classified under the CFF as a Higher Rate Tribunal. The reviewer concludes that the current classification is appropriate for this body.

2. Cabinet Fees Framework - factors to be considered in setting fees: Evaluated against the CFF, the reviewer's perspective is as follows:

	Authority (Chair)
Does the current fee reflect the complexity of the functions and the expertise required?	In the reviewer's opinion, no. The reviewer considers the functions of this authority are at the most complex end of the spectrum of tribunals and statutory authorities, with decisions in respect of importers impacting across the importing business community, with potential impact for the wider economy. Further, the functions exercised require specialist expertise, beyond sound skill, knowledge and experience in statute and case law to include international law and conflict of laws, reflecting the fact that the Authority is required to be a District Court Judge or a barrister or solicitor of the High Court of not less than 7 years' practice.
If the fee is paid at an annual rate does it reflect the time involved?	NA
Does the current fee reflect recruitment and retention issues?	The reviewer concludes that there are currently no clear recruitment and retention difficulties but that, for the Ministry to have reasonable confidence in this situation continuing, a modest fee increase is warranted.
Does the current fee reflect the extent to which an individual member needs to insure against personal liability?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the potential risk to reputation for the officer?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the degree to which the role is in the public eye?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee rate need to be varied to reflect additional responsibilities, such as chairperson or deputy chairperson roles?	No, but in the reviewer's opinion the current fee fails to fairly reflect the level of <i>current</i> responsibility exercised.
Is a higher fee necessary to secure scarce specialist skills?	No issues have been brought to the reviewer's attention on this criterion.

3. Quantitative Factors – occupational group/role comparisons and other factors:

The reviewer has considered the mix of factors and related roles noted earlier in this report. The reviewer has also compared the fee for this role with the fee for other roles where there is a requirement for the officer to have considerable specialist expertise, and where an appointee is most likely to be, or have been, a member of the judiciary. Taking these factors into account, the reviewer considers that an increase in the fee is appropriate to ensure continued recruitment and retention to this role, as well as to recognise the increasing

complexity of matters brought before the Authority and the expertise required in making decisions which potentially have wide economic consequences for the business community, thus warranting special consideration for the fee to be set at the higher end of the relevant fee range.

4. Additional Factors:

The effective and efficient administration and enforcement of customs controls at the border, and the overall proper application of the law relating to customs and excise are, in the reviewer's opinion, of significant importance to New Zealand companies, citizens and the country as an importer and trader in the world economy. The reviewer believes this should be recognised by the fee for this role being at the higher end of the range provided under the CFF.

Recommendation

- i) That the daily fee for the Chair (Authority) of the Customs Appeal Authority be increased from \$600 per day to \$800 per day from 1 July 2007.

DEPORTATION REVIEW TRIBUNAL

Role	Remuneration as at 1 October 2006	Last Review Movement	Relevant Cabinet Fees Framework Range
Chair (Presiding Member)	\$730 per day	1 July 2005 - increased by 21.7%	\$540 to \$800 per day
Members	\$460 per day	1 July 2005 - increased by 24.3%	\$340 to \$510 per day

Overview

Under the Immigration Act 1987, this body deals with appeals from persons subject to deportation as a result of conviction or revocation of residence permit.

It is classified as a Higher Rate Tribunal under the Cabinet Fees Framework. The last review movements are noted in the table above.

Ministry records indicate that the authority currently comprises the Chair, the Deputy Chair (who is also a Member), two Members and two Deputy Members.

Matters raised with the reviewer through submissions

There were no matters raised with the reviewer through submissions.

Evaluation

1. Current Classification:

This body is currently classified under the CFF as a Higher Rate Tribunal. The reviewer concludes that the current classification is appropriate for this body.

2. Cabinet Fees Framework - factors to be considered in setting fees: Evaluated against the CFF, the reviewer's perspective is as follows:

	Chair	Members
Does the current fee reflect the complexity of the functions and the expertise required?	Yes	Yes
If the fee is paid at an annual rate does it reflect the time involved?	NA	NA
Does the current fee reflect recruitment and retention issues?	The reviewer concludes that there are currently no clear recruitment and retention difficulties but that, for the Ministry to have reasonable confidence in this situation continuing, a modest fee increase is warranted.	The reviewer concludes that there are currently no clear recruitment and retention difficulties but that, for the Ministry to have reasonable confidence in this situation continuing, a modest fee increase is warranted.
Does the current fee reflect the extent to which an individual member needs to insure against personal liability?	No issues have been brought to the reviewer's attention on this criterion.	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the potential risk to reputation for the officer?	No issues have been brought to the reviewer's attention on this criterion.	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the degree to which the role is in the public eye?	No issues have been brought to the reviewer's attention on this criterion.	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee rate need to be varied to reflect additional responsibilities, such as chairperson or deputy chairperson roles?	No	No
Is a higher fee necessary to secure scarce specialist skills?	No issues have been brought to the reviewer's attention on this criterion.	No issues have been brought to the reviewer's attention on this criterion.

3. Quantitative Factors – occupational group/role comparisons and other factors:

In respect of the roles of Chair and Member, the reviewer has considered the mix of factors and related roles noted earlier in this report and considers that a modest increase in the fees is appropriate to ensure continued recruitment and retention to these roles.

Recommendations

- i) That the daily fee for the Chair of the Deportation Review Tribunal be increased from \$730 per day to \$755 per day from 1 July 2007;
- ii) That the daily fee for the Members of the Deportation Review Tribunal be increased from \$460 per day to \$476 per day from 1 July 2007.

DISPUTES TRIBUNAL

Role	Remuneration as at 1 October 2006	Last Review Movement	Relevant Cabinet Fees Framework Range as a Higher Rate Tribunal
Principal Disputes Referee	N/A – Remuneration determined by the Remuneration Authority		
Disputes Referees	\$400 per day	1 July 2004 - increased by 13% 1 July 2005 - increased by 14.3%	\$340 to \$510 per day

Overview

Under the Disputes Tribunals Act 1988, Disputes Referees hear civil disputes which they either determine, or help the parties agree to their own solution. Rulings are binding and, if necessary, enforced by the Courts.

The Disputes Tribunal is established as a separate division of the District Court and, as such, is defined under the Inferior Courts Procedure Act 1909 as an 'Inferior Court'.

The body was reclassified as a Higher Rate Tribunal under the Cabinet Fees Framework in 2005. The remuneration for the Principal Disputes Referee is fixed by the Remuneration Authority.

The last review movements in 2004 and 2005 for Disputes Referees are noted in the table above.

Ministry records indicate that the authority currently comprises the Principal Disputes Referee and 58 Referees operating out of seventeen primary locations throughout New Zealand.

Matters raised with the reviewer through submissions

Submissions to the reviewer covered the following points:

- i) dissatisfaction has been expressed with the current level of daily fees – submitters state that the current per diem in real terms is \$83 below the level needed to equate with the per diem received in 1997
- ii) fee level recommendations of the last two independent reviews (Huria Anders; Beresford) were rejected by the State Services Commission without sufficient reason
- iii) the Cabinet Fees Framework factor of affordability is severely at odds with the constitutional requirement for judicial independence, and the Ministry's present process fails to recognise this
- iv) although this is an independent review, the ultimate decisions based on the reviewer's recommendations are not independent
- v) if the Cabinet Fees Framework is to continue to apply to the fee setting process, Referees should be reclassified as Chairpersons of a higher rate tribunal because they sit alone, have decision-making powers, and exercise these in every case in which they sit
- vi) the term of appointment should be increased from 3 years to 5 years (it is noted that the Principal Disputes Referee is appointed for a term of 5 years), to recognise that many referees contribute a large proportion of their working week to this role, thus and inevitably diminishing other employment opportunities and hence other security of employment and income. Further, many Disputes Referees are also Tenancy Adjudicators and contributing a large proportion of their working week to two, separate statutory functions, adding weight to increasing the term of appointment
- vii) the role of Disputes Referee should be separated out from Cabinet's discretionary decision-making process for fees and placed under the Remuneration Authority's jurisdiction; alternatively the recommendations arising from this independent review report should be binding on the Ministry and the State Services Commission
- viii) in respect of the recently announced changes to the Cabinet Fees Framework, referees make the following submissions:
 - the CFF statement on page 2 that there is no obligation to automatically increase fees as a result of a review would be seen as a serious breach of good faith bargaining if it were to mean that any recommended changes within the range allowed for their classification were not accepted
 - with regard to the CFF statement that fees increases need to be justified in terms of recruitment, retention or levels of responsibility exercised, referees submit that they have given compelling evidence in respect of existing recruitment and

retention problems and compelling evidence that the current fees do not adequately reflect the levels of responsibility required to be exercised

- with regard to the CFF statement that fee increases need to be modest, referees would accept that direction only when it can be demonstrated that relativity with other professionals in similar fields of work was achieved
- with regard to the CFF statement that changes need to reflect a modest approach to remuneration increases, referees submit that this as a double standard when no such restriction is placed on remuneration increases for members of parliament
- with regard to the CFF statement regarding operating outside the parameters of the CFF, referees see this as giving regulatory authority to the reviewer to accept the submission that referees act as a one person committee and should be remunerated at the rate applicable to the chair of a body at that level
- with regard to the CFF statement that increases in fees are to be met within existing baselines or appropriations, referees submit that this imposition is a totally unacceptable constraint on any fair review process or outcome
- referees submit that there is a serious recruitment problem, demonstrated by:
 - the cycle of appointment rounds completed over the past 14 months highlighted the problem of attracting suitably qualified applicants
 - in 2005 appointment rounds in Dunedin and Invercargill were abandoned through a lack of suitable candidates
 - in 2006 an appointment round on the West Coast was abandoned through a lack of suitable candidates and a current vacancy in Auckland has failed to attract suitable applicants, leading the Ministry to email all current referees asking them to encourage applications from suitable persons who they may know
 - the increased complexity and scope of the role, and the degree of expertise required to fulfil the role, is not recognised by the current fee
 - if standards are going to be raised in the tribunal the recruitment of suitable legally qualified and experienced candidates is vital, with the main stumbling block to employing outstanding candidates being the low level of the daily sitting fee
 - the tensions and pressures in the role do not differ markedly from those experienced by a District Court Judge attending to the civil list
 - current travel and other allowances have remained the same for some years, and do not adequately reimburse referees for the actual costs incurred, and

should be reviewed urgently. For example, say the submitters, travel allowances were last reviewed in 1997 and other allowances such as the lunch and dinner allowances were last reviewed in 2001.

Evaluation

1. Current Classification:

This body is currently classified under the CFF as a Higher Rate Tribunal. The reviewer concludes that the current classification is appropriate for this body.

2. Cabinet Fees Framework - factors to be considered in setting fees: Evaluated against the CFF, the reviewer's perspective is as follows:

	Referees
Does the current fee reflect the complexity of the functions and the expertise required?	In the reviewer's opinion, no. The current fee of \$400 per day sits at the midpoint of the previous range of \$340 - \$460 per day. It is the reviewer's opinion that the nature of the role in terms of its sole responsibilities, the number of statutes under which decisions can be made, the growing number of defended hearings, the lack of dedicated clerical assistance to Referees, the increased rigour required in written decisions, and the increased emphasis for legal qualifications for appointment to the role all lead the reviewer to determine that the fee should sit higher than the midpoint of the applicable range.
If the fee is paid at an annual rate does it reflect the time involved?	NA
Does the current fee reflect recruitment and retention issues?	Information provided from the Ministry's records, between 2004 and 2006 shows that: <ul style="list-style-type: none"> a) six vacancies arose from newly created positions and all were filled; b) one recruitment round was cancelled through lack of applicants; c) all recruitment rounds have attracted adequate applicant interest enabling suitable appointments to be made, except as noted at b) above; d) the reviewer therefore concludes that while there are currently no clear recruitment and retention difficulties, for the Ministry to have reasonable confidence in this situation continuing a fee increase is warranted.
Does the current fee reflect the extent to which an individual member needs to insure against personal liability?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the potential risk to reputation for the officer?	No issues have been brought to the reviewer's attention on this criterion.

Does the current fee reflect the degree to which the role is in the public eye?	Broadly, yes, but the reviewer's comment and opinion above in respect of the current fee and its position in the range should be noted.
Does the current fee rate need to be varied to reflect additional responsibilities, such as chairperson or deputy chairperson roles?	In the reviewer's opinion, no.
Is a higher fee necessary to secure scarce specialist skills?	No issues have been brought to the reviewer's attention on this criterion, although the reviewer notes the generally increasing specialisation of appointments of persons with legal backgrounds.

3. Quantitative Factors – occupational group/role comparisons and other factors:

In respect of the role of Referee, the reviewer has considered the mix of factors and related roles noted earlier in this report and the current position of the fee within the appropriate scale, and considers that an increase in the fees is appropriate to ensure continued recruitment and retention to the role.

4. Other Factors:

The reviewer has considered the following additional factors, including consideration of factors raised in submissions and noted above:

- **Sole income source:** There are a number of judicial and statutory officers, including (but not limited to) Disputes Referees for whom the role has become a sole income source. As noted above, some officers have a sole income source from more than one judicial/statutory role (19% of Disputes Referees are also Tenancy Adjudicators).

The Cabinet Fees Framework is not ideally designed nor structured, in the reviewer's opinion, to accommodate full time tenure, or to accommodate opportunity costs that ensue where officers diminish (or even relinquish) their private sector professional activities and opportunities to carry out an increasing volume of public duties. The reviewer will recommend that the Ministry and the State Services Commission give consideration to situations where Disputes Referees receive their sole income undertaking judicial/statutory officer duties and explore possible alternative fees arrangements, other than an annualised daily fee arrangement, either within or outside the Cabinet Fees Framework.

- **Reclassification of the role from Referee to Chair:** The comments in support of this submission are noted. The CFF distinction between the roles of Chair and Member does not directly align with the Disputes Tribunal distinction between its roles of Principal Referee and Referee, and the day to day role of Referees is clearly one of a sole statutory officer effectively managing their own proceedings. However, the day to day role of

Referees is also different from that of a Chair, in the reviewer's opinion – i.e. the title of 'Referee' reflects the strong degree of active and participative management of a forum and associated outcome, a forum that differs from that presided over by a Chair.

Reclassifying the role of Referee to Chair is not an option that the reviewer would support. However, an alternative possibility would be to create an intermediate category under the CFF Group 2 specifically for unique roles that sit alone managing their own proceedings, but not defined as a Chair of the proceedings. The reviewer will recommend that the Ministry and the State Services Commission explore this possibility.

- **Lack of independence of this review and present process:** As noted in a separate, earlier section of this report, the current arrangements reflect government policy which has determined the current balance of officers covered respectively by the Cabinet Fees Framework and the Remuneration Authority. Nonetheless, comment is made under the relevant sections of this report in respect of officers whose coverage should more appropriately be under the Remuneration Authority, where the reviewer considers it appropriate.
- **That the recommendations from this review should be binding on the Ministry and the State Services Commission:** The reviewer points out that it is not possible for a review of this nature to be binding on officials; the responsible Minister, under the statute, is the fee setting authority, exercising his/her authority within the context of collective Cabinet responsibility. The role of officials in the Ministry and the SSC is not as decision makers but as advisers to the relevant Ministers on these matters.
- **Question of taking a modest approach, and meeting fees within existing baselines or appropriations:** In noting these points in the submissions received, the reviewer would point out that it is incumbent on officials and Ministers, in spending taxpayers' money, to act in a modest, measured way. That is not inconsistent with, and can certainly be achieved in the reviewer's opinion, by at the same time setting a fair, reasonable and appropriate level of fee for the nature of the respective roles.
- **No obligation to increase fees as a serious breach of good faith bargaining:** In noting the submission at point viii) above and its reference to good faith bargaining, the reviewer needs to clarify that the relationship between the Ministry and judicial and statutory officers is not an employment or contract for services relationship and does not therefore provide for any form of bargaining processes to occur.
- **Increase the term of appointment from 3 to 5 years:** Judicial and statutory officers' terms of appointment reflect government policy, and as with the comments above it is not within the reviewer's terms of reference for comment or recommendation in respect of submissions on this point.

- **Current travel, and other, allowances:** A number of issues in respect of allowances is addressed in this report in a separate section.

Recommendations

- That the daily fee for Referees of the Disputes Tribunal be increased from \$400 per day to \$460 per day from 1 July 2007;
- That the Ministry and the State Services Commission give consideration to situations where Disputes Referees receive their sole income undertaking judicial/statutory officer duties and explore possible alternative fees arrangements, other than an annualised daily fee arrangement, either within or outside the Cabinet Fees Framework;
- That the Ministry and the State Services Commission explore the possibility of creating an intermediate category under the CFF Group 2 specifically for unique roles that sit alone managing their own proceedings, but which are not defined as Chairs of tribunals.

ENVIRONMENT COURT

Role	Remuneration as at 1 October 2006	Last Review Movement	Relevant Cabinet Fees Framework Range
Commissioners	Full time Commissioners receive a fee as an annualised payment of \$124,500; part time Commissioners receive this annualised fee paid on a 75% pro rata basis. Both payments are an approved exception under the CFF	1 July 2005 - increased by 13.1%	\$340 to \$510 per day
Deputy Commissioners	\$475 per day as an approved exception under the CFF	1 July 2005 - increased by 13.1%	\$340 to \$510 per day

Overview

Under the Resource Management Act 1991, Commissioners and Deputy Commissioners, as members of the Environment Court, deal with the effects of the development and use of natural resources, and consider district and regional plans and resource consents for development plans. Most of the Court's work involves public interest questions, and because of the gravity and complexity of the subject matter of the proceedings, decisions are usually reserved, with written judgements delivered at a later date.

The Environment Court is headed by the Principal Environment Judge, the Environment Judges and Alternate Environment Judges whose remuneration, as judicial officers, is set by the Remuneration Authority. Environment/Deputy Commissioners are appointed for a five year term.

The line of appeal is to the High Court. The last review movement for Commissioners and Deputy Commissioners is noted in the table above.

Ministry records indicate that the Court currently comprises the Principal Judge, five Environment Judges, two Alternate Environment Judges, thirteen Environment Commissioners and four Deputy Environment Commissioners.

Environment Commissioners and Deputy Environment Commissioners are currently under consideration by the Ministry for their remuneration setting to be transferred from the Minister for Courts (under the Cabinet Fees Framework) to the Remuneration Authority. Noting this, the Ministry has determined that these officers will remain in scope for this review.

Matters raised with the reviewer through submissions

Submissions to the reviewer covered the following points:

- i) Environment Court decisions have a fundamental and far reaching effect on New Zealand's environment and society, where decisions are being made on projects or policies measured in hundreds of millions of dollars
- ii) there is, therefore, a very high level of public interest in, and scrutiny of, the Court's decisions and conduct
- iii) their work with the Court is the principal, and in most cases, sole source of income for the eighteen Commissioners/Deputy Commissioners
- iv) in terms of recruitment, the quality of applicants for all ECC positions is a critical factor, and the Court needs to recruit persons who are recognised as professionals at the top of their field
- v) it has become increasingly common for straight forward matters to be mediated, without the need for Court time (544 mediations in the 2005/06 year) - the complexity, scale and environmental significance of matters dealt with at mediation have increased, examples include mediating the Western Springs Speedway noise issues, and mediating windfarm and geothermal energy proposals - such mediations may involve multiple parties, with 30 to 40 participants at a mediation not unusual - the mediation is conducted by Commissioners

- vi) legislation provides for Commissioner alone hearings, which are occurring increasingly
- vii) Commissioners are increasingly responsible for drafting Court decisions, in part or full, significantly raising the specialised skills and expectations of the role
- viii) the nature of the role for full time and 75% time Commissioners often requires travel on circuit away from home for 50% of their working time (2 weeks per month); major hearings away from home can last for 6-8 weeks or longer; the nature of the role places limits on not only the persons with whom a Commissioner can socialise while on circuit (or, in fact, at home) but also places restraint on the extent to which an officer can participate in public affairs
- ix) the conditions of appointment, while recognising the full or 75% time involvement through payment of an annualised fee, still fails to recompense officers equally and fairly with other, similar judicial officers who receive subsidised superannuation and sabbatical provisions
- x) where Commissioners have either a full or 75% time involvement, the nature of the tenure, i.e. a 5-year term with no guaranteed renewal, and the opportunities to return to reasonable private sector income levels if tenure is not renewed, is not factored into the remuneration, and it should be
- xi) the formulaic application of an index to the current fee level would not redress changes in responsibility relative to other jurisdictions and positions, and this approach should only be considered by the reviewer for maintaining relativities for the period June 2005-2007
- xii) Commissioners remain strongly of the view that their fees and conditions of employment should be set by the Remuneration Authority
- xiii) Noting the recently revised Cabinet Fees Framework, the Commissioners submit that the role should be remunerated at \$510 per day for the period June 2007 to June 2009, and seek a commitment from the Ministry to backdate the outcome of the next review, which would apply from June 2009, to June 2007 to overcome the continued 'catch-up' situation. The Commissioners also seek parity with Environment Court Judges' remuneration
- xiv) the reviewer was asked to address the anomaly whereby officers receiving the fee as an annualised payment also receive a leave entitlement, similar to being employed in a contract of service arrangement; however those officers receiving the daily fee do not have this entitlement.

Other matters identified by the reviewer as pertinent to the role of the Environment Commissioners and Deputy Environment Commissioners:

- the reviewer supports the Ministry's proposal for all officers working in the Environment Court, including Environment Commissioners and Deputy Commissioners appointed to this Court, to be covered by the Remuneration Authority
- the reviewer notes that, with increasing frequency, appointment to the role of Commissioner draws professionals from a wide spectrum of backgrounds, and the Ministry seeks to appoint officers who may have a depth of skill, knowledge and experience in one or more specialist fields - thus adding to the Court's breadth and depth of specialist expertise
- the reviewer notes the increasing importance of climate change issues in the work of the Court, and the potential impact on New Zealand's environment specifically, and on society broadly, of these decisions
- the Court, in seeking to broaden the skills and expertise of appointments as Commissioner, looks to fill vacancies from persons at varying stages in their working careers – thus the aim is for the role to be a career development move rather than a move more likely taken at the end of one's career; however if the remuneration is not seen as attractive to such applicants then this strategy is hindered
- the Court places considerable emphasis on the competence of Commissioners to write well constructed and defensible decisions, thus minimising costly appeals
- the growth of mediation work may enable the Court and the Ministry, should they wish, to look to develop in future two parallel specialist streams of service, split along mediation and formal proceedings lines i.e. one for officers whose primary passion is for mediation work, and the other deploying officers whose primary passion is for formal proceedings.

Clarification regarding the role of Deputy Environment Commissioner

The reviewer sought the following clarification from the Ministry regarding the role of the Deputy Environment Commissioner.

When called upon, Deputy Commissioners in fact act fully as an Environment Commissioner in place of such Commissioner. In other words they are more correctly described as an 'on-call' Commissioner and occupy an identical position on the same body, when called upon, as the full and part time Commissioners.

The reviewer notes that this situation meets the criterion under the Cabinet Fees Framework for establishing the same fee rate, and recommends accordingly in the 'Recommendation' section below.

Clarification regarding current fees

The reviewer sought clarification from the Ministry regarding the actual daily fee for the Environment (but not the Deputy) Commissioners for the following reasons:

- Cabinet's decision on 3 April 2006 [ref CAB Min (06) 11/7 (14)] set the annualised daily fee for Environment Commissioners at \$124,000
- in practice, the Ministry has been remunerating Environment Commissioners since 1 July 2005 at \$124,500
- the Ministry's current, standard approach sets a maximum of 230 sitting days per year for all bodies
- however, historically for a number of Environment Commissioner appointments, the Ministry had used the '260 sitting day year' that is used for salaried judicial appointments as made under the Remuneration Authority
- thus, an annualised payment of \$124,500 for a 260 sitting day year equates to \$478.85 per day (technically \$3.85 per day higher than \$475 per day)
- that technicality aside, the Ministry now uses a standard 230 sitting day year for all bodies covered by the Special Jurisdictions Group
- therefore dividing the actual annual salary of \$124,500 by 230 days equates to a daily rate of \$541.30 for full and part time Commissioners
- this recalculation does not apply to Deputy Environment Commissioners whose current remuneration of \$475 per day is already assessed on a 230 sitting day year
- **therefore, for the purposes of the recommendations set out below the reviewer proposes treating all full and part time Environment Commissioners as being currently remunerated at \$541.30 per day for a 230 sitting day year, and all Deputy Environment Commissioners as being currently remunerated at \$475 per day for a 230 sitting day year.**

Evaluation

1. Current Classification:

For the purposes of remuneration under the CFF, Environment Commissioners and Deputy Commissioners have been classified as being equivalent to members of Higher Rate Tribunals. The reviewer notes that Environment Commissioners and Deputy Commissioners have been under consideration by the Ministry for some time for their remuneration setting to be transferred from the Minister for Courts (under the Cabinet Fees Framework) to the Remuneration Authority.

The reviewer supports this proposal, and will recommend that the Ministry take all practicable steps to effect it with urgency.

2. Cabinet Fees Framework - factors to be considered in setting fees: Evaluated against the CFF, the reviewer's perspective is as follows:

	Environment Commissioners & Deputy Environment Commissioners
Does the current fee reflect the complexity of the functions and the expertise required?	In the reviewer's opinion, no. The current fee of \$541.30 per day (i.e. a recalculation of the daily rate reflecting the 230 day sitting year divisor as noted above) for full and part time Environment Commissioners sits, as an approved exception to the CFF, at 17.67% above the maximum of the previous range of \$340 - \$460 per day. It is the reviewer's opinion that the uniquely complex nature of the role and the significance to New Zealand's environment and citizens of the matters being considered and the decisions being taken by the Environment Commissioners leads the reviewer to conclude that this differential should be retained in terms of the revised CFF range and continue to sit at a differential of 17.67% above the maximum of the applicable range. The current fee for Deputy Environment Commissioners, for similar reasons, is also recommended to be modestly increased.
If the fee is paid at an annual rate does it reflect the time involved?	No, and this factor would be addressed by the reviewer's recommendation arising from the comments set out above.
Does the current fee reflect recruitment and retention issues?	From the Ministry's records, between 2004 and 2006 it appears that: i) There is stability of appointments; ii) Although it is noted that Auckland based vacancies do not draw a strong pool of <i>Auckland-based</i> , suitable applicants; iii) Therefore the reviewer concludes that while there are currently no clear recruitment and retention difficulties, for the Ministry to have reasonable confidence in this situation continuing a fee increase is warranted.
Does the current fee reflect the extent to which an individual member needs to insure against personal liability?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the potential risk to reputation for the officer?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the degree to which the role is in the public eye?	Not fully, and the reviewer's comment and opinion above in respect of the current fee and its position in the range refers.
Does the current fee rate need to be varied to reflect additional responsibilities, such as chairperson or deputy chairperson roles?	Yes, and the reviewer's comment and opinion above in respect of both the Environment Commissioner and the Deputy Environment Commissioner roles refer.
Is a higher fee necessary to secure scarce specialist skills?	No issues have been brought to the reviewer's attention on this criterion, although the reviewer notes the emerging direction for appointees as Commissioners to be specialists in more than one field, and the desire to appoint persons who may see this role as part of their early, as opposed to later, career progression. This will need careful monitoring of conditions to ensure they are attractive to meet this target recruitment profile.

3. Quantitative Factors – occupational group/role comparisons and other factors:

In respect of the role of Environment Commissioner and Deputy Environment Commissioner, the reviewer has considered the mix of factors and related roles noted earlier in this report and the current position of the fees (noting that it sits outside the appropriate scale by exception), and considers that an increase in the fees for both roles is appropriate to ensure continued recruitment and retention and to appropriately reflect the complexity of the functions, and the expertise required in an area of decision making that the reviewer considers profoundly impacts on New Zealand's future economic and social well being.

4. Other Factors:

The reviewer has considered the following additional factors, including consideration of factors raised in submissions and noted above:

- **Backdating of fees:** The reviewer comments, in noting the submission point regarding backdating fees, that the Cabinet Fees Framework in principle does not support backdating of fee increases.
- **Sole income source:** The Cabinet Fees Framework was not designed nor structured, in the reviewer's opinion, to accommodate full time tenure, or to accommodate opportunity costs that might ensue where officers diminish (or even relinquish) their private sector professional activities and opportunities to carry out an increasing volume of public duties. However, when Environment Commissioners and Deputy Environment Commissioners move under the jurisdiction of the Remuneration Authority the reviewer considers that this issue for this group of officers will be resolved.
- **Anomaly regarding leave entitlement for salarised officers:** The reviewer notes that recipients of annualised daily fees arrangements receive such payments as if they were a salary, and the Ministry has in past appointments applied sick and annual leave entitlements for some of the officers remunerated this way. A number of current officers retain these conditions as part of their appointment terms.

That practice has, in the reviewer's opinion, led to equity tensions and the reviewer supports the Ministry's discontinuance of such arrangements for the future. Further, once all Environment and Deputy Environment Commissioners are removed from the Cabinet Fees Framework and covered by the Remuneration Authority it is anticipated that such inequities will be resolved by the salarisation process that will apply to all.

The reviewer also notes that the Ministry treats annualised fees payments as salary from which PAYE deductions are made. The Inland Revenue Department has been asked by the

Ministry to review this practice, and the reviewer expresses confidence that the outcome will assist with alleviation of anomalies in this area also.

Recommendations

- i) That the Ministry clarify for all Environment Commissioners and Deputy Environment Commissioners that its standard 'sitting day year' for the bodies covered by the Special Jurisdictions Group is set at 230 days;
- ii) The application of this principle to Environment Commissioners and Deputy Environment Commissioners equates to a 'pre-review' daily fee of \$541.30 for Environment Commissioners and a 'pre-review' daily fee of \$475 for Deputy Environment Commissioners;
- iii) That the Ministry advise all Environment Commissioners and Deputy Environment Commissioners that this revised calculation process is to clarify the basis of calculation, but not alter the quantum, of the current remuneration for both groups of officers;
- iv) That the daily fee for full and part time Environment Commissioners be increased from \$541.30 per day to \$600 per day from 1 July 2007. When applied to the annualised full time and prorated daily fees this will result in annualised fees of \$137,996 (full time) and \$103,497 (75% pro rated) respectively;
- v) That the daily fee for Deputy Environment Commissioners be increased from \$475 per day to \$600 per day from 1 July 2007, in order to accurately recognise that Deputy Environment Commissioners hold identical positions to Environment Commissioners when required to act for this body;
- vi) That the Ministry therefore seek continued approval for exceptions to the Cabinet Fees Framework for the increased levels of fees recommended above;
- vii) That the Ministry take all practicable steps to effect, with urgency, the proposal for Environment Commissioners and Deputy Environment Commissioners to be covered by the Remuneration Authority.

HUMAN RIGHTS REVIEW TRIBUNAL

Role	Remuneration as at 1 October 2006	Last Review Movement	Relevant Cabinet Fees Framework Range
Chair	\$800 daily fee paid as an annualised payment of \$184,000 as an approved exception under the Cabinet Fees Framework	Approved by Cabinet in December 2004	\$540 to \$800 per day
Members	\$460/day	1 July 2005 - increased by 24.3%	\$340 to \$510 per day

Overview

The Human Rights Review Tribunal deals with cases brought under three pieces of legislation – the Human Rights Act 1993, the Privacy Act 1993, and the Health and Disability Commissioner Act 1994. It has powers to make formal declarations, has the same monetary limit as the District Court (\$200,000), can award punitive damages under the Health and Disability Commissioner Act 1994 and can make restraining orders.

Since 1 January 2002 the Tribunal has had the power to declare acts or omissions of:

- a) the legislative, executive or judicial branches of government; or
- b) a person or body in the performance of any public function, power or duty

to be inconsistent with the right to freedom from discrimination under the New Zealand Bill of Rights Act 1990.

Ministry records indicate that the Human Rights Tribunal is comprised of a Chairperson and a panel of up to 20 other members. There are presently 14 Tribunal members aside from the Chairperson, including a total of 5 people who are either practising lawyers or who have legal qualifications.

Panel members are appointed for their knowledge or experience in aspects of matters likely to come before the Tribunal; human rights law (domestic and/or international); public administration; economic, employment or social issues; cultural issues and the needs, aspirations and experiences of different communities and population groups in New Zealand society. Deputy Chairpersons are appointed from time to time to deal with particular cases.

The last review movement for the Chair and Members is noted in the table above.

The Chairperson of the Human Rights Review Tribunal is currently under consideration by the Ministry for the remuneration setting to be transferred from the Minister for Courts (under the Cabinet Fees Framework) to the Remuneration Authority. Noting this, the Ministry has determined that this office will remain in scope, along with the office of Member of the Human Rights Review Tribunal, for this review.

Matters raised with the reviewer through submissions

Submissions to the reviewer covered the following points:

- i) the unique statutory power to declare a wide range of public functions to be inconsistent with the right to freedom from discrimination affirmed by the Bill of Rights Act is a power of some constitutional significance for this body

- ii) human rights jurisdictions are, of themselves, significant in that they deal with human rights cases
- iii) the Tribunal's hearing work is *de novo* or of a first instance kind, and it has the same monetary jurisdiction as the District Court with the line for appeals to the High Court
- iv) unlike other jurisdictions, the cases coming before this tribunal are substantive, and have not been case-managed beforehand
- v) appointments to this Tribunal are made from qualified lawyers, academics and social thinkers to handle the complex issues that come before it, and the remuneration should be at the top end available under the Fees Framework to reflect the high level of skill, knowledge and experience required
- vi) the financial recompense, particularly when unpaid travel time is required, can be a disincentive to members to allocate time from more financially rewarding work in the private sector
- vii) travel time is generally not reimbursed and this acts as a disincentive where an officer, living in a remote area, is required to commute for many hours to attend sittings in distant cities.

Evaluation

1. Current Classification:

This body is currently classified under the CFF as a Higher Rate Tribunal and the reviewer notes that the Chairperson role has been under consideration by the Ministry for some time for remuneration setting to be transferred from the Minister for Courts (under the Cabinet Fees Framework) to the Remuneration Authority.

The reviewer concurs with this proposal, and will recommend that the Ministry take all practicable steps to effect this proposal with urgency.

2. Cabinet Fees Framework - factors to be considered in setting fees:

Evaluated against the CFF, the reviewer's perspective is as follows:

	Chair	Members
Does the current fee reflect the complexity of the functions and the expertise required?	Yes	Yes
If the fee is paid at an annual rate does it reflect the time involved?	Yes	NA

Does the current fee reflect recruitment and retention issues?	The reviewer concludes that there are currently no clear recruitment and retention difficulties but that, for the Ministry to have reasonable confidence in this situation continuing, a modest fee increase is warranted.	The reviewer concludes that there are currently no clear recruitment and retention difficulties but that, for the Ministry to have reasonable confidence in this situation continuing, a modest fee increase is warranted.
Does the current fee reflect the extent to which an individual member needs to insure against personal liability?	No issues have been brought to the reviewer's attention on this criterion.	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the potential risk to reputation for the officer?	No issues have been brought to the reviewer's attention on this criterion.	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the degree to which the role is in the public eye?	Yes	Yes
Does the current fee rate need to be varied to reflect additional responsibilities, such as chairperson or deputy chairperson roles?	No	No
Is a higher fee necessary to secure scarce specialist skills?	The reviewer notes submissions on this question, however concludes that there are currently no difficulties securing the specialist skills required.	The reviewer notes submissions on this question, however concludes that there are currently no difficulties securing the specialist skills required.

3. Quantitative Factors – occupational group/role comparisons and other factors:

In respect of the role of Chairperson and Member, the reviewer has considered the mix of factors and related roles noted earlier in this report and the current position of the fee for the role of Chair (as it sits outside the appropriate scale by exception) and considers that a modest increase in the fees is appropriate to ensure continued recruitment and retention to these roles.

4. Other Factors:

The reviewer has considered the following additional factors, including consideration of factors raised in submissions and noted above:

- **Sole income source:** As noted for previous officers above, the Cabinet Fees Framework was not designed nor structured, in the reviewer's opinion, to accommodate full time tenure, and when the role of the Chair moves under the jurisdiction of the Remuneration Authority the reviewer considers that this issue will be resolved

- **Travel time reimbursement issue:** A number of issues in respect of travel costs and other allowances are addressed in this report in a separate section.

Recommendations

- i) That the annualised payment for the Chairperson of the Human Rights Review Tribunal be \$190,440, which equates to an increase in the daily fee from \$800 per day to \$828 per day from 1 July 2007;
- ii) That the daily fee for Members of the Human Rights Review Tribunal be increased from \$460 per day to \$476 per day from 1 July 2007;
- iii) That the Ministry therefore seek continued approval for an exception to the Cabinet Fees Framework for the increased level of fee recommended at i) above;
- iv) That the Ministry take all practicable steps to effect, with urgency, the proposal for the Chairperson of the Human Rights Review Tribunal to be covered by the Remuneration Authority.

LAND VALUATION TRIBUNAL

Role	Remuneration as at 1 October 2006	Last Review Movement	Relevant Cabinet Fees Framework Range
Members	\$460 per day	1 July 2005 - increased by 24.3%	\$340 to \$510 per day

Overview:

Land Valuation Tribunals are constituted in accordance with s19 of the Land Valuation Proceedings Act 1948. Each Tribunal consists of a Chairperson, who is a District Court Judge, and two Members, one of whom must be a registered valuer. This is a specialist tribunal that deals with matters arising from a number of Acts, including matters to do with land valuations and titles.

Ministry records indicate that there are currently 45 tribunal members.

These bodies are classified as Higher Rate Tribunals under the Cabinet Fees Framework, and the last review movements are noted in the table above.

Matters raised with the reviewer through submissions

Submissions to the reviewer covered the following points:

- remuneration in the land valuation profession has improved significantly over the past few years and the current fee is now inadequate, failing to reflect the skills, knowledge and demands on tribunal members

- Members have a major role to play in the judicial process and this should be reflected in the fees
- the daily rate should be assessed on a plus GST basis without any deductions for tax.

Evaluation

1. Current Classification:

This body is currently classified under the CFF as a Higher Rate Tribunal. The reviewer concludes that the current classification is appropriate for this body.

2. Cabinet Fees Framework - factors to be considered in setting fees: Evaluated against the CFF, the reviewer's perspective is as follows:

	Members
Does the current fee reflect the complexity of the functions and the expertise required?	Yes
If the fee is paid at an annual rate does it reflect the time involved?	NA
Does the current fee reflect recruitment and retention issues?	The reviewer concludes that there are currently no clear recruitment and retention difficulties but that, for the Ministry to have reasonable confidence in this situation continuing, a modest fee increase is warranted.
Does the current fee reflect the extent to which an individual member needs to insure against personal liability?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the potential risk to reputation for the officer?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the degree to which the role is in the public eye?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee rate need to be varied to reflect additional responsibilities, such as chairperson or deputy chairperson roles?	No
Is a higher fee necessary to secure scarce specialist skills?	No issues have been brought to the reviewer's attention on this criterion.

3. Quantitative Factors – occupational group/role comparisons and other factors:

In respect of the role of Member, the reviewer has considered the mix of factors and related roles noted earlier in this report and considers that a modest increase in the fees is appropriate to ensure continued recruitment and retention to the role.

4. Other Factors:

The reviewer has considered the following factor raised in submissions and noted above:

- **Daily rate to be on a plus GST basis without deductions for tax:** The Ministry has recently drafted an Administrative Handbook which addresses these points, and the reviewer notes that the Ministry has determined that recipients of a daily fee will not have tax deducted at source, and daily fees payments are, under the Goods and Services Tax Act 1985, outside the scope of taxable activity. This means that recipients are not required to pay GST on such earnings and accordingly the Ministry's payments exclude a GST component.

Recommendations

- i) That the daily fee for Members of the Land Valuation Tribunals be increased from \$460 per day to \$476 per day from 1 July 2007.

LAY MEMBERS OF DISTRICT & NEW ZEALAND LAW PRACTITIONERS DISCIPLINARY TRIBUNAL

Role	Remuneration as at 1 October 2006	Last Review Movement	Relevant Cabinet Fees Framework Range
Lay Members	\$350 per day	1 July 2005 - increased by 9.4%	\$270 to \$385 per day

Overview:

Lay Members sit as members of the District Disciplinary Tribunals and New Zealand Law Practitioners Disciplinary Tribunals in accordance with s108 of the Law Practitioners Act 1982. These Tribunals investigate complaints against practitioners and either make an order against the practitioner or in the case of the District Disciplinary Tribunals refer the matter to the NZ Zealand Law Practitioners Disciplinary Tribunal.

Ministry records indicate that there are currently 21 tribunal members.

These bodies are classified as Lower Rate Tribunals under the Cabinet Fees Framework, and the last review movements are noted in the table above.

Matters raised with the reviewer through submissions

Submissions to the reviewer covered the following points:

- District Law Practitioners Disciplinary Tribunals take major decisions in respect of legal practitioners, including terminating a person's right to practice

- the considerable amount of prior reading required is not fully recognised in the fees arrangement for these officers
- Members regard a fee of \$500 per day as appropriate given the nature of the tribunal's responsibilities and preparation time
- in respect of other matters, the current daily and part daily allowances are inadequate and accommodation bookings made by the Ministry should be better planned to ensure that lay members can more easily meet with legal colleagues for informal consideration of cases – current accommodation bookings spread lay members and legal colleagues apart, making such discussions very difficult.

Evaluation

1. Current Classification:

This body is currently classified under the CFF as a Lower Rate Tribunal. The reviewer concludes that the current classification is appropriate for this body.

2. Cabinet Fees Framework - factors to be considered in setting fees: Evaluated against the CFF, the reviewer's perspective is as follows:

	Lay Members
Does the current fee reflect the complexity of the functions and the expertise required?	Yes; the current fee is at the top of the previous scale for members of a lower rate tribunal.
If the fee is paid at an annual rate does it reflect the time involved?	NA
Does the current fee reflect recruitment and retention issues?	The reviewer concludes that there are currently no clear recruitment and retention difficulties but that, for the Ministry to have reasonable confidence in this situation continuing, a modest fee increase is warranted.
Does the current fee reflect the extent to which an individual member needs to insure against personal liability?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the potential risk to reputation for the officer?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the degree to which the role is in the public eye?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee rate need to be varied to reflect additional responsibilities, such as chairperson or deputy chairperson roles?	No
Is a higher fee necessary to secure scarce specialist skills?	No issues have been brought to the reviewer's attention on this criterion.

3. Quantitative Factors – occupational group/role comparisons and other factors:

In respect of the role of Lay Member, the reviewer has considered the mix of factors and related roles noted earlier in this report and considers that a modest increase in the fees is appropriate to ensure continued recruitment and retention to the role.

4. Other Factors:

The reviewer has considered the following factor raised in submissions and noted above:

- **Daily allowances and accommodation bookings:** A number of issues in respect of allowances is addressed in this report in a separate section. That section will also address the accommodation issue raised by Lay Members.

Recommendations

- i) That the daily fee for Lay Members of the District Disciplinary Tribunals and New Zealand Law Practitioners Disciplinary Tribunals be increased from \$350 per day to \$385 per day from 1 July 2007.

LAY OBSERVERS: DISTRICT LAW SOCIETIES

Role	Remuneration as at 1 October 2006	Last Review Movement	Relevant Cabinet Fees Framework Range
Lay Observers	Auckland: \$18,200 (\$350 per day) Wellington: \$14,580 (\$350 per day) Christchurch: \$14,580 (\$350 per day) Napier: \$11,650 (\$350 per day) Dunedin: \$9025 (\$350 per day)	1 July 2005 - increased by 9.4%	\$270 to \$385 per day

Overview:

The principal function of Lay Observers is to examine any written allegation made by or on behalf of a member of the public concerning any District Law Society's treatment of a complaint about the conduct of a law practitioner, or an employee of a practitioner, made to the District Law Society by or on behalf of the complainant.

Lay Observers are classified as a Lower Rate Tribunal.

Ministry records indicate that there are 5 Lay Observers, and the last review movements are noted in the table above.

Matters raised with the reviewer through submissions

There were no matters raised with the reviewer through submissions.

Evaluation

1. Current Classification:

This body is currently classified under the CFF as a Lower Rate Tribunal. The reviewer concludes that the current classification is appropriate for this body.

2. Cabinet Fees Framework - factors to be considered in setting fees: Evaluated against the CFF, the reviewer's perspective is as follows:

	Lay Observers
Does the current fee reflect the complexity of the functions and the expertise required?	Yes; the current fee is at the top of the previous scale for members of a lower rate tribunal.
If the fee is paid at an annual rate does it reflect the time involved?	Yes; the reviewer received advice from the Ministry that the current pro-rated annualised fee arrangement is appropriate.
Does the current fee reflect recruitment and retention issues?	The reviewer concludes that there are currently no clear recruitment and retention difficulties but that, for the Ministry to have reasonable confidence in this situation continuing, a modest fee increase is warranted.
Does the current fee reflect the extent to which an individual member needs to insure against personal liability?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the potential risk to reputation for the officer?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the degree to which the role is in the public eye?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee rate need to be varied to reflect additional responsibilities, such as chairperson or deputy chairperson roles?	No
Is a higher fee necessary to secure scarce specialist skills?	No issues have been brought to the reviewer's attention on this criterion.

3. Quantitative Factors – occupational group/role comparisons and other factors:

In respect of the role of Lay Observer, the reviewer has considered the mix of factors and related roles noted earlier in this report and considers that a modest increase in the fees is appropriate to ensure continued recruitment and retention to the role.

Recommendations

- i) That the daily fee to be pro-rated as an annualised payment for Lay Observers of the District Law Societies be increased from \$350 per day to \$385 per day from 1 July 2007.

LIQUOR LICENSING AUTHORITY

Role	Remuneration as at 1 October 2006	Last Review Movement	Relevant Cabinet Fees Framework Range
Members	\$460 per day	1 July 2005 - increased by 24.3%	\$340 to \$510 per day

Overview:

Under the Sale of Liquor Act 1989, this authority determines applications for the grant or variation of on-, off- and club licences (and renewals). It also determines applications for the suspension and cancellation of licences.

The Authority, chaired by a District Court Judge, an appellate body, and is currently classified as a Higher Rate Tribunal.

Ministry records indicate that there are currently 2 Members, and the last review movement is noted in the table above.

Matters raised with the reviewer through submissions

There were no matters raised with the reviewer through submissions.

Evaluation

1. Current Classification:

This body is currently classified under the CFF as a Higher Rate Tribunal. The reviewer concludes that the current classification is appropriate for this body.

2. Cabinet Fees Framework - factors to be considered in setting fees: Evaluated against the CFF, the reviewer's perspective is as follows:

	Member
Does the current fee reflect the complexity of the functions and the expertise required?	Yes.
If the fee is paid at an annual rate does it reflect the time involved?	NA

Does the current fee reflect recruitment and retention issues?	The reviewer concludes that there are currently no clear recruitment and retention difficulties but that, for the Ministry to have reasonable confidence in this situation continuing, a modest fee increase is warranted.
Does the current fee reflect the extent to which an individual member needs to insure against personal liability?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the potential risk to reputation for the officer?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the degree to which the role is in the public eye?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee rate need to be varied to reflect additional responsibilities, such as chairperson or deputy chairperson roles?	No
Is a higher fee necessary to secure scarce specialist skills?	No issues have been brought to the reviewer's attention on this criterion.

3. Quantitative Factors – occupational group/role comparisons and other factors:

In respect of the role of Member, the reviewer has considered the mix of factors and related roles noted earlier in this report and considers that a modest increase in the fees is appropriate to ensure continued recruitment and retention to the role.

Recommendations

- i) That the daily fee for Members of the Liquor Licensing Authority be increased from \$460 per day to \$476 per day from 1 July 2007.

MAORI LAND COURT CONSULTATION FORUM: FOCUS GROUP

Role	Remuneration as at 1 October 2006	Last Review Movement	Relevant Cabinet Fees Framework Range
Focus Group Chair (rotating)	\$250 per day	NA	\$250 to \$320 per day (i.e. Group 4, Level 4)
Focus Group Members	\$215 per day	NA	\$190 to \$240 per day (i.e. Group 4, Level 4)

Overview:

This focus group comprises members who are nominated and elected by members of the Maori Land Court Consultation Forum. The focus group was established to represent the views of the Maori Land Court Consultation Forum members to the Maori Land Court Unit, to provide direct input into operational policy on behalf of the forum members that they represent.

This body is classified as a Group 4, Level 4 body under the Cabinet Fees Framework.

Ministry records indicate that the focus group has a Chair (rotating role), and currently 15 Focus Group Members, with the last review movement noted in the table above.

Matters raised with the reviewer through submissions

There were no matters raised with the reviewer through submissions.

Consideration of further information regarding the functions of this body

The reviewer notes the following information provided by Ministry officers:

- persons appointed to this role are a key group of astute individuals who apply a depth of wisdom and interpretation in respect of Maori land and historical aspects of ownership of land;
- appointees, nominated by trusted landowners and landholding trusts, provide advice on all operational matters affecting the Court and are thus required to demonstrate a depth of familiarity with the Maori Land Court and judicial procedures;
- appointees are inevitably drawn from amongst the group of business professionals who have high profiles in their respective communities.

Evaluation

1. Current Classification:

This body is currently classified under the CFF as a Group 4, Level 4 body. The reviewer concludes that the current classification is appropriate for this body.

2. Cabinet Fees Framework - factors to be considered in setting fees: Evaluated against the CFF, the reviewer's perspective is as follows:

	Chair	Members
Does the current fee reflect the complexity of the functions and the expertise required?	Yes	Yes
If the fee is paid at an annual rate does it reflect the time involved?	NA	NA
Does the current fee reflect recruitment and retention issues?	The reviewer concludes that there are currently no clear recruitment and retention difficulties but that, for the Ministry to have reasonable confidence in this situation continuing, a modest fee increase is warranted.	The reviewer concludes that there are currently no clear recruitment and retention difficulties but that, for the Ministry to have reasonable confidence in this situation continuing, a modest fee increase is warranted.

Does the current fee reflect the extent to which an individual member needs to insure against personal liability?	No issues have been brought to the reviewer's attention on this criterion.	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the potential risk to reputation for the officer?	No issues have been brought to the reviewer's attention on this criterion.	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the degree to which the role is in the public eye?	Yes	Yes
Does the current fee rate need to be varied to reflect additional responsibilities, such as chairperson or deputy chairperson roles?	No	No
Is a higher fee necessary to secure scarce specialist skills?	No issues have been brought to the reviewer's attention on this criterion.	No issues have been brought to the reviewer's attention on this criterion.

3. Quantitative Factors – occupational group/role comparisons and other factors:

In respect of the roles of Chair and member, the reviewer has considered the mix of factors and related roles noted earlier in this report and considers that a modest increase in the fees is appropriate to ensure continued recruitment and retention to these roles.

Recommendations

- i) That the daily fee for Focus Group Chair (rotating) of the Maori Land Court Consultation Forum be increased from \$250 per day to \$270 per day from 1 July 2007;
- ii) That the daily fee for Focus Group Members of the Maori Land Court Consultation Forum be increased from \$215 per day to \$225 per day from 1 July 2007.

MAORI LAND COURT RULES COMMITTEE

Role	Remuneration as at 1 October 2006	Last Review Movement	Relevant Cabinet Fees Framework Range
Rules Committee Members - Non Public Servant	\$215 per day	NA	\$190 to \$240 per day (i.e. Group 4, Level 4)

Overview:

The Rules Committee was established to review and keep under review the Rules of the Maori Land Court. The committee makes recommendations for changes to the Rules as it deems necessary to facilitate the prompt, inexpensive and just despatch of the business of the Court and the administration of justice in the Court.

This body is classified as a Group 4, Level 4 body under the Cabinet Fees Framework.

Ministry records indicate that the committee comprises 8-9 persons, of whom between two and four persons are non public servants to whom this fee applies.

Matters raised with the reviewer through submissions

Submissions to the reviewer covered the following points:

- the Member's role is to engage in debate with the Maori Land Court Judges over matters of a complex nature
- where Members are drawn from private sector practice, the current low fee level imposes a considerable opportunity cost
- in addition, there can be considerable consequences when assessing the impact of the inequitable relativity between the holder of this role and their salaried colleagues on this committee.

Consideration of further information regarding the functions of this body

The reviewer notes the following information provided by Ministry officers:

- the non public servants appointed to these roles will be persons who have the skill, knowledge and breadth and depth of relevant experience - as well as the standing in the community – to join with senior salaried judicial officers and two departmental Chief Executives as members of this body;
- there is a requirement to grasp very complex matters in this role, the context being the translation of legislation into workable, operational practice.

Evaluation

1. Current Classification:

This body is currently classified under the CFF as a Group 4, Level 4 body. The reviewer concludes that the current classification is appropriate for this body.

2. Cabinet Fees Framework - factors to be considered in setting fees: Evaluated against the CFF, the reviewer's perspective is as follows:

	Rules Committee Members – Non Public Servant
Does the current fee reflect the complexity of the functions and the expertise required?	Yes
If the fee is paid at an annual rate does it reflect the time involved?	NA

Does the current fee reflect recruitment and retention issues?	The reviewer concludes that there are currently no clear recruitment and retention difficulties but that, for the Ministry to have reasonable confidence in this situation continuing, a modest fee increase is warranted.
Does the current fee reflect the extent to which an individual member needs to insure against personal liability?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the potential risk to reputation for the officer?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the degree to which the role is in the public eye?	Yes
Does the current fee rate need to be varied to reflect additional responsibilities, such as chairperson or deputy chairperson roles?	No
Is a higher fee necessary to secure scarce specialist skills?	No issues have been brought to the reviewer's attention on this criterion.

3. Quantitative Factors – occupational group/role comparisons and other factors:

In respect of the role of Member, the reviewer has considered the mix of factors and related roles noted earlier in this report and considers that a modest increase in the fees is appropriate to ensure continued recruitment and retention to this role.

Recommendations

- i) That the daily fee for Rules Committee Members – Non Public Servant of the Maori Land Court be increased from \$215 per day to \$235 per day from 1 July 2007.

MAORI LAND COURT: ADDITIONAL MEMBERS

Role	Remuneration as at 1 October 2006	Last Review Movement	Relevant Cabinet Fees Framework Range
Additional Members	\$460 per day	NA	\$340 to \$510 per day

Overview:

Under Te Ture Whenua Maori Act 1993, the Chief Judge of the Maori Land Court may appoint additional members to assist in the hearing of certain matters before the Maori Land Court and the Maori Appellate Court. Such matters may include inquiries, matters of tikanga or matters of representation referred to the Maori Land Court.

For the purpose of remuneration under the CFF, additional members of the Maori Land Court are deemed to be equivalent to members of a Higher Rate Tribunal.

Ministry records indicate that the committee membership will vary according to needs.

Matters raised with the reviewer through submissions

There were no matters raised with the reviewer through submissions.

Consideration of further information regarding the functions of this body

The reviewer notes the following information provided by Ministry officers:

- the appointees to this role are drawn from the community and appointed by the Chief Judge of the Maori Land Court, according to the relevant skill, knowledge and experience they will bring to a particular matter (or matters).

Evaluation

1. Current Classification:

This body is not covered by the Cabinet Fees Framework and the Ministry uses the rates set out under the Higher Rate Tribunal classification as a guide.

- #### 2. Cabinet Fees Framework - factors to be considered in setting fees: Evaluated against the CFF, the reviewer's perspective is as follows:

	Additional Members
Does the current fee reflect the complexity of the functions and the expertise required?	Yes
If the fee is paid at an annual rate does it reflect the time involved?	NA
Does the current fee reflect recruitment and retention issues?	The reviewer concludes that there are currently no clear recruitment and retention difficulties but that, for the Ministry to have reasonable confidence in this situation continuing, a modest fee increase is warranted.
Does the current fee reflect the extent to which an individual member needs to insure against personal liability?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the potential risk to reputation for the officer?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the degree to which the role is in the public eye?	Yes
Does the current fee rate need to be varied to reflect additional responsibilities, such as chairperson or deputy chairperson roles?	No
Is a higher fee necessary to secure scarce specialist skills?	No issues have been brought to the reviewer's attention on this criterion.

3. Quantitative Factors – occupational group/role comparisons and other factors:

In respect of the roles of Chair and member, the reviewer has considered the mix of factors and related roles noted earlier in this report and considers that a modest increase in the fees is appropriate to ensure continued recruitment and retention to these roles.

Recommendations

- i) That the daily fee for Additional Members of the Maori Land Court be increased from \$460 per day to \$476 per day from 1 July 2007.

MAORI APPELLATE COURT: ADDITIONAL MEMBERS

Role	Remuneration as at 1 October 2006	Last Review Movement	Relevant Cabinet Fees Framework Range
Additional Members	\$460 per day	NA	\$340 to \$510 per day

Overview:

As with the Maori Land Court, under Te Ture Whenua Maori Act 1993, the Chief Judge of the Maori Land Court may appoint additional members to assist in the hearing of certain matters before the Maori Appellate Court. Such matters may include matters of representation referred to the Maori Appellate Court.

For the purpose of remuneration under the CFF, additional members of the Maori Land Court are deemed to be equivalent to members of a Higher Rate Tribunal.

Ministry records indicate that the committee membership of this appellate court will vary according to needs.

Matters raised with the reviewer through submissions

There were no matters raised with the reviewer through submissions.

Consideration of further information regarding the functions of this body

The reviewer notes the following information provided by Ministry officers:

- the appointees to this role are drawn from the community and appointed by the Chief Judge of the Maori Land Court, according to the relevant skill, knowledge and experience they will bring to a particular matter (or matters).

Evaluation

1. Current Classification:

This body is not covered by the Cabinet Fees Framework and the Ministry uses the rates set out under the Higher Rate Tribunal classification as a guide.

2. Cabinet Fees Framework - factors to be considered in setting fees: Evaluated against the CFF, the reviewer's perspective is as follows:

	Additional Members
Does the current fee reflect the complexity of the functions and the expertise required?	Yes
If the fee is paid at an annual rate does it reflect the time involved?	NA
Does the current fee reflect recruitment and retention issues?	The reviewer concludes that there are currently no clear recruitment and retention difficulties but that, for the Ministry to have reasonable confidence in this situation continuing, a modest fee increase is warranted.
Does the current fee reflect the extent to which an individual member needs to insure against personal liability?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the potential risk to reputation for the officer?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the degree to which the role is in the public eye?	Yes
Does the current fee rate need to be varied to reflect additional responsibilities, such as chairperson or deputy chairperson roles?	No
Is a higher fee necessary to secure scarce specialist skills?	No issues have been brought to the reviewer's attention on this criterion.

3. Quantitative Factors – occupational group/role comparisons and other factors:

In respect of the roles of Chair and member, the reviewer has considered the mix of factors and related roles noted earlier in this report and considers that a modest increase in the fees is appropriate to ensure continued recruitment and retention to these roles.

Recommendations

- i) That the daily fee for Additional Members of the Maori Appellate Court be increased from \$460 per day to \$476 per day from 1 July 2007.

MOTOR VEHICLE DISPUTES TRIBUNAL

Role	Remuneration as at 1 October 2006	Last Review Movement	Relevant Cabinet Fees Framework Range
Adjudicator appointed under s83, Motor Vehicle Sales Act 2003	N/A – Remuneration determined by the Remuneration Authority		
Assessors	\$370 per day	1998 - increased by 19.35%	\$340 to \$510 per day

Overview:

This tribunal was created under the Motor Vehicle Sales Act 2003. It enquires into any disputes filed in respect of motor vehicle sales transactions. Each tribunal consists of an Adjudicator who must be a barrister or solicitor of the High Court of not less than 5 years' practice and an Assessor appointed by the Adjudicator also for a term of 5 years.

The tribunal falls outside of the CFF. Remuneration for the Adjudicators is set by the Remuneration Authority, and for the Assessors by the Minister of Justice, who uses the CFF as a guide.

The line of appeal for decisions is to the District Court.

It has 5 Assessors, and the last review movement is noted in the table above.

Matters raised with the reviewer through submissions

Submissions to the reviewer raised the following points:

- assessors are drawn from the pool of highly qualified motor vehicle mechanics/technicians
- the current fee was last reviewed in 1998 and has not been reviewed since then, although during the same period the role of Adjudicator, covered by the Remuneration Authority, has been reviewed
- clarification is sought regarding provision for leave entitlements
- the current rates for reimbursement for using a private motor vehicle for official business should be reviewed.

Evaluation

1. Current Classification:

This body's establishing legislation provides for the Minister for Courts to set the fee, and the Ministry uses the Cabinet Fees Framework as a guide.

2. Cabinet Fees Framework - factors to be considered in setting fees: Evaluated against the CFF, the reviewer's perspective is as follows:

	Assessor
Does the current fee reflect the complexity of the functions and the expertise required?	No.
If the fee is paid at an annual rate does it reflect the time involved?	NA
Does the current fee reflect recruitment and retention issues?	The reviewer concludes that there are currently no clear recruitment and retention difficulties but that, for the Ministry to have reasonable confidence in this situation continuing, an appropriate fee increase is warranted.
Does the current fee reflect the extent to which an individual member needs to insure against personal liability?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the potential risk to reputation for the officer?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the degree to which the role is in the public eye?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee rate need to be varied to reflect additional responsibilities, such as chairperson or deputy chairperson roles?	No
Is a higher fee necessary to secure scarce specialist skills?	In the reviewer's opinion, a modest increase in the fee is warranted to ensure the Ministry can confidently retain assessors from the pool of highly qualified motor vehicle technicians.

3. Quantitative Factors – occupational group/role comparisons and other factors:

In respect of the role of Assessor, the reviewer has considered the mix of factors and related roles noted earlier in this report and considers that an appropriate increase in the fees is warranted to ensure continued recruitment and retention to the role, and having regard to the specialist skills involved.

4. Other Factors:

The reviewer has considered the following factors raised in submissions and noted above:

- **Clarification re leave entitlement:** The Ministry's recently drafted Administrative Handbook covers this question, with the handbook noting that there is generally no leave entitlement attached to judicial and statutory officer appointments.
- **Current mileage allowance reimbursement rates:** The Ministry uses rates that are set by the Inland Revenue Department, which are set out in the CFF (refer to Annex 5 of the Framework). These rates were reviewed within the 2006 review of the CFF. They are

reviewed by IRD from time to time, and any amendments promulgated by the IRD are passed on by the Ministry to judicial and statutory officers (and employees) accordingly.

Recommendations

- i) That the Motor Vehicle Disputes Tribunal remain outside the Cabinet Fees Framework;
- ii) That the daily fee for Assessors of the Motor Vehicle Disputes Tribunal be increased from \$370 per day to \$460 per day from 1 July 2007.

SECONDHAND DEALERS & PAWNBROKERS LICENSING AUTHORITY

Role	Remuneration as at 1 October 2006	Last Review Movement	Relevant Cabinet Fees Framework Range
Chair	\$540 per day	Established in 2005	\$430 to \$610 per day

Overview

Under the Secondhand Dealers and Pawnbrokers Act 2004, this authority carries out functions related to licenses and certificates for secondhand dealers and pawnbrokers, including the establishment and maintenance of public registers for same.

The authority is classified as a Lower Rate Tribunal under the CFF, with no line of appeal beyond this body.

Matters raised with the reviewer through submissions

There were no matters raised with the reviewer through submissions.

Evaluation

1. Current Classification:

This body is currently classified under the CFF as a Lower Rate Tribunal. The reviewer concludes that the current classification is appropriate for this body.

2. Cabinet Fees Framework - factors to be considered in setting fees: Evaluated against the CFF, the reviewer's perspective is as follows:

	Chair
Does the current fee reflect the complexity of the functions and the expertise required?	Yes

If the fee is paid at an annual rate does it reflect the time involved?	NA
Does the current fee reflect recruitment and retention issues?	The reviewer concludes that there are currently no clear recruitment and retention difficulties but that, for the Ministry to have reasonable confidence in this situation continuing, a modest fee increase is warranted.
Does the current fee reflect the extent to which an individual member needs to insure against personal liability?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the potential risk to reputation for the officer?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the degree to which the role is in the public eye?	Yes
Does the current fee rate need to be varied to reflect additional responsibilities, such as chairperson or deputy chairperson roles?	No issues have been brought to the reviewer's attention on this criterion.
Is a higher fee necessary to secure scarce specialist skills?	No issues have been brought to the reviewer's attention on this criterion.

3. Quantitative Factors – occupational group/role comparisons and other factors:

In respect of the roles of Chair the reviewer has considered the mix of factors and related roles noted earlier in this report and considers that a modest increase in the fees is appropriate to ensure continued recruitment and retention to the role.

Recommendations

- i) That the daily fee for the Chair of the Secondhand Dealers and Pawnbrokers' Licensing Authority be increased from \$540 per day to \$559 per day from 1 July 2007.

SOCIAL SECURITY APPEAL AUTHORITY

Role	Remuneration as at 1 October 2006	Last Review Movement	Relevant Cabinet Fees Framework Range
Chair	\$730 per day	1 July 2005 - increased by 21.66%	\$540 to \$800 per day
Deputy Chair	\$600 per day	1 July 2005 - no increase	\$540 to \$800 per day
Members	\$460 per day	1 July 2005 - increased by 24.3%	\$340 to \$510 per day

Overview

Under the Social Security Act 1964, the Social Security Appeal Authority sits as a judicial authority for the determination of appeals against any decision of the District Review Committees. It decides appeals on welfare benefits, debt recovery and related matters.

The authority is classified as a Higher Rate Tribunal under the CFF, with the line of appeal being to the High Court.

Ministry records indicate that the Authority is comprised of a Chair, a Deputy Chair and 2 Members. The last review movements are noted in the table above.

Matters raised with the reviewer through submissions

There were no matters raised with the reviewer through submissions.

Evaluation

1. Current Classification:

This body is currently classified under the CFF as a Higher Rate Tribunal. The reviewer concludes that the current classification is appropriate for this body.

2. Cabinet Fees Framework - factors to be considered in setting fees: Evaluated against the CFF, the reviewer's perspective is as follows:

	Chair & Deputy Chair	Members
Does the current fee reflect the complexity of the functions and the expertise required?	Yes	Yes
If the fee is paid at an annual rate does it reflect the time involved?	NA	NA
Does the current fee reflect recruitment and retention issues?	The reviewer concludes that there are currently no clear recruitment and retention difficulties but that, for the Ministry to have reasonable confidence in this situation continuing, a modest fee increase is warranted.	The reviewer concludes that there are currently no clear recruitment and retention difficulties but that, for the Ministry to have reasonable confidence in this situation continuing, a modest fee increase is warranted.
Does the current fee reflect the extent to which an individual member needs to insure against personal liability?	No issues have been brought to the reviewer's attention on this criterion.	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the potential risk to reputation for the officer?	No issues have been brought to the reviewer's attention on this criterion.	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the degree to which the role is in the public eye?	Yes	Yes

Does the current fee rate need to be varied to reflect additional responsibilities, such as chairperson or deputy chairperson roles?	The reviewer concludes that the current fee for the role of Deputy Chair needs to be varied to reflect the additional responsibilities beyond the role of Member.	No
Is a higher fee necessary to secure scarce specialist skills?	No issues have been brought to the reviewer's attention on this criterion.	No issues have been brought to the reviewer's attention on this criterion.

3. Quantitative Factors – occupational group/role comparisons and other factors:

In respect of the roles of Chair, Deputy Chair and Member the reviewer has considered the mix of factors and related roles noted earlier in this report and considers that a modest increase in the fees is appropriate to ensure continued recruitment and retention to these roles.

Recommendations

- i) That the daily fee for the Chair of the Social Security Appeal Authority be increased from \$730 per day to \$755 per day from 1 July 2007;
- ii) That the daily fee for the Deputy Chair of the Social Security Appeal Authority be increased from \$600 per day to \$620 per day from 1 July 2007;
- iii) That the daily fee for Members of the Social Security Appeal Authority be increased from \$460 per day to \$476 per day from 1 July 2007.

STUDENT ALLOWANCE APPEAL AUTHORITY

Role	Remuneration as at 1 October 2006	Last Review Movement	Relevant Cabinet Fees Framework Range
Chair	\$430 per day	2003	\$430 to \$610 per day

Overview

Under the Education Act 1989 this authority sits as a judicial authority for the determination of appeals against decisions of the District Review Committees. It decides appeals on welfare benefits, debt recovery and related matters.

The authority is classified as a Lower Rate Tribunal under the CFF, with no line of appeal beyond this body.

Ministry records indicate that the Authority is comprised of a Chair sitting alone, and the last review movement is noted in the table above.

Matters raised with the reviewer through submissions

There were no matters raised with the reviewer through submissions.

Evaluation

1. Current Classification:

This body is currently classified under the CFF as a Lower Rate Tribunal. The reviewer concludes that the current classification is appropriate for this body.

2. Cabinet Fees Framework - factors to be considered in setting fees: Evaluated against the CFF, the reviewer's perspective is as follows:

	Chair
Does the current fee reflect the complexity of the functions and the expertise required?	Yes
If the fee is paid at an annual rate does it reflect the time involved?	NA
Does the current fee reflect recruitment and retention issues?	The reviewer concludes that there are currently no clear recruitment and retention difficulties but that, for the Ministry to have reasonable confidence in this situation continuing, a modest fee increase is warranted.
Does the current fee reflect the extent to which an individual member needs to insure against personal liability?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the potential risk to reputation for the officer?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the degree to which the role is in the public eye?	Yes
Does the current fee rate need to be varied to reflect additional responsibilities, such as chairperson or deputy chairperson roles?	No issues have been brought to the reviewer's attention on this criterion.
Is a higher fee necessary to secure scarce specialist skills?	No issues have been brought to the reviewer's attention on this criterion.

3. Quantitative Factors – occupational group/role comparisons and other factors:

In respect of the roles of Chair the reviewer has considered the mix of factors and related roles noted earlier in this report and considers that a modest increase in the fees is appropriate to ensure continued recruitment and retention to the role.

Recommendations

- i) That the daily fee for the Chair of the Student Allowance Appeal Authority be increased from \$430 per day to \$500 per day from 1 July 2007.

TAIAPURE-MAORI FISHERIES TRIBUNAL: ASSESSORS

Role	Remuneration as at 1 October 2006	Last Review Movement	Relevant Cabinet Fees Framework Range
Assessors – Non Public Servant	\$405 per day	2003	\$320 to \$540 per day (as a Group 1 Commission of Inquiry)

Overview

Taiapure Tribunals are established under the Fisheries Act 1983, as amended by the Maori Fisheries Act 1989. The intention of the 1989 statute is to set aside estuarine or shoreline coastal fishing arrears which have customarily been of special significance to any iwi or hapu as a source of food or for any spiritual or cultural reasons. Following the approval of the proposed Taiapure, the area is declared Taiapure and local Maori recommend persons for the Management Committee (Taiapure Tribunal) who in turn recommend to the Minister of Fisheries the proposed regulations for the conservation and use of the Taiapure area.

This body is classified as a Group 1 Commission of Inquiry under the Cabinet Fees Framework.

Assessors are appointed by the Chief Judge of the Maori Land Court.

Matters raised with the reviewer through submissions

There were no matters raised with the reviewer through submissions.

Consideration of further information regarding the functions of this body

The reviewer notes the following information provided by Ministry officers:

- the appointees to this role are drawn from the community and appointed by the Chief Judge of the Maori Land Court, according to the relevant skill, knowledge and experience they will bring to a particular matter (or matters).

Evaluation

1. Current Classification:

This body is currently classified under the CFF as a Group 1 Commission of Inquiry. The reviewer concludes that the current classification is appropriate for this body.

2. Cabinet Fees Framework - factors to be considered in setting fees: Evaluated against the CFF, the reviewer's perspective is as follows:

	Additional Members
Does the current fee reflect the complexity of the functions and the expertise required?	Yes
If the fee is paid at an annual rate does it reflect the time involved?	NA
Does the current fee reflect recruitment and retention issues?	The reviewer concludes that there are currently no clear recruitment and retention difficulties but that, for the Ministry to have reasonable confidence in this situation continuing, a modest fee increase is warranted.
Does the current fee reflect the extent to which an individual member needs to insure against personal liability?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the potential risk to reputation for the officer?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the degree to which the role is in the public eye?	Yes
Does the current fee rate need to be varied to reflect additional responsibilities, such as chairperson or deputy chairperson roles?	No
Is a higher fee necessary to secure scarce specialist skills?	No issues have been brought to the reviewer's attention on this criterion.

3. Quantitative Factors – occupational group/role comparisons and other factors:

In respect of the role of Assessor, the reviewer has considered the mix of factors and related roles noted earlier in this report and considers that a modest increase in the fees is appropriate to ensure continued recruitment and retention to the role.

Recommendations

- i) That the daily fee for Assessors of the Taiapure-Maori Fisheries Tribunal be increased from \$405 per day to \$430 per day from 1 July 2007.

TAXATION REVIEW AUTHORITY

Role	Remuneration as at 1 October 2006	Last Review Movement	Relevant Cabinet Fees Framework Range
Chair	\$730/day	Reviewed in 1997, increase effective 1/2/98; Reviewed in 2004 – increased from \$600/day to \$730/day effective 1/7/05.	\$540 to \$800 per day

Overview

Taxation Review Authorities, classified as Higher Rate Tribunals, sit as one member judicial authorities to determine objections to assessments of tax or duty, or decisions or determinations of the Commissioner of Inland Revenue as authorised by the Inland Revenue Acts.

Operating under Section 5 of the Taxation Review Authorities Act 1994, every Authority consists of one person, being a District Court Judge or a barrister or solicitor of the High Court of not less than 7 years' practice.

The authority currently comprises two members who sit (separately and alone) as the Chair, with the last review movement noted in the table above.

Matters raised with the reviewer through submissions

Submissions to the reviewer covered the following points:

- the Authority handles complex cases, which usually involve large sums of money (disputes of hundreds of millions of dollars are not uncommon), requiring the Chair to have a wide breadth and depth of knowledge of revenue law (in the same way as does the Chair of the Customs Appeal Authority), in addition to general commercial law and principles of equity, and to bring this to bear in decisions that have wide significance to other similarly placed taxpayers, reflecting a significant constitutional role that stands between the taxpayer and the Crown
- Senior Counsel and Queens Counsel regularly appear
- jurisdiction is concurrent with the High Court
- cases may be regarded by the (defendant) Commissioner as test cases in respect of taxation policy (see, for example, TRA No 003/05, [2006] NZTRA 1 (10 January 2006) where in his written decision the Chair noted the implications of this decision for the Commissioner's future rulings as to the distinctions in working arrangements between being an employee or a contractor)
- all decisions are published (refer CCH New Zealand Tax Cases and on line).

Other matters identified by the reviewer

The reviewer notes the following:

- the functions of this Authority are at the most complex end of the spectrum of tribunals and statutory authorities, with decisions impacting across the taxation policy spectrum

- the functions require specialist expertise, beyond sound skill, knowledge and experience in statute and case law, and legal principles and practices
- the role exercised has a high degree of public exposure
- no current recruitment and retention issues have been brought to the reviewer's attention.

Evaluation

1. Current Classification:

This body is currently classified under the CFF as a Higher Rate Tribunal. The reviewer concludes that the current classification is appropriate for this body.

2. Cabinet Fees Framework - factors to be considered in setting fees: Evaluated against the CFF, the reviewer's perspective is as follows:

	Authority (Chair)
Does the current fee reflect the complexity of the functions and the expertise required?	In the reviewer's opinion, no. The reviewer considers the functions of this authority are at the most complex end of the spectrum of tribunals and statutory authorities, where decisions have wide significance to other similarly placed taxpayers, reflecting a significant constitutional role that stands between the taxpayer and the Crown. Further, the functions exercised require specialist expertise, beyond sound skill, knowledge and experience in statute and case law, reflecting the fact that the Authority is required to be a District Court Judge or a barrister or solicitor of the High Court of not less than 7 years' practice.
If the fee is paid at an annual rate does it reflect the time involved?	NA
Does the current fee reflect recruitment and retention issues?	The reviewer concludes that there are currently no clear recruitment and retention difficulties but that, for the Ministry to have reasonable confidence in this situation continuing, a modest fee increase is warranted.
Does the current fee reflect the extent to which an individual member needs to insure against personal liability?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the potential risk to reputation for the officer?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the degree to which the role is in the public eye?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee rate need to be varied to reflect additional responsibilities, such as chairperson or deputy chairperson roles?	No, but in the reviewer's opinion the current fee fails to fairly reflect the level of <i>current</i> responsibility exercised.

Is a higher fee necessary to secure scarce specialist skills?	No issues have been brought to the reviewer's attention on this criterion.
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3. Quantitative Factors – occupational group/role comparisons and other factors:

The reviewer has considered the mix of factors and related roles noted earlier in this report. The reviewer has also compared the fee for this role with the fee for other roles where there is a requirement for the officer to have considerable specialist expertise, and where an appointee is most likely to be, or have been, a member of the judiciary. Taking these factors into account, the reviewer considers that an increase in the fee is appropriate to ensure continued recruitment and retention to this role as well as to recognise the increasing complexity of matters brought before the Authority and the expertise required in making decisions which potentially have wide economic consequences for taxpayers, thus warranting special consideration for the fee to be set at the higher end of the relevant fee range.

4. Additional Factors:

The effective and efficient administration and enforcement of taxation laws are, in the reviewer's opinion, of significant importance to the New Zealand economy. The reviewer believes this should be recognised by the fee for this role being at the higher end of the range provided under the CFF.

Recommendation

- i) That the daily fee for the Chair (Authority) of the Taxation Review Authority be increased from \$730 per day to \$800 per day from 1 July 2007.

TENANCY TRIBUNAL

Role	Remuneration as at 1 October 2006	Last Review Movement	Relevant Cabinet Fees Framework Range as a Higher Rate Tribunal
Principal Tenancy Adjudicator	N/A – Remuneration determined by the Remuneration Authority		
Tenancy Adjudicators	\$400 per day	1 July 2004 - increased by 13% 1 July 2005 - increased by 14.3%	\$340 to \$510 per day

Overview

Under the Residential Tenancies Act 1986, Tenancy Adjudicators decide disputes arising between landlords and tenants.

The line of appeal from the Tenancy Tribunal is to the District Court. The body was reclassified as a Higher Rate Tribunal under the Cabinet Fees Framework in 2005. The remuneration for the Principal Tenancy Adjudicator is fixed by the Remuneration Authority.

The last review movement for Tenancy Adjudicators is noted in the table above.

Ministry records indicate that the authority currently comprises the Principal Tenancy Adjudicator and 39 Tenancy Adjudicators operating out of sixteen primary locations throughout New Zealand.

Matters raised with the reviewer through submissions

Submissions by adjudicators to the reviewer covered the following points:

- i) the tribunal is recognised as a specialist tribunal by Judges of the District Court when sitting in the Court's appellate jurisdiction, and is held in high regard by the judicial administration and the Law Commission for its efficient and competent conduct of hearings with landlords and tenants
- ii) the Tenancy Adjudicator fee setting process should be moved from the Cabinet Fees Framework to the Remuneration Authority
- iii) if the Cabinet Fees Framework is to continue to apply to the fee setting process, Adjudicators should be reclassified as Chairpersons of a higher rate tribunal because they sit alone, have decision-making powers, and exercise these in every case in which they sit
- iv) the recommendations of the independent reviewer should be accepted without interference
- v) disappointment is expressed with the previous reviewer's recommended fee level not being followed
- vi) affordability is not accepted as an excuse for failure to accept the independent reviewer's recommendations
- vii) the current low fee level has affected the ethnic diversity of the tribunal, as suitably qualified people from ethnic minorities often find better paid work on other tribunals
- viii) any recommended increases be backdated to 1 July 2006 to acknowledge the failure to fully adopt previously recommended fee increases

- ix) the processes used to determine fees to date have undermined the status of adjudicators as quasi Judicial Officers
- x) the term of appointment should be increased from the current term of 3 years to 5 years
- xi) if standards are going to be raised in the tribunal, the employment of suitable legally qualified and experienced candidates is vital, with the main stumbling block for employing outstanding candidates being the low level of the daily fee
- xii) the tensions and pressures in the role do not differ markedly from those experienced by a District Court Judge attending to the civil list.

Consideration of other matters regarding the function of this body

The reviewer notes the following:

- the statute requires adjudicators to hold a practicing certificate as a barrister or solicitor, or as both a barrister and solicitor, of the High Court of New Zealand or an equivalent qualification issued or recognised by the appropriate authority in any Commonwealth country, or in any other common law country or state;
- parties are entitled to have instructed counsel appearing before an adjudicator.

Evaluation

1. Current Classification:

This body is currently classified under the CFF as a Higher Rate Tribunal. The reviewer concludes that the current classification is appropriate for this body.

2. Cabinet Fees Framework - factors to be considered in setting fees: Evaluated against the CFF, the reviewer's perspective is as follows:

	Adjudicators
Does the current fee reflect the complexity of the functions and the expertise required?	In the reviewer's opinion, no. The current fee of \$400 per day sits at the midpoint of the previous range of \$340 - \$460 per day. It is the reviewer's opinion that the nature of the role in terms of its sole responsibilities, the parties' entitlement to instructed counsel appearing, the rigour required in written decisions, and the qualifications for appointment to the role indicate that the fee should sit higher than the midpoint of the applicable range.
If the fee is paid at an annual rate does it reflect the time involved?	NA

Does the current fee reflect recruitment and retention issues?	The Ministry's records, for the period between 2004 and 2006, show that: a) 27 reappointments were made across 12 of the 16 locations; b) all recruitment rounds have attracted adequate applicant interest enabling suitable appointments to be made; c) the reviewer therefore concludes that while there are currently no clear recruitment and retention difficulties, for the Ministry to have reasonable confidence in this situation continuing a fee increase is warranted.
Does the current fee reflect the extent to which an individual member needs to insure against personal liability?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the potential risk to reputation for the officer?	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the degree to which the role is in the public eye?	Broadly, yes, but note the reviewer's comment and opinion above in respect of the current fee and its position in the range.
Does the current fee rate need to be varied to reflect additional responsibilities, such as chairperson or deputy chairperson roles?	In the reviewer's opinion, no.
Is a higher fee necessary to secure scarce specialist skills?	No issues have been brought to the reviewer's attention on this criterion, although the reviewer notes the generally increasing specialisation of appointments of persons with legal backgrounds.

3. Quantitative Factors – occupational group/role comparisons and other factors:

In respect of the role of Adjudicator, the reviewer has considered the mix of factors and related roles noted earlier in this report and the current position of the fee within the appropriate scale, and considers that an increase in the fees is appropriate to ensure continued recruitment and retention to the role.

4. Other Factors:

The reviewer has considered the following additional factors, including consideration of factors raised in submissions and noted above:

- **Sole income source:** There are a number of judicial and statutory officers, including (but not limited to) Tenancy Adjudicators for whom the role has become a sole income source. As noted above, some officers have a sole income source from more than one judicial/statutory role (36% of Tenancy Adjudicators are also Disputes Referees).

The Cabinet Fees Framework is not ideally designed nor structured, in the reviewer's opinion, to accommodate full time tenure, or to accommodate opportunity costs that ensue where officers diminish (or even relinquish) their private sector professional activities and opportunities to carry out an increasing volume of public duties. The reviewer will recommend that the Ministry and the State Services Commission give consideration to situations where Tenancy Adjudicators receive their sole income undertaking judicial/statutory officer duties and explore possible alternative fees arrangements, other than an annualised daily fee arrangement, either within or outside the Cabinet Fees Framework.

- **Reclassification of the role from Adjudicator to Chair:** The comments in support of this submission are noted. The CFF distinction between the roles of Chair and Member does not directly align with the Tenancy Tribunal distinction between its roles of Principal Adjudicator and Adjudicator, and the day to day role of Adjudicators is clearly one of a sole statutory officer effectively managing their own proceedings. However, the day to day role of Adjudicators is also different from that of a Chair, in the reviewer's opinion – i.e. the title of 'Adjudicator' reflects the strong degree of active and participative management of a forum and associated outcome, a forum that differs from that presided over by a Chair.

Reclassifying the role of Adjudicator to Chair is not an option that the reviewer would support. However, an alternative possibility would be to create an intermediate category under the CFF Group 2 specifically for unique roles that sit alone managing their own proceedings, but not defined as a Chair of the proceedings. The reviewer will recommend that the Ministry and the State Services Commission explore this possibility.

- **Lack of independence of this review and present process:** As noted in a separate, earlier section of this report, the current arrangements reflect government policy which has determined the current balance of officers covered respectively by the Cabinet Fees Framework and the Remuneration Authority. Nonetheless, comment is made under the relevant sections of this report in respect of officers whose coverage should more appropriately be under the Remuneration Authority, where the reviewer considers it appropriate.
- **The recommendations of the independent reviewer should be accepted without interference:** As noted under a previous section in this report it is not possible for a review of this nature to be binding on officials; the responsible Minister, under the statute, is the fee setting authority, exercising his/her authority within the context of collective Cabinet responsibility. The role of officials in the Ministry and the SSC is not as decision makers but as advisers to the relevant Ministers on these matters.

- **Increase the term of appointment from 3 to 5 years:** Judicial and statutory officers' terms of appointment reflect government policy, and as with the comments above it is not within the reviewer's terms of reference for comment or recommendation in respect of submissions on this point.

Recommendations

- That the daily fee for Adjudicators of the Tenancy Tribunal be increased from \$400 per day to \$460 per day from 1 July 2007;
- That the Ministry and the State Services Commission give consideration to situations where Tenancy Adjudicators receive their sole income undertaking judicial/statutory officer duties and explore possible alternative fees arrangements, other than an annualised daily fee arrangement, either within or outside the Cabinet Fees Framework;
- That the Ministry and the State Services Commission explore the possibility of creating an intermediate category under the CFF Group 2 specifically for unique roles that sit alone managing their own proceedings, but which are not defined as Chairs of tribunals.

TRANS-TASMAN OCCUPATIONS TRIBUNAL

Role	Remuneration as at 1 October 2006	Last Review Movement	Relevant Cabinet Fees Framework Range
Chair	\$600 per day	2003	\$540 to \$800 per day
Members	\$370 per day	1 February 1998	\$340 to \$510 per day

Overview

Under the Trans-Tasman Mutual Recognition Act 1997 this body reviews decisions about the registration in New Zealand of equivalent occupations in Australia.

The body is classified as a Higher Rate Tribunal, and the line of appeal is to the High Court on points of law only.

Ministry records indicate that the authority currently comprises a Chair and two Members (drawn from a panel of not more than 15 persons and which may include a member of the Australian Tribunal), and the last review movements are noted in the table above.

Matters raised with the reviewer through submissions

There were no matters raised with the reviewer through submissions.

Consideration of other matters regarding the function of this body

The reviewer notes the following:

- the Chair must be a barrister and solicitor of the High Court of not less than seven years practice or a District Court Judge.

Evaluation

1. Current Classification:

This body is currently classified under the CFF as a Higher Rate Tribunal. The reviewer concludes that the current classification is appropriate for this body.

2. Cabinet Fees Framework - factors to be considered in setting fees: Evaluated against the CFF, the reviewer's perspective is as follows:

	Chair	Members
Does the current fee reflect the complexity of the functions and the expertise required?	Yes	Yes
If the fee is paid at an annual rate does it reflect the time involved?	NA	NA
Does the current fee reflect recruitment and retention issues?	The reviewer concludes that there are currently no clear recruitment and retention difficulties but that, for the Ministry to have reasonable confidence in this situation continuing, a modest fee increase is warranted.	The reviewer concludes that there are currently no clear recruitment and retention difficulties but that, for the Ministry to have reasonable confidence in this situation continuing, a modest fee increase is warranted.
Does the current fee reflect the extent to which an individual member needs to insure against personal liability?	No issues have been brought to the reviewer's attention on this criterion.	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the potential risk to reputation for the officer?	No issues have been brought to the reviewer's attention on this criterion.	No issues have been brought to the reviewer's attention on this criterion.
Does the current fee reflect the degree to which the role is in the public eye?	Yes	Yes
Does the current fee rate need to be varied to reflect additional responsibilities, such as chairperson or deputy chairperson roles?	No	No
Is a higher fee necessary to secure scarce specialist skills?	No issues have been brought to the reviewer's attention on this criterion.	No issues have been brought to the reviewer's attention on this criterion.

3. Quantitative Factors – occupational group/role comparisons and other factors:

In respect of the roles of Chair and Member the reviewer has considered the mix of factors and related roles noted earlier in this report and considers that a modest increase in the fees is appropriate to ensure continued recruitment and retention to these roles.

Recommendations

- i) That the daily fee for the Chair of the Trans-Tasman Occupations Tribunal be increased from \$600 per day to \$655 per day from 1 July 2007;
- ii) That the daily fee for Members of the Trans-Tasman Occupations Tribunal be increased from \$370 per day to \$400 per day from 1 July 2007.

RE: WEATHERTIGHT HOMES AND IMMIGRATION TRIBUNALS:

With regard to these tribunals, the Ministry requested the reviewer:

- i) not to review the level of remuneration payable to Chairs and Members
- ii) to recommend in respect only of the rationale(s) relating to the current and transferring remuneration levels.

WEATHERTIGHT HOMES TRIBUNAL

Role	Remuneration as at 1 October 2006	Last Review Movement	Relevant Cabinet Fees Framework Range
Role of Chair to be created on 1/4/07 and covered by the Remuneration Authority			
Role of Member to be created on 1/4/07	NA	NA	To be determined

Introduction

The Weathertight Homes Resolution Service, as the body is currently known, is expected to transfer to the Ministry of Justice on 1 April 2007 and become the Weathertight Homes Tribunal.

It is anticipated that the (current) office of Chief Adjudicator would be re-titled as Chairperson of the Tribunal. Responsibility for setting the remuneration for this office is currently, and would remain, under the jurisdiction of the Remuneration Authority, and with

effect from 1 April 2007 there will be created a new office of Tribunal Member to be appointed under the Cabinet Fees Framework (replacing the role of Adjudicator under the current Service).

The reviewer has been requested to confirm the rationale for the existing remuneration framework for this body, but not to review or make recommendations in respect of levels of remuneration payable to holders of the current adjudicator roles or the proposed new tribunal member role.

Background

This mediation and adjudication service was established in November 2002 under the Weathertight Homes Resolution Services Act 2002, an act administered by the Department of Building and Housing. The Service was established to provide free assessments to determine the extent of water damage to houses, and mediation or adjudication services to help homeowners resolve their leaky homes disputes.

The current fees were set having regard to the pool from which adjudicators involved in the dispute resolution process needed to be drawn. That pool was one of highly skilled and widely experienced building trades persons, of whom there were critical skill shortages in New Zealand at the time, compounded by an exodus of such persons to Australia.

Rationale for existing framework

The reviewer has been advised that the current fees for adjudicators were set in anticipation of the Weathertight Homes Resolution Service being established for a short, finite term; however events since 2002 have led government to determine that the resolution service will now continue and its continuance will be as a statutory tribunal.

The current fees were set by the Remuneration Authority. On the transfer of the body to the Ministry, it will be necessary for the Ministry to:

- determine the appropriate level of this tribunal;
- set the fees for Members at an appropriate rate within the Cabinet Fees Framework;
- if that rate differs from officers' current remuneration, to undertake a consultation process with the officers concerned, having regard to the Ministry's option to grandparent existing fees as an exception under the Cabinet Fees Framework where the basis for justifying the exception is determined by the Ministry as still valid.

IMMIGRATION TRIBUNAL - AMALGAMATED

Refugee Status Appeals Authority - Roles	Remuneration for full time equivalent hours in the role	Last Review Movement	Relevant Cabinet Fees Framework Range
Chair	\$182,520		
Deputy Chair	\$159,160		
Senior Members	\$127,330		
Trained Members	\$115,750		
New Members	\$104,100		

1) Removal Review Authority 2) Residence Reviews Board Roles	Remuneration for full time equivalent hours in the role	Last Review Movement	Relevant Cabinet Fees Framework Range
Chair	\$169,000		
Deputy Chair	\$150,150		
Senior Members	\$120,120		
Trained Members	\$109,200		
New Members	\$ 98,200		

Introduction

Under consideration by Government is the transfer of the three immigration appeal authorities and their secretariat from the Department of Labour to the Ministry of Justice. Which bodies, if any, and the timeframe depends on future policy decisions by Government.

The Ministry is seeking input from the reviewer in the form of comment, if considered necessary, in respect of the current fees arrangements and confirming rationales for existing remuneration levels in the process of transfer.

Overview

The three appeal authorities under consideration are:

- The Removal Review Authority (RRA), currently determined as equivalent to a higher rate tribunal. This is an independent judicial body established under the Immigration Act 1987. It hears appeals on the papers against the requirement for a person who is unlawfully in New Zealand to leave New Zealand;
- The Refugee Status Appeals Authority (RSAA), currently determined as equivalent to a Commission of Inquiry. This is an independent body established in 1991 to determine

appeals from decisions of the Refugee Status Branch of Immigration New Zealand, declining refugee status; and

- The Residence Review Board (RRB), currently determined as equivalent to a higher rate tribunal. This is an independent judicial body established under the Immigration Act 1987. It hears appeals on the papers by unsuccessful applicants for New Zealand residence visas or residence permits.

The total number of warranted officers stands at 45, approximately half of whom are full time, and with many being cross-appointed across the three authorities.

Comment regarding current fees arrangements

The reviewer notes the current fees arrangement for the Deportation Review Tribunal, a body already under the Ministry's jurisdiction. That body remunerates its Chair and Members, respectively, with daily rates rather than annualised fees as with these bodies.

The reviewer also notes that the Department of Labour has, in recent years, reviewed in some detail the recruitment, retention, complexity and responsibility factors of the three bodies' roles, and the current remuneration for the roles in all three bodies reflects the decisions taken by that Department in respect of those factors.

Rationale for a remuneration framework

In the reviewer's opinion, it would be appropriate as a first step for the Ministry to grandparent existing fees arrangements for the officers in these three bodies as continued exceptions under the Cabinet Fees Framework (where the basis for justifying the exception is determined by the Ministry as still valid) on their transfer to the Ministry. Once they have transferred the Ministry should then, in consultation with the affected officers in all four immigration-related bodies, immediately commence consideration of the fees arrangement going forward to determine the most appropriate fees structure and level(s). Taking this prompt action would avoid any hiatus in the transfer process.

RE: LAWYERS & CONVEYANCERS DISCIPLINARY TRIBUNAL AND LAWYERS & CONVEYANCERS LEGAL COMPLAINTS REVIEW OFFICE:

With regard to these bodies, the Ministry requested the reviewer:

- i) not to review the level of remuneration payable to either the Lawyers and Conveyancers Review Officer, or the Chair and Members of the Lawyers and Conveyancers Disciplinary Tribunal

- ii) to recommend in respect only with regard to comparisons between the new roles and the former similar roles, and comparisons with other jurisdictions.

LAWYERS & CONVEYANCERS DISCIPLINARY TRIBUNAL

Role	Remuneration as at 1 October 2006	Last Review Movement	Relevant Cabinet Fees Framework Range
Chair			
Members			

Introduction

The Lawyers and Conveyancers Act 2006, yet to come into force⁴, establishes an office of Legal Complaints Review Officer and establishes the Lawyers and Conveyancers Disciplinary Tribunal. The tribunal is proposed to include a Chair, Deputy Chair, members and lay members all of whose remuneration would be fixed under the Cabinet Fees Framework.

Rationale for a remuneration framework

The reviewer notes the current classification as lower rate tribunals, under the Cabinet Fees Framework, of the Lay Members of District Disciplinary Tribunals, New Zealand Law Practitioners Disciplinary Tribunals, and Lay Observers of the District Law Societies

It is the reviewer's opinion that, consistent with the classification of these existing, similar bodies, the Lawyers and Conveyancers Disciplinary Tribunal should also be classified as a lower rate tribunal. Further, the reviewer's opinion is that this body will operate most effectively as a recommendatory body rather than as a decision making body, adding weight to the view that it should be classified as a lower rate tribunal.

LAWYERS & CONVEYANCERS LEGAL COMPLAINTS REVIEW OFFICE

Role	Remuneration as at 1 October 2006	Last Review Movement	Relevant Cabinet Fees Framework Range
Review Officer			

⁴ Section 2 of the Lawyers and Conveyancers Act 2006 provides for the Act to come into force on a date to be appointed by the Governor-General by Order in Council, and 1 or more orders may be made appointing different dates for different provisions

Introduction

The Lawyers and Conveyancers Act 2006, yet to come into force⁵, establishes an office of Legal Complaints Review Officer and establishes the Lawyers and Conveyancers Disciplinary Tribunal. The tribunal is proposed to include a Chair, Deputy Chair, members and lay members all of whose remuneration would be fixed under the Cabinet Fees Framework.

Rationale for a remuneration framework

The reviewer notes the current classification as lower rate tribunals, under the Cabinet Fees Framework, of the Lay Members of District Disciplinary Tribunals, New Zealand Law Practitioners Disciplinary Tribunals, and Lay Observers of the District Law Societies.

It is the reviewer's opinion that, consistent with the classification of these existing, similar bodies, the Lawyers and Conveyancers Legal Complaints Review Office should also be classified as a lower rate tribunal. Further, the reviewer's opinion is that this body will operate most effectively as a recommendatory body rather than as a decision making body, adding weight to the view that it should be classified as a lower rate tribunal.

⁵ Section 2 of the Lawyers and Conveyancers Act 2006 provides for the Act to come into force on a date to be appointed by the Governor-General by Order in Council, and 1 or more orders may be made appointing different dates for different provisions

OTHER MATTERS - ENTITLEMENTS AND ALLOWANCES

Introduction

The scope of this review enables the reviewer to note any anomalies in the entitlements and allowances which are being claimed or should be able to be claimed by different members/authorities. Where such anomalies come to light, the reviewer will provide the Ministry with recommendations with regard to what should be done to address them.

Matters raised with the reviewer through submissions

Submissions to the reviewer covered the following entitlements and allowances issues:

- it was submitted that current travel and other allowances have remained the same for some years, do not adequately reimburse referees for the actual costs incurred and should be reviewed urgently. For example, it was submitted that travel allowances were last reviewed in 1997 and other allowances were last reviewed in 1993
- it was submitted that travel time is generally not reimbursed and this acts as a disincentive where an officer, living in a remote area, is required to commute for many hours to attend sittings in distant cities
- in respect of other matters, the current daily and part daily allowances are inadequate and accommodation bookings made for Lay Members of the District and New Zealand Law Practitioners Disciplinary Tribunals by the Ministry should be better planned to ensure that lay members can more easily meet with legal colleagues for informal consideration of cases (arising from the concern expressed that current accommodation bookings spread lay members and legal colleagues apart, making such discussions very difficult).

Other matters identified by the reviewer

The reviewer notes the following matter.

In the course of the review, the reviewer has examined a number of aspects regarding the Ministry's administration guidelines and administrative practices in respect of entitlements and allowances.

One aspect that the reviewer considers requires clarification is that of partners travelling with officers during tribunal or statutory body activities because a number of appointees as Chairs of bodies are either current District Court Judges or retired District Court Judges.

When travelling on Court duties as a District Court Judge, judicial members' partners are entitled to accompany them with associated costs being met by the employer. However, when travelling on Tribunal or Authority duties the Ministry's administrative provisions do not include an entitlement for partners to accompany the officer at the Ministry's expense. The reviewer considers it important that the Ministry clarify this situation for officers and recommends as below on this matter.

Recommendations

- i) That the Ministry clarify for all officers the requirements placed upon it as a government department in accordance with public sector wide principles, practices and frequency when setting and increasing allowances and other entitlements
- ii) That the Ministry clarify the circumstances under which officers living in remote areas may be entitled to reimbursement for travel time
- iii) That accommodation arrangements for members of bodies be planned as best as possible to ensure officers are closely co-located to more effectively and efficiently carry out their responsibilities when sitting away from their home base
- iv) That the Ministry clarify that the administrative provisions do not cover travel and associated costs for partners accompanying officers on Tribunal or Authority duties.

TERMS OF REFERENCE**Ministry of Justice****Terms of Reference****Independent Review of Remuneration Payable to Judicial Officers****Purpose**

1. The Ministry of Justice will initiate regular independent reviews of the remuneration of a number of Judicial and Statutory Officers to whom the Special Jurisdictions Group of the Ministry of Justice (Special Jurisdictions) provides administrative support. The Review will recommend whether or not changes should be made to the arrangements for fees under the Cabinet Fees Framework (CFF), and what those changes should be. A copy of the Review Report will be provided to the Minister along with recommendations from the Ministry based on that report. The Minister for Courts will then seek Cabinet approval relating to the implementation of any changes he may wish to make in accordance with the Report.

Background

2. A previous Independent Review (the Beresford Report) was carried out in 2004. It was then decided to establish regular remuneration reviews. These reviews will follow reviews of the CFF, which take place every two years. This Terms of Reference is designed to provide a general scope for these regular reviews.

Objectives and Parameters

3. The objective of these Reviews is to recommend whether or not changes should be made to the arrangements for fees under the CFF, and what those changes should be.
4. The CFF (Cabinet Office Circular CO (03) 4 at the time of commencing this review and superseded by Cabinet Office Circular CO (06) 08, released on 6 November 2006, as an updated CFF Circular following that document's review by the SSC) is a framework for determining or reassessing the fees paid to a range of members of statutory and other bodies in which the Crown has an interest, which includes Judicial and Statutory Officers. The framework is designed to provide for fee setting that will:

- ensure a consistent approach to remuneration across all statutory and other Crown bodies;
 - contain expenditure of public funds within reasonable limits; and
 - provide flexibility within clear criteria.
5. The full Circular can be viewed at the following URL link:
- <http://www.dpmc.govt.nz/cabinet/circulars/co06/8.html>
6. Each Review will have the following parameters:
- The Independent Reviewer will act independently of the Ministry of Justice in the formation of their recommendations.
 - The process will be clear and transparent as outlined below or as otherwise agreed between the Independent Reviewer and the Ministry.
 - The recommendations will be based on consistency and fairness of remuneration.
 - The nature of the relationship between the Judicial and Statutory Officers and the Ministry – which is not an employment nor a contract for services relationship – will be respected.
 - As much as possible, each group of Judicial and Statutory Officers will be considered on its own with account taken of any specific/individual circumstances. Each group will be considered in relation to its categorisation within the CFF.

Review Scope

Officers to be reviewed

7. All Officers to whom Special Jurisdictions provides administrative support will be considered in each Review. A current list of Officers is attached.
8. It is possible that other entities may become the responsibility of Special Jurisdictions during the conduct of any given Review. These may be entities that are newly established, or entities transferred from other Public Services departments. To the extent practical and by agreement between the Independent Reviewer and the Ministry, further Judicial and/or Statutory Officers may be added to the Review relating to any new entities.
9. It is also possible that some entities may cease being the responsibility of the Ministry during the conduct of the Review, and become the responsibility of the Remuneration Authority. If this occurs, then the Ministry shall advise the Independent Reviewer how and when work by the Independent Reviewer in relation to the Judicial and/or Statutory Officers relating to those entities shall be concluded.

Possible Anomalies

10. The Reviewer is requested to note any anomalies in the treatment of Officers and entities, which may come to notice during the Review, and to make recommendations on how any such anomaly should be addressed.

Risks

11. The Ministry will provide administrative support and technical / data information as required by the Independent Reviewer. This involvement will not impact on the independence of the Review, rather will allow for both high level support and earlier identification of problems in information gathering. This will mitigate against these risks eventuating.

Review Process; Deliverables, Responsibilities and Timeframes

12. The Review process will be carried out as follows, amended as agreed by the Independent Reviewer and the Ministry.
13. The Review process will begin at approximately the time of completion of the review of the CFF; there is scope for the initial stages of the Review process to overlap with the final stages of the CFF review.
14. It is imperative that at least an indication of anticipated costs (if any) of recommendations made by the Independent Reviewer is reported back in time for this to meet the Budget Bid process deadlines.

Deliverable	Timeframe
<p><u>Information gathering</u></p> <ul style="list-style-type: none"> – The Ministry will provide to the Independent Reviewer information on the various Tribunals and Authorities, the Offices held, the current levels of remuneration, the costs of remuneration to the Ministry, the current classification under the Cabinet Fees Framework (or other authority where appropriate), the numbers and frequency of hearings in each jurisdiction and the level of administration involved. – The Ministry will provide to the Independent Reviewer relevant official papers (Ministerial briefing papers, Cabinet papers, etc), Reports from previous reviews, and other relevant reports (for example, the Law Commission Report, “Delivering Justice for All”). – The Independent Reviewer will seek input from Judicial and Statutory Officers covered by the Review to develop an understanding of their views on the current arrangements, the levels of fees currently payable to them, and any other issues of importance to them. Input may be invited via: <ul style="list-style-type: none"> – e-mails; – phone calls; – letters; and – formal submissions from individuals and groups. – The Independent Reviewer will seek input from the Ministry of Justice and the State Services Commission as required 	
<p><u>Analysis and recommendations</u></p> <ul style="list-style-type: none"> – The Independent Reviewer will analyse the information gathered and develop recommendations, and present the report to the Ministry. 	
<p><u>Presentation/briefings on recommendations</u></p> <ul style="list-style-type: none"> – The Independent Reviewer may be requested to present to or brief stakeholders on their recommendations e.g. Ministers; Ministry of Justice and State Services Commission (SSC) officials 	

DETAILS OF CURRENT FEE ARRANGEMENTS

“REVIEW 2006” - CURRENT REMUNERATION DETAILS – as at 11 October 2006

ABORTION SUPERVISORY COMMITTEE – CHAIR AND MEMBERS	
Purpose / Jurisdiction	Responsible for keeping under review abortion law and practice in New Zealand, and licensing both institutions for the performance of abortions and medical practitioners as certifying consultants to consider cases for abortion.
Date Established	1977
Empowering Legislation	Contraception, Sterilisation, and Abortion Act 1977
Classification under CFF	Group 4: Level 1
Responsible Minister under CFF	Minister for Courts
Officers	Chairperson (1) Members (2)
Annual Budget	\$43,260
Fixing	Cabinet Fees Framework
Funding	Vote:Courts (Operational)
Current Remuneration	\$730 per day (Chair) \$460 per day (Members)
Maximum Remuneration under CFF	\$970 per day (Chair) \$730 per day (Members)
Payment method	Annualised daily fee (Chair) Daily fee (Members)
Reviews to Date	1997 – effective 1 February 1998 (Members) 1999 – effective 1 January 2000 (Chair) 2004 – effective 1 July 2005 (Chair and Members)
Increases to Date	1997 – ? 1999 – ? 2004 – from \$600 to \$730 per day (Chair) 2004 – from \$370 to \$460 per day (Members)
Comment	All appointments have expired. “Carry-on” provision applies. Committee has statutory power to co-opt Technical Sub-Committees, and currently has: <ul style="list-style-type: none"> – Counselling Advisors (2 persons) – Guidelines for Medical Abortion (3 persons) – Reducing Unintended Pregnancies (0 persons, yet to commence)

<i>ABORTION SUPERVISORY COMMITTEE – CERTIFYING CONSULTANTS</i>	
Purpose / Jurisdiction	Responsible for keeping under review abortion law and practice in New Zealand, and licensing both institutions for the performance of abortions and medical practitioners as certifying consultants to consider cases for abortion.
Date Established	1977
Empowering Legislation	Contraception, Sterilisation, and Abortion Act 1977
Classification under CFF	Consultants to: Group 4 committee, level 1
Responsible Minister under CFF	Minister for Courts
Officers	Certifying Consultants (201)
Annual Budget	\$4,334,000
Fixing	Cabinet Fees Framework
Funding	Vote:Courts (Crown Other)
Current Remuneration	\$135.00 per in-person consultation \$37.50 per telephone consultation
Maximum Remuneration under CFF	n/a
Payment method	Fee per consultation
Reviews to Date	1988 2004
Increases to Date	1988 – ? per in-person consultation 1988 – ? per telephone consultation 2004 – from \$87.50 to \$135.00 per in-person consultation 2004 – from \$37.50 to \$37.50 per telephone consultation
Comment	High level of expense; Recruitment issues; Retention issues; Potential risk to reputation and person.

<i>ACCIDENT COMPENSATION APPEAL AUTHORITY</i>	
Purpose / Jurisdiction	Deals with residual appeals from the decisions of the Accident Rehabilitation and Compensation Insurance Corporation, under the Accident Compensation Act 1982 (repealed).
Date Established	?
Empowering Legislation	Accident Compensation Act 1982 (repealed) s.103,
Classification under CFF	Higher Rate Tribunal
Responsible Minister under CFF	Minister for Courts
Officers	Authority / Chair (1)
Annual Budget	\$24,840
Fixing	Cabinet Fees Framework
Funding	Vote:Courts (Operational)
Current Remuneration	\$730 per day
Maximum Remuneration under CFF	\$800 per day
Payment method	Daily fee
Reviews to Date	1997 – effective 1 February 1998
Increases to Date	1997 – ? 2004 – from \$600 to \$730 per day
Comment	

<i>COPYRIGHT TRIBUNAL</i>	
Purpose / Jurisdiction	Deals with disputes about licences allowing the copying, performing and broadcasting of works.
Date Established	?
Empowering Legislation	Copyright Act 1994 s.205
Classification under CFF	Higher Rate Tribunal
Responsible Minister under CFF	Minister for Courts
Officers	Chair (1) Members (2)
Annual Budget	\$2,560
Fixing	Chair (if a DCJ) – Remuneration Authority Chair (if not a DCJ) – Cabinet Fees Framework Members – Cabinet Fees Framework
Funding	Vote:Courts (Operational)
Current Remuneration	\$730 per day (Chair) \$460 per day (Members)
Maximum Remuneration under CFF	\$800 per day (Chair) \$510 per day (Members)
Payment method	Chair (if a DCJ) – DCJ Salary Chair (if not a DCJ) – Daily fee Members – Daily Fee
Reviews to Date	1997 – effective 1 March 1998 (Members) 2003 – (Chair) 2004 – effective 1 July 2005 (Chair and Members)
Increases to Date	1997 – ? 2003 – ? 2004 – from \$600 to \$730 per day (Chair) 2004 – from \$370 to \$460 per day (Members)
Comment	

<i>CORONERS – FORENSIC PATHOLOGISTS</i>	
Purpose / Jurisdiction	Provide forensic pathology service to Coroners and Police.
Date Established	
Empowering Legislation	Coroners Act 1988
Classification under CFF	n/a – Fees set by Statutory Regulation
Responsible Minister under CFF	Minister for Courts
Officers	Forensic Pathologists
Annual Budget	\$4,077,579
Fixing	Minister for Courts / Cabinet
Funding	Vote:Courts (Crown Other)
Current Remuneration	Various – see Regulations
Maximum Remuneration under CFF	n/a
Payment method	Activity-based fee

Reviews to Date	
Increases to Date	
Comment	

Contract Auckland	\$2,562,287
Fees Others	\$1,515,292
TOTAL	\$4,077,579

<i>CRIMINAL JUSTICE ASSISTANCE REIMBURSEMENT SCHEME</i>	
Purpose / Jurisdiction	Considers applications for compensation for any material loss caused by victimisation as a consequence of assisting in the administration of justice.
Date Established	1993
Empowering Legislation	No legislative authority – established by Cabinet.
Classification under CFF	n/a
Responsible Minister under CFF	Minister for Courts
Officers	Assessor (Chair)
Annual Budget	\$1,000
Fixing	Minister for Courts (Cabinet Fees Framework used as guide)
Funding	Vote:Courts (Operational)
Current Remuneration	\$600 per day
Maximum Remuneration under CFF	n/a
Payment method	Daily fee
Reviews to Date	1997 – effective 1 February 1998 2004 – effective 1 July 2005
Increases to Date	1997 – ? 2004 – from \$600 to \$730 per day
Comment	

<i>CUSTOMS APPEAL AUTHORITY</i>	
Purpose / Jurisdiction	Determines appeals under the Customs and Excise Act 1996 or any other Act against assessments, decisions, rulings, determinations and directions of the Comptroller of Customs.
Date Established	?
Empowering Legislation	Customs and Excise Act 1996 s.244
Classification under CFF	Higher Rate Tribunal
Responsible Minister under CFF	Minister for Courts
Officers	Authority (Chair) (1)
Annual Budget	\$12,000
Fixing	Cabinet Fees Framework
Funding	Vote:Courts (Operational)
Current Remuneration	\$600 per day

Maximum Remuneration under CFF	\$800 per day
Payment method	Daily fee
Reviews to Date	1997 – effective 1 February 1998 2004 – no increase
Increases to Date	1997 – ? 2004 – no increase
Comment	

<i>DEPORTATION REVIEW TRIBUNAL</i>	
Purpose / Jurisdiction	Deals with appeals from people subject to deportation as a result of a conviction or revocation of residence permit.
Date Established	?
Empowering Legislation	Immigration Act 1987 s.103
Classification under CFF	Higher Rate Tribunal
Responsible Minister under CFF	Minister for Courts
Officers	Presiding Member (1) Members (2)
Annual Budget	\$82,000
Fixing	Cabinet Fees Framework
Funding	Vote:Courts (Operational)
Current Remuneration	\$730 per day (Presiding Member) \$460 per day (Members)
Maximum Remuneration under CFF	\$800 per day (Presiding Member) \$510 per day (Members)
Payment method	Daily fee
Reviews to Date	1997 – effective 1 February 1998 2004 – effective 1 July 2005
Increases to Date	1997 – ? 2004 – from \$600 to \$730 per day (Presiding Member) 2004 – from \$370 to \$460 per day (Members)
Comment	

<i>DISPUTES TRIBUNALS</i> ⁶	
Purpose / Jurisdiction	Disputes Tribunals are not like formal courts as there are no lawyers or judges. A dispute is heard by a referee who can either determine the dispute or help the parties agree their own solution. Any ruling is binding and will, if necessary, be enforced by the Courts.
Date Established	?
Empowering Legislation	Disputes Tribunals Act 1988 s.4

⁶ Note that this review does not include the Principal Disputes Referee whose remuneration is set by the Remuneration Authority.

Classification under CFF	Higher Rate Tribunal (re-classified from Lower Rate in 2004)
Responsible Minister under CFF	Minister for Courts
Officers	Referees (54)
Annual Budget	\$2,659,005
Fixing	Cabinet Fees Framework
Funding	Vote:Courts (Operational)
Current Remuneration	\$400 per day
Maximum Remuneration under CFF	\$510 per day
Payment method	Daily Fee
Reviews to Date	2003 – effective 1 July 2004 2004 – effective 1 July 2005
Increases to Date	2003 – from \$310 to \$350 per day 2004 – from \$350 to \$400 per day
Comment	

<i>ENVIRONMENT COURT⁷</i>	
Purpose / Jurisdiction	The Environment Court is a court of record consisting of Environment Judges and Environment Commissioners. Most of the Court's work involves public interest questions. Because of the gravity and complexity of the subject matter of the proceedings, decisions are usually reserved - meaning that a written judgement is delivered at a later date.
Date Established	1991 (formerly Planning Tribunal)
Empowering Legislation	Resource Management Act 1991
Classification under CFF	Equivalent to Higher Level Tribunal
Responsible Minister under CFF	Minister for Courts
Officers	Commissioners (14) Deputy Commissioners (3)
Annual Budget	\$1,577,800
Fixing	Cabinet Fees Framework
Funding	Vote:Courts (Operational)
Current Remuneration	\$540 per day (Commissioners) (approved exception CFF) \$475 per day (Deputy Commissioners) (approved exception CFF)
Maximum Remuneration under CFF	\$510 per day
Payment method	Annualised Daily Fee (Full-Time Commissioners) Pro-rated Annualised Daily Fee (Part-Time Commissioners) Daily Fee (Deputy Commissioners)
Reviews to Date	2000 2004 – effective 1 July 2005
Increases to Date	2000 – ? 2004 – from \$420 to \$475 per day
Comment	

⁷ Note that this review does not include the Principal Environment Judge, the Environment Judges or the Alternate Environment Judges whose remuneration is set by the Remuneration Authority.

HUMAN RIGHTS REVIEW TRIBUNAL	
Purpose / Jurisdiction	Decides complaints of discrimination and infringements of human rights, under the Human Rights Act, the Health and Disability act 1994 and the Privacy Act 1993.
Date Established	?
Empowering Legislation	Human Rights Act 1993 s.93
Classification under CFF	Higher Rate Tribunal
Responsible Minister under CFF	Minister for Courts
Officers	Chair (1) Members (15)
Annual Budget	\$226,000
Fixing	Cabinet Fees Framework
Funding	Vote:Courts (Operational)
Current Remuneration	\$184,000 (Chair) (approved exception under the CFF) \$460 per day (Members)
Maximum Remuneration under CFF	\$800 per day (Chair) \$510 per day (Members)
Payment method	Annualised daily fee (Chair) (approved exception under the CFF) Daily fee (Members)
Reviews to Date	1997 – effective 1 February 1998 2004 – effective 1 May 2004 (Chair) 2004 – effective 1 July 2005 (Members)
Increases to Date	1997 – ? 2004 – from \$600 to \$800 per day – annualised (Chair) 2004 – from \$370 to \$460 per day (Members)
Comment	

LAND VALUATION TRIBUNALS	
Purpose / Jurisdiction	Decides on objections to land valuations and claims for compensation under the Public Works Act 1981.
Date Established	
Empowering Legislation	Land Valuation Proceedings Act 1948 s.19
Classification under CFF	Higher Rate Tribunal
Responsible Minister under CFF	Minister for Courts
Officers	Members (45)
Annual Budget	\$29,500
Fixing	Cabinet Fees Framework
Funding	Vote:Courts (Operational)
Current Remuneration	\$460 per day
Maximum Remuneration under CFF	\$510 per day
Payment method	Daily fee

Reviews to Date	1997 – effective 1 February 1998 2004 – effective 1 July 2004
Increases to Date	1997 – ? 2004 – from \$370 to \$460 per day
Comment	

<i>LAY MEMBERS, NZ AND DISTRICT LAW PRACTITIONERS DISCIPLINARY TRIBUNALS</i>	
Purpose / Jurisdiction	Lay Members sit as members of the District Disciplinary Tribunals and New Zealand Law Practitioners Disciplinary Tribunals. These Tribunals investigate complaints against practitioners and either make an order against the practitioner or in the case of the District Disciplinary Tribunals refer the matter to the NZ Law Practitioners Disciplinary Tribunal.
Date Established	
Empowering Legislation	Law Practitioners Act 1982 s.103
Classification under CFF	Lower Rate Tribunal
Responsible Minister under CFF	Minister for Courts
Officers	Members (8)
Annual Budget	\$14,000
Fixing	Cabinet Fees Framework
Funding	Vote:Courts (Operational)
Current Remuneration	\$350 per day
Maximum Remuneration under CFF	\$385 per day
Payment method	Daily fee
Reviews to Date	1997 – effective 1 February 1997
Increases to Date	1997 – ?
Comment	

<i>LAY OBSERVERS, DISTRICT LAW SOCIETIES</i>	
Purpose / Jurisdiction	The principal function of a Lay Observer is to examine any written allegation made by or on behalf of a member of the public concerning any District Law Society's treatment of a complaint about the conduct of a law practitioner, or an employee of a practitioner, made to the District Law Society, by or on behalf of the complainant.
Date Established	
Empowering Legislation	Law Practitioners Act 1982 s.103
Classification under CFF	Lower Rate Tribunal
Responsible Minister under CFF	Minister for Courts
Officers	Observers (5)
Annual Budget	\$70,000
Fixing	Cabinet Fees Framework
Funding	Vote:Courts (Operational)

Current Remuneration	\$350 per day (paid as a pro-rated annualised daily fee) ^{Note 1}
Maximum Remuneration under CFF	\$385 per day
Payment method	Annualised daily fee
Reviews to Date	1997 – effective 1 February 1998
Increases to Date	1997 – ?
Comment	

Note 1

Auckland	\$18,200
Wellington	\$14,580
Christchurch	\$14,580
Napier	\$11,650
Dunedin	\$9,025

LIQUOR LICENSING AUTHORITY⁸	
Purpose / Jurisdiction	Determines applications for the grant or variation of on-licences, off-licences and club licences (and renewals of those licences where variation is sought or where they may be opposed). It also determines applications for suspensions and cancellations of licences. The Authority is also an appellate body, able to hear appeals against decisions of District Licensing Agencies.
Date Established	
Empowering Legislation	Sale of Liquor Act 1989 s.85
Classification under CFF	Higher Rate Tribunal
Responsible Minister under CFF	Minister for Courts
Officers	Members
Annual Budget	\$50,600
Fixing	Cabinet Fees Framework
Funding	Vote:Courts (Operational)
Current Remuneration	\$460 per day
Maximum Remuneration under CFF	\$510 per day
Payment method	Daily fee
Reviews to Date	1997 – effective 1 February 1998 2004 – effective 1 July 2005
Increases to Date	1997 – ? 2004 – from \$370 to \$460 per day
Comment	

⁸ Note that this review does not include the Authority (Chair) of the Liquor Licensing Authority who is required, by legislation, to be a District Court Judge.

MĀORI LAND COURT AND MĀORI APPELLATE COURT – ADDITIONAL MEMBERS	
Purpose / Jurisdiction	Under Te Ture Whenua Māori Act 1993, the Chief Judge of the Māori Land Court may appoint Additional Members to assist in the hearing of certain matters before the Māori Land Court and the Māori Appellate Court. Such matters may include inquiries referred to the Māori Land Court under s.29, matters of tikanga referred to the Māori Land Court under s.29, and matters of representation before the Māori Land Court under s.30(1), s.30I(1) and s.30C(3)(a), 29, and the Māori Appellate Court under s.61(1)(b).
Date Established	
Empowering Legislation	Te Ture Whenua Maori Act 1993, s.31, s.32, s.33 and s.62
Classification under CFF	Equivalent to Higher Rate Tribunal
Responsible Minister under CFF	Minister for Courts
Officers	Members (As required)
Annual Budget	\$0 (paid from operating budget)
Fixing	Cabinet Fees Framework
Funding	Vote:Courts (Operational)
Current Remuneration	\$460 per day
Maximum Remuneration under CFF	\$510 per day
Payment method	Daily fee
Reviews to Date	2003
Increases to Date	?
Comment	

MĀORI LAND COURT CONSULTATION FORUM FOCUS GROUP⁹	
Purpose / Jurisdiction	The consultation forum: focus group consists of members who are nominated and elected by the members of the MLC Consultation Forum. The Focus Group was established to represent the views of the Māori Land Court Consultation Forum Members to the Māori Land Court Unit; and to have direct input into operational policy on behalf of the Forum Members they represent.
Date Established	2003
Empowering Legislation	Initiated By Māori Land Court Unit and Māori land owners; approved by Cabinet.
Classification under CFF	Group 4: Level 4
Responsible Minister under CFF	Minister for Courts
Officers	Chair – rotates each meeting (1) Members (15)
Annual Budget	\$26,545
Fixing	Cabinet Fees Framework
Funding	Vote:Courts (Operational)
Current Remuneration	\$250 per day (Chair) \$215 per day (Members)

⁹ Applies only to Chair and Members who are not public servants.

Maximum Remuneration under CFF	\$320 per day (Chair) \$240 per day (Members)
Payment method	Daily fee
Reviews to Date	Nil
Increases to Date	Nil
Comment	The role of the Māori Land Court Consultation Forum, established at the same time as the Focus Group, is to consider and consult with the Māori Land Court Unit on all matters of operational policy. There are 190 members of the Forum; these members are not remunerated.

MĀORI LAND COURT RULES COMMITTEE¹⁰	
Purpose / Jurisdiction	The Rules Committee was established to review and keep under review the Rules of the Māori Land Court. The Committee makes recommendations for changes to the Rules as it deems necessary to facilitate the prompt, inexpensive and just dispatch of the business of the Court and the administration of justice in the Court.
Date Established	1993
Empowering Legislation	Te Ture Whenua Maori Act 1993 s.92
Classification under CFF	Group 4; Level 4
Responsible Minister under CFF	Minister for Courts
Officers	Members (8-9)
Annual Budget	\$12,960 ??
Fixing	Cabinet Fees Framework
Funding	Vote:Courts (Operational)
Current Remuneration	\$215 per day
Maximum Remuneration under CFF	\$240 per day
Payment method	Daily fee
Reviews to Date	1994
Increases to Date	?
Comment	Members consisting of (see Te Ture Whenua Māori Act s.92(1)): The Chief Judge of the Māori Land Court: One other Judge of the Māori Land Court appointed by the Chief Judge of the Māori Land Court: A person nominated by the New Zealand Māori Council and appointed by the Chief Judge of the Māori Land Court: The Chief Executive of the Ministry of Justice or a person nominated by that Chief Executive: The Chief Executive or a person nominated by the Chief Executive of Te Puni Kōkiri: A person appointed by the Minister of Māori Affairs and the Minister of the Crown who is responsible for the Ministry of Justice: A barrister or solicitor of the High Court nominated by the Council of the New Zealand Law Society and appointed by the Chief Judge of the Māori Land Court: Not more than 2 other persons appointed by the Minister of Māori Affairs.

¹⁰ Applies only to Chair and Members who are not public servants.

MOTOR VEHICLE DISPUTES TRIBUNAL ¹¹	
Purpose / Jurisdiction	To decide disputes arising under the Motor Vehicle Sales Act, the Sale of Goods Act 1908, and the Consumer Guarantees Act 1993.
Date Established	
Empowering Legislation	Motor Vehicle Sales Act 2003 s.82
Classification under CFF	n/a
Responsible Minister under CFF	Minister for Courts
Officers	Assessors (5)
Annual Budget	\$60,000 ??
Fixing	Minister for Courts (Cabinet Fees Framework used as guide)
Funding	Vote:Courts (Crown Other)
Current Remuneration	\$370 per day
Maximum Remuneration under CFF	n/a
Payment method	Daily fee
Reviews to Date	Nil
Increases to Date	Nil
Comment	

Note 1

Remuneration for Assessors set in accordance with Motor Vehicle Sales Act 2003, Schedule 1, Clause 11.

Note 2

Total Remuneration Budget	\$272,000
Less Full-Time Chair	\$166,000
	\$106,000
Less Part-Time Chair	\$46,000
Remuneration for Assessors	\$60,000

SECONDHAND DEALERS AND PAWNBROKERS LICENSING AUTHORITY	
Purpose / Jurisdiction	The Authority is responsible for the licensing and certification of second-hand dealers and pawnbrokers, and the establishment and maintenance of a public register of licence and certificate holders.
Date Established	2005
Empowering Legislation	Secondhand Dealers and Pawnbrokers Act 2004 s.70
Classification under CFF	Lower Level Tribunal
Responsible Minister under CFF	Minister for Courts
Officers	Authority (Chair)
Annual Budget	\$7,000
Fixing	Cabinet Fees Framework

¹¹ Does not apply to the Adjudicators (Chairs) whose remuneration is set by the Remuneration Authority.

Funding	Vote:Courts (Operational)
Current Remuneration	\$540
Maximum Remuneration under CFF	\$610
Payment method	Daily Fee
Reviews to Date	Nil
Increases to Date	Nil
Comment	

<i>SOCIAL SECURITY APPEAL AUTHORITY</i>	
Purpose / Jurisdiction	Decides appeals on welfare benefits, debt recovery, and related matters.
Date Established	
Empowering Legislation	Social Security Act 1964 s.12A
Classification under CFF	(Higher Rate Tribunal)
Responsible Minister under CFF	Minister for Courts
Officers	Chair (1) Deputy Chair (1) Members (2)
Annual Budget	\$113,600
Fixing	Cabinet Fees Framework
Funding	Vote:Courts (Operational)
Current Remuneration	\$730 per day (Chair) \$600 per day (Deputy Chair) \$460 per day (Members)
Maximum Remuneration under CFF	\$800 per day (Chair) \$637.50 per day (Deputy Chair) \$510 per day (Members)
Payment method	Daily fee
Reviews to Date	1997 – effective 1 February 1998 2004 – effective 1 July 2005
Increases to Date	1997 – ? 2004 – from \$600 to \$730 per day (Chair and Deputy Chair) 2004 – from \$370 to \$460 per day (Members)
Comment	

STUDENT ALLOWANCE APPEAL AUTHORITY	
Purpose / Jurisdiction	Hears and determines appeals against decisions of the Director-General of Education relating to bursaries, grants and hardship awards.
Date Established	
Empowering Legislation	Education Act 1989 s.304(2)
Classification under CFF	Lower Rate Tribunal
Responsible Minister under CFF	Minister for Courts
Officers	Authority (Chair) (1)
Annual Budget	\$16,275
Fixing	Cabinet Fees Framework
Funding	Vote:Courts (Operational)
Current Remuneration	\$430 per day
Maximum Remuneration under CFF	\$610 per day
Payment method	Daily fee
Reviews to Date	2003
Increases to Date	2003 – ?
Comment	

TAIAPURE MĀORI FISHERIES TRIBUNAL ¹²	
Purpose / Jurisdiction	Taiapure Tribunals are established under the Fisheries Act 1983, amended by the Maori Fisheries Act 1989. The intention of the MFA 1989 is to set aside estuarine or shoreline coastal fishing areas which have customarily been of special significance to any iwi or hapu as a source of food or for any spiritual or cultural reasons. Following the approval of the proposed Taiapure, the area is declared Taiapure and local Maori recommend persons for the Management Committee (Taiapure Tribunal) who in turn recommend to the Minister of Fisheries regulations for the conservation and use of the Taiapure area.
Date Established	
Empowering Legislation	Fisheries Act 1996
Classification under CFF	Group 1, Commission of Inquiry
Responsible Minister under CFF	Minister for Courts
Officers	Assessors (4)
Annual Budget	\$0 (paid from Māori Land Court operating budget)
Fixing	Cabinet fees Framework
Funding	Daily fee
Current Remuneration	\$405 per day
Maximum Remuneration under CFF	\$540 per day
Payment method	Daily fee
Reviews to Date	2003
Increases to Date	2003 – ?
Comment	
Officers	Tribunal (Chairperson) Assessors
Legislation	

¹² Does not apply to Tribunal Chair who is a Māori Land Court Judge. Applies only to non-public servant Assessors.

TAXATION REVIEW AUTHORITIES	
Purpose / Jurisdiction	Sit as judicial authorities to determine objections to assessments of tax or duty, or decisions or determinations of the Commissioner of Inland Revenue.
Date Established	
Empowering Legislation	Taxation Review Authorities Act s.5
Classification under CFF	(Higher Rate Tribunal)
Responsible Minister under CFF	Minister for Courts
Officers	Authority (Chair) (2)
Annual Budget	\$109,500
Fixing	Cabinet Fees Framework
Funding	Vote:Courts (Operational)
Current Remuneration	\$730 per day
Maximum Remuneration under CFF	\$800 per day
Payment method	Daily Fee
Reviews to Date	1997 – effective 1 February 1998 2004 – effective 1 July 2005
Increases to Date	1997 – ? 2005 – from \$600 to \$730 per day
Comment	

TENANCY TRIBUNAL ¹³	
Purpose / Jurisdiction	Decides disputes arising between landlords and tenants.
Date Established	
Empowering Legislation	Residential Tenancies Act 1986 s.67
Classification under CFF	Higher Rate Tribunal (re-classified from Lower Rate in 2004)
Responsible Minister under CFF	Minister for Courts
Officers	Adjudicators
Annual Budget	\$1,408,785
Fixing	Cabinet Fees Framework
Funding	Vote:Courts (Operational)
Current Remuneration	\$400 per day
Maximum Remuneration under CFF	\$510 per day
Payment method	Daily Fee
Reviews to Date	2003 – effective 1 July 2004 2004 – effective 1 July 2005
Increases to Date	2003 – from \$310 to \$350 per day 2004 – from \$350 to \$400 per day
Comment	

¹³ Does not apply to Principal Tenancy Adjudicator whose remuneration is set by the Remuneration Authority.

TRANS-TASMAN OCCUPATIONS TRIBUNAL	
Purpose / Jurisdiction	Reviews decisions about the registration in New Zealand of equivalent occupations in Australia.
Date Established	
Empowering Legislation	Trans-Tasman Mutual Recognition Act 1997 s.41
Classification under CFF	Higher Rate Tribunal
Responsible Minister under CFF	Minister for Courts
Officers	Chair (1) Members (2)
Annual Budget	\$6,000
Fixing	Cabinet Fees Framework
Funding	Vote:Courts (Operational)
Current Remuneration	\$600 per day (Chair) \$370 per day (Members)
Maximum Remuneration under CFF	\$800 per day (Chair) \$510 per day (Members)
Payment method	Daily fee
Reviews to Date	1997 – effective 1 February 1998 2003 – ? 2004 – effective 1 July 2005
Increases to Date	1997 – ? 2003 – ? 2004 – from \$600 to \$730 per day
Comment	

ANNEX 2A – JURISDICTIONS AND OFFICERS NOT INCLUDED IN REVIEW		
Note 1 – There is no action required within “Review 2006” in relation to any of the following Officers.		
Jurisdiction	Officers	Notes
Accident Compensation District Courts Registry	District Court Judge	Judicial salary set by Remuneration Authority
Birdlings Flat Land Titles Commissioner	Commissioner	Only one case to be finalised – jurisdiction expected to cease when case finalised
Coroners	Coroners	New legislation to come into effect from 1 July 2007 – responsibility for setting remuneration for Coroners will then rest with the Remuneration Authority
Disputes Tribunals	Principal Disputes Referee	Remuneration set by Remuneration Authority
Employment Court	Judges	Judicial salary set by Remuneration Authority
Environment Court	Judges	Judicial salary set by Remuneration Authority
Liquor Licensing Authority	Authority (Chair)	Judicial salary set by Remuneration Authority
Māori Land Court and Māori Appellate Court	Judges	Judicial salary set by Remuneration Authority

Motor Vehicle Disputes Tribunal	Adjudicators (Chairs)	Remuneration set by Remuneration Authority
Taiapure Māori Fisheries Tribunal	Tribunal (Chair)	Judicial salary set by Remuneration Authority
Tenancy Tribunal	Principal Tenancy Adjudicator	Remuneration set by Remuneration Authority
Victims' Special Claims Tribunals	Chair(s)	Judicial salary set by Remuneration Authority
Waitangi Tribunal	Members	Remuneration set by Remuneration Authority

ANNEX 2B – CHANGES TO EXISTING JURISDICTIONS		
Note 1 – There is no action required within “Review 2006” in relation to Coroners.		
Note 2 – There is to be no review of the level of remuneration payable to either the Lawyers and Conveyancers Review Officer or the Chair and Members of the Lawyers and Conveyancers Disciplinary Tribunal.		
Note 3 – Recommendations are sought only with regard to comparisons between the new roles and the former similar roles, and comparisons with other jurisdictions.		
Jurisdiction	Officers	Notes
Coroners	Coroners	Expected effective new legislation commencement date of 1 July 2007.
Lawyers and Conveyancers Review Officer	Review Officer	Expected effective new legislation commencement date of about 1 July 2008 (Lawyers and Conveyancers Act 2006). Under the new legislation the former similar roles performed by Lay Members and Lay Observers under the Law Practitioners Act 1982 will cease to exist.
Lawyers and Conveyancers Disciplinary Tribunal	Chair Members	Expected effective new legislation commencement date of about 1 July 2008 (Lawyers and Conveyancers Act 2006). Under the new legislation the former similar roles performed by Lay Members and Lay Observers under the Law Practitioners Act 1982 will cease to exist.

ANNEX 2C – JURISDICTIONS PROPOSED FOR TRANSFER TO MINISTRY OF JUSTICE		
Note 1 – There is to be no review of the level of remuneration payable to the Chair and Members of either the Weathertight Homes Resolution Tribunal or the amalgamated Immigration Tribunal.		
Note 2 – Recommendations are sought only with regard to rationale(s) relating to the current (and transferring) remuneration levels.		
Jurisdiction	Officers	Notes
Weathertight Homes Tribunal	Chair Members	Effective transfer date of 1 April 2007.
Immigration Tribunal (amalgamated)	Chair Deputy Chairs Members	Expected effective transfer date – yet to be determined.

ANNEX 2D – POTENTIAL NEW JURISDICTIONS

Note 1 – There is to be no input from “Review 2006” with regard to the level of remuneration payable to Officers in any of the following jurisdictions.

Jurisdiction	Officers	Notes
Immigration Advisers’ Licensing Authority		
Road User Charges Review Authority		
Trans-Tasman Therapeutic Products		
Unit Titles Disputes Tribunal		

INPUT RECEIVED

Individual and/or group input was received from judicial and statutory officers in the following agencies:

1. Abortion Supervisory Committee
2. Customs Appeal Authority
3. Disputes Tribunal
4. District Law Practitioners
5. Environment Court
6. Human Rights Review Tribunal
7. Land Valuation Tribunal
8. Liquor Licensing Authority
9. Maori Land Court Rules Committee
10. Motor Vehicle Disputes Tribunal
11. NZ Law Practitioners Disciplinary Tribunal
12. Taxation Review Authority
13. Tenancy Tribunal